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Claremont McKenna

# Pro Tanto Principles in Public Policy

Submitted to

Professor Alex Rajczi

By

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For

Senior Thesis

Fall 2019

December 10, 2018



## Abstract

Even when given the exact same moral dilemma, equally rational peers, colleagues, and friends will disagree about the right course of action. Pro tanto principles are one way to resolve moral conflicts such as these. When broadening the conflicts to real life situations, such as those seen in public policy, pro tanto principles prove to be an extremely useful tool. This paper explores the difference between the way that the individual interacts with pro tanto principles and the way that public policy interacts with such a moral system. In the end, difficulties in public policy attempt to be resolved by using this framework.

## Acknowledgements

The completion of this thesis would not have been possible without the continual support of Professor Alex Rajczi. Professor Rajczi has allowed me to explore even my most absurd philosophical ideas in a transformative way. His attention to detail and profound insight has challenged me numerous times and has ultimately provided me intellectual salitude. I am indubitably grateful to him and the Philosophy department for my academic development.

My friends never fail to bring me light and I am overwhelmingly grateful for them. My thesis sisters - Marion Goldberg and Adele English - have provided an immense amount of moral support, as well as humor. I am appreciative of Mariah Rigg for being a brilliant, caring, and compatibly dark human in my life. Lastly, I would like to thank Jahnavi Kocha, who has always inspired me to be the best version of myself.

Most importantly, I would like to thank my family. It is because of their continual encouragement and support that I am even in a setting where producing a work like this is possible. I owe my Mom, Dad, and Marlayna everything, because that is what they have given me.

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## **Pro Tanto Principles in Public Policy**

One still unresolved problem in the world of philosophy branches off the field of normative ethics. When met with situations that have different moral outcomes, there seems to be no decided mechanism for what to do. Even when given the exact same dilemma, equally rational peers, colleagues, and friends will disagree about the right course of action. Pro tanto principles, which will be defined later in the paper, are one way to resolve moral conflicts such as these. When broadening the conflicts to real life situations, such as those seen in public policy, pro tanto principles may be a useful tool. However, the way that the individual interacts with pro tanto principles may be substantially different from the way that public policy interacts with such a moral system.

Always having the answer to moral dilemmas would be incredibly useful in our world; certain political conflicts could be resolved with ease, the rightness of an action could be ascertained, and people could generally have a moral guide. But in reality asking, “What is the right thing to do here?” is extraordinarily tough. Philosophers have spent centuries attempting to answer just that, and there still remains marked disagreement about which answer really works.

A popular solution to the problem of weighing conflicting moral situations is utilitarianism; “by which action will the most good be produced?” In this view, goodness is the ultimate moral principle and should be maximized. Whatever action produces the most aggregate good would mean that that action is most right. Though this view aims to be simplistic, it is quite difficult to answer what good exactly means and what population good should aim to serve. W.D. Ross is the creator of a popular moral system that has at its heart these aforementioned pro tanto principles. He finds the utilitarian resolution to

be too simplistic and thinks that it over generalizes each person's relation to another.<sup>1</sup> Utilitarianism, to Ross, makes it seem like people are *just* beneficiaries or non-beneficiaries of other people's actions. Though he admits this is true, he believes relationships are much more nuanced and morally significant than this. Human relation entails promises, marriages, credit & debts; these are the foundations for the duties that utilitarianism overlooks.

Different elements of relationships, like being married to someone, add another consideration to moral situations. Sure, valuing the most good for the most amount of people sounds good on paper, but to Ross there is a difference between what is right and what is optimal. Maximizing the amount of good does not make an action in itself right. Ross gives an example to highlight this point; If fulfilling a promise would produce 1000 units of good for A, but by doing some other act would produce 1001 units of good for an unpromised B, then it isn't necessarily right to go with B.<sup>2</sup> Even though B does produce the most amount of good, a promise was made to A and that changes what the action ultimately is. Again if no promise was made, but A was a kind and charitable man and B was a vile dictator, producing 1001 units of good *still wouldn't* be the right action. The right action is the one that processes all of the morally relevant features, like promises or character.

To Ross, rightness isn't determined by the positive/negative consequence of the outcome (how much good results) as it is with utilitarianism. What is right is determined

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<sup>1</sup> W.D. Ross. *The Right and the Good* (Oxford: Oxford University Press, 2002) p.19.

<sup>2</sup> W.D. Ross. *The Right and the Good*, p.34.



by the weighing of prima facie duties (which will, for the sake of continuity, be called pro tanto principles) and the recognition that not all principles can be concurrently met.

These principles and what they can produce for morality will be explored in the rest of the paper. Two different philosophers, Bernard Gert and W.D. Ross, give their own version of pro tanto principles that will be analyzed and later discussed in the scope of public policy.

## **Chapter 1**

### **Absolute Morals & Pro Tanto Principles**

Pro tanto is a Latin term that means, “as much as one is able; only to that extent.”<sup>3</sup> Accordingly, agents can use pro tanto principles as much as they are able to without any other present constraints. Pro tanto principles are distinct in that they differ only slightly from absolute morals. Moral absolutes mean that actions are intrinsically right or wrong regardless of the relevant features surrounding that action. One of the most uncontroversial pro tanto principles (which will get this title because most important philosophers build it into their analyses) is to not cause harm. If the practice of not causing harm was used under the scope of absolute morals, then it would be a standalone principle that would make causing harm wrong no matter what the situation. As a pro tanto principle, though, causing harm would also be wrong *unless* there was a stronger moral consideration at hand that would make causing harm morally optimal.

Consider a person who is in the middle of the street, talking on their phone and is completely unaware of their surroundings. All at once, a massive cargo truck is coming

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<sup>3</sup> US Legal, Inc. “Pro Tanto Law and Legal Definition.” *Fraud Law and Legal Definition USLegal, Inc.*, [definitions.uslegal.com/p/pro-tanto/](http://definitions.uslegal.com/p/pro-tanto/)

towards them that will surely end in their death. A person can push them onto the harsh concrete that will probably cause a few scrapes and bruises (a kind of harm), but will ultimately be less deleterious than what the cargo truck would have done. The consequences of not harming this person are so bad (death), that it is optimal to harm them (a few scrapes and bruises) and thus violate absolute morality. Here it seems morals can be non-absolute; there are some situations where we need to harm, we need to lie, we need for the sake of common sense do things that on paper seem wrong.

In the cargo truck example, it was perhaps too easy to tell which pro tanto principle could be undermined and weight assessment was relatively simple. But often, humans are faced with more complex moral dilemmas and pro tanto principles conflict. Consider my friend Charise, who has promised me she will come to my improv show. She knows I need someone to come for moral support after all my family members forgot to show last time. But ten minutes before Charise leaves, her brother cuts himself open playing with the kitchen knives and because of where the wound is, it is very prone to infection. The brother ultimately needs to go to the hospital and has no other means of getting there, but if Charise takes him she will miss my improv show and forego a promise. She is teetering between keeping her promise (fidelity) and not causing harm (non-maleficence); she is tasked with weighing the emotional damage that will incur on my behalf with the physical damage that will incur on her brother's. What should she resolve? The answer is blurry, and in fact she isn't only violating fidelity if she takes her brother, she is also causing me emotional harm. Equally rational people will disagree about what to do here. Emotional harm and physical harm are assessed differently to different people - which harm is more impactful is difficult to quantify. This is

troublesome when considering that we are often met with cases far more impactful than the one outlined here.

Though Charise's correct course of action is unresolved, using pro tanto principles at least allow her moral salvation. No matter what, if Charise did or did not go to my improv show, absolute morality had shown her to do something wrong. Under this application, people cannot really ever escape from doing the wrong thing. The pro tanto distinction, however, greater allows for actions to be deemed ethically sound when morally ambiguous situations arise. For anyone to be considered a moral agent or to construct a society that considers all variables, absolute morals seem to be very limiting.

Considering that it is improbable that a person never lies, never even accidentally causes any harm, or never overtly acts beneficent, it is evident why many prefer the framework of pro tanto principles. In fact, a moral structure that accounts for relativity in situations, like pro tanto principles do, is seen in many real world applications. In law, when deciding the severity of a sentence, there are numerous ethical and practical considerations accounted for to determine the degree of someone's culpability. 'Right' and 'Wrong' are deemed as such only after paired against other relative evidence. At the very least, our legal world involves much more complexity than judging something as intrinsically right or wrong. Ross phrases this non-binary nicely, "In virtue of being the breaking of a promise, for instance, it tends to be wrong; in virtue of being an instance of relieving distress it tends to be right."<sup>4</sup>

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<sup>4</sup> Ibid.,28.

In sum, Ross views pro tanto principles as preferable to absolute morals because of their flexible nature and consideration of consequences. His rejection of utilitarianism is based on the little consideration it gives to the complexity of human relationships. Pro tanto principles have their own set of flaws, which will be discussed in later conflicts, but the main rivals to pro tanto principles are too limiting to Ross, and either leave out the relativity of moral situations or the importance of relationships.

### **Principles in Action**

Ross maps out seven prima facie duties that he believes all hold their own unique moral significance. Though he doesn't claim that the list is necessarily final or complete, he divides the duties in the following way<sup>5</sup>:

1. **Fidelity**- Keeping promises
2. **Reparation**- Making up for past misdoings
3. **Gratitude**- Being grateful
4. **Justice**- Being fair
5. **Non-maleficence** - To prevent harm to others
6. **Beneficence**- Helping others when possible
7. **Self- Improvement**- Educating One's Self

Of all these duties, Ross makes various distinctions for their significance. Some duties build upon our previous actions; these are the duties of fidelity and reparation. The frequencies with which we interact with these two duties are entirely of our own accord. In order to keep promises, we have to have been an active participant in making them. In

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<sup>5</sup> Ibid.,21.

order to repair our past misgivings, we would have to have had committed a mistake in the first place. These principles seem to be quite central to the person rather than to the society. Being grateful and being fair (justice) are of a different sort; they can involve the self but they don't necessarily have to. Ross argues that it is a duty for a person to be grateful when a service is done unto them – a certain moral politeness. That moral politeness extends to the realm of justice- we have the duty to both promote equitable happiness and pleasure and to prevent a disturbance in that equity. Along this line is the duty of beneficence, which is a general 'do good' duty. At times, we have the unique ability of bettering the conditions of others in the world and when possible (like when it is of little or no cost) should do so. Similarly, when we can better our own selves in intelligence, virtue or pleasure, we have the duty to do so (self- improvement).

Ross' last principle is non-maleficence, which he believes to be more binding than beneficence.<sup>6</sup> It is more binding in the sense that it is generally more important to not cause harm than to additively do well. Not causing harm is a duty that should always be at play; we should not kill, not steal, and not emotionally inflict distress at all times. This is more pressing than saving a life, helping a small business owner who was just robbed, or giving emotional aid. Non-maleficence is proactive in reducing wrongness; beneficence and the other duties are either proactive in procuring rightness or retroactive in ameliorating wrongness. Proactive in reducing wrongness, to Ross, is most weighty in its efficaciousness and the directness of the harm were it to be violated.

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<sup>6</sup> Ibid.,22.

Though his list introduces enough principles to bring about conflict mentioned later in the paper, it is important to mention that they *might* not be exhaustive. There is no principle for autonomy or for respecting others. For example, imagine you believe your sister is harming herself by drinking excessively or doing drugs. You aren't exactly sure what is going on with her, but you want to employ the duty of non-maleficence. You are aware that she writes everything down in her diary that she keeps bedside. A principle that prevents you from taking her diary, invading her privacy and violating her respect, would be useful were it the case that your suspicions were unfounded. Sure, you could employ non-maleficence, and then it would be possible that you weigh non-maleficence against your attempt to employ the duty of non-maleficence. But weighing non-maleficence against non-maleficence in this case can be troublesome. A comparison between harm incurred if privacy was violated and harm incurred if excessive drug doing was going on may be weak in its ability to produce what principle should actually be acted upon. Perhaps not having this description isn't actually problematic, but for Ross, who relies on deep reflection, it might result in trouble. Adding a principle of autonomy would help you realize that maybe violating autonomy, a unique personal freedom to choose what is best for one's self, is more important than the harm that occurs. Non-maleficence would not have to be pitted against non-maleficence in the other case, which doesn't seem to capture precisely what is going on. For this reason, autonomy or some other principle should at least be considered.

The example of autonomy is to show that pro tanto principles may be flawed and are capable of additions. Other philosophers attempt to give their own modifications or proposals for pro tanto principles, but reaching a perfect solution is tricky. The role of pro

tanto principles in this paper isn't one of a perfect solution because of these reasons.

Rather, it seems to serve as an attractive resolve that is more able to undertake a variety of morally complex situations than moral absolutes.

Ross believes that pro tanto principles can take on situations by process of examination. If there is a situation in which more than one pro tanto principle is applicable, a person needs to study the situation fully until an opinion forms about which action holds more prima facie rightness<sup>7</sup> than prima facie wrongness, as compared to alternatives. The act that is judged to possess these qualities is the one that holds the rightness and thus becomes a person's actual moral obligation. Ross gives no ranking as to what duties are inherently more pressing than others – each situation is independent of each other. Even though he does add that non-maleficence is usually more binding than beneficence it is not the case that non-maleficence is always to be chosen over beneficence. This is due to the uniqueness Ross attributes to every moral situation.

### **Lack of structure**

Ross says, “We have no more direct way of access to the facts about rightness and goodness and about what things are right or good, than by thinking about them; the moral convictions of thoughtful and well-educated people are the data of ethics just as sense-perceptions are the data of a natural science.”<sup>8</sup> A large part of his framework is just thought, because to Ross, that is the data of morality. Since it is centered on something so unquantifiable, though, Ross opens himself up to criticism.

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<sup>7</sup> Prima facie just refers to the principles 1-7 that were discussed previously which are our prima facie duties. When one might be violated, then that becomes prima facie wrong.

<sup>8</sup> Ibid.,41.

Upon honest reflection, Ross thinks that people should be able to intuitively figure out which principles are both applicable and more pressing. He believes that those who argue this point and believe that some sort of structured theory needs to be evident instead have unnecessarily convoluted things. First, finding the actual rightness<sup>9</sup> of an act is almost impossible. Any action done has unforeseeable consequences and any number of persons may be directly or indirectly affected. These consequences make it hard to say in complete certainty what, in actuality, was the right thing to do. Additionally, since the fabric of the moral situation is choosing one action over another, then it is impossible to do both actions and see which one is better.

A person who doesn't wear a seatbelt in a car and gets into a gruesome car accident has made a decision that can produce a variety of moral outcomes. The person who doesn't wear a seatbelt may fly through the backseat in a way they otherwise wouldn't have had they worn a seatbelt. In this scenario, the person's body goes on to a very busy street<sup>10</sup> directly affecting the driver who was hit by the considerable weight of the person. Those who are driving by are faced with a gruesome and bloody image of a body. People may be psychologically harmed by seeing a damaged body so vividly, the driver will be physically injured, and everyone around may be late to a prior engagement due to the traffic the accident caused. This is only the direct harm, but it may have produced a variety of scenarios that don't even seem related. A woman who has been repeatedly late to work in the past may have promised her boss that for the next month,

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<sup>9</sup> Actual rightness and prima facie rightness are two different.

<sup>10</sup> It is useful to employ examples that are within the realm of possibility. Often in philosophy, highly unusual circumstances are thought of to support conclusions that are supposed to apply to usual circumstances. This scenario is not an unlikely one.



she will be on time. The accident caused the woman to be late to work, and thus forced her to break her promise. Though the boss doesn't fire the woman, they have a more negative perception of her and her work habits; it negatively affects her relationship with her boss, and ultimately means she doesn't get her bonus for that quarter. Family members of the driver will suffer because their loved one is experiencing a great deal of pain. The driver hit by the body may have anxiety each time they drive in the future. The list goes on, and its ability to do so is because of the nature of actions and their consequences. Ross writes,

“ It is enough to point out that any particular act will in all probability in the course of time contribute to the bringing about of good or evil for many human beings and thus have a prima facie rightness or wrongness for which we know nothing.”<sup>11</sup>

Because certainty about whether one act is more, on the whole right than another is difficult, judgments about morality end up being similar to judgments about beauty. Judgments about beauty are generally unstructured; an art piece can be in some regards beautiful and in others not beautiful. The conclusions made about the beauty of something are not logically justified conclusions<sup>12</sup>. Some will think something is beautiful, while others find it not beautiful. And that something might be beautiful in some regards, and not beautiful in others. Similarly, the conclusions derived from moral judgments are more or less probable opinions. They don't need to follow a structure in order ascertain actual rightness, because actual rightness cannot be ascertained with certainty. However, prima facie rightness and prima facie wrongness can – something

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<sup>11</sup> Ibid.,31.

<sup>12</sup> For something to be logically justified it must either be self-evident or it must have been a valid conclusion from self-evident premises. Beauty is not self-evident because many people disagree about what is beautiful.

might be wrong in some regards and right in others. In the end, these dilemmas are exercises in a person's moral astuteness, so they depend on reflection and the ability to weigh principles properly.

### **Weighing Principles**

To Ross, an act is prima facie wrong when there is a reason against doing it, like in the case of two competing principles. Acts are in some regards (prima facie) wrong and in some regards (prima facie) right. Though balancing may not always produce the most truly advantageous action, Ross says, considering the relative rightness of an action is *more likely* to secure the most advantageous actions.

The moral rightness of an action is found by examination of the prima facie rightness and prima facie wrongness. In the example of Charise, we would need to find the balance of prima facie rightness over the prima facie wrongness for each action. Whichever action holds a more charitable balance of prima facie rightness, will be the one that become the morally right action. How we come to find and value the prima facie rightness and wrongness of each action, Ross believes, lies in our intuitions.

### **Intuitionism**

In the application of Ross' pro tanto principles, a person<sup>13</sup> needs to be able to identify prima facie rightness and prima facie wrongness. Ross believes that the mechanism by which a person apprehends this ability can be attributed to intuitionism.

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<sup>13</sup> Person, people, and moral agents are used interchangeably in this analysis. Though it seems correct that even those who are not moral agents can be capable of intuitionism, moral agents should be defined. I will be using Gert's definition of moral agents: "Only human beings are known to be moral agents, but not all human beings are moral agents. Infants and very young children are not moral agents, because they do not understand the rules. Older children who can understand some of these rules are partial moral agents. People who are so severely retarded that they cannot understand any of the rules are not

In intuitionism, people intuitively have a set of fundamental duties that can guide them into the right action given a certain situation. Intuitionism relies on a moral order common to all of us and this allows for the discernment among pro tanto principles to be innate. In this view, moral attitudes people have are actually less subjective than would be expected. Moral attitudes are the result of a mental maturity that is gained by the experience of life. This relationship between innateness and experience may seem contradictory but can be explained with examples. Though intuitions are innate, they mature in their innateness. IQ, a measure of cognitive intelligence is supposed to be the same throughout the entirety of one's life, only deviating by a significant amount of points. In that view it seems intelligence is innate, but with the education and knowledge that is accrued by time, it is evident that intelligence can be enhanced by experience. There are capabilities that we are naturally endowed with, that can improve the more exposed we are. Morality is something that all moral agents are equipped with understanding, but they get better at applying it once they are exposed to situations that test it. Children obviously can't deal with moral complexity in the same way their parents can, but they have the ability to deal with it within them by very nature of being a person. This ability will come to light once the children have been exposed to a variety of different moral situations.

Societies are often filled with a multitude of dissenting opinions and questionable characters, so it can be difficult to see intuitionism as correct. Even though the world contains a high degree of moral questionability, though, people still seem to be capable of

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moral agents, and people who have such serious mental disorders that they cannot guide their conduct by the rules are also not subject to moral judgments.”(p.27)

identifying wrongness<sup>14</sup>. Beating a child for no reason or committing rape are generally accepted as wrong sometimes even by those who are the perpetrators of said acts.

Ross compares this gained moral order to mathematics in that they are both agreed fundamental propositions in nature. Just as we come to find that it is the nature of one and one to be two, we come to find that it is inherently right to keep promises. The basic principles of morality are able to be known by this mechanism, and this aids in how they are to subsequently be balanced against each other.

### **Other Pro Tanto Solutions**

Ross is not the only one to formulate solutions that contain pro tanto principles. Bernard Gert creates his own version that may help revive some of the flaws inherent to what Ross offers. The two differ in many regards, but the similarities that will be observed will be helpful in identifying what exactly is useful.

Bernard Gert's different moral system is composed of: "moral rules, moral ideals, and a two-step procedure, for deciding whether a violation of a moral rule is justified..."<sup>15</sup>

There are ten general moral rules Gert outlines that will become immoral actions if they are violated or attempted to be violated without adequate justification:

- |                              |                       |
|------------------------------|-----------------------|
| 1. "Do not kill              | 6. Do not deceive     |
| 2. Do not cause pain         | 7. Keep your promises |
| 3. Do not disable            | 8. Do not cheat       |
| 4. Do not deprive of freedom | 9. Obey the law       |

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<sup>14</sup> Exceptions can be made for certain cognitive deficits.

<sup>15</sup> Bernard, Gert. *Common Morality: Deciding What to Do*. (New York: Oxford University Press, 2007) pp.19–20.

5. Do not deprive of pleasure                      10. Do your duty”<sup>16</sup>

Gert groups his ten rules into the two categories of direct wrongdoing and wrongdoing that would just simply enhance wrongness. The first grouping targets more basic harms; it is wrong to kill, cause pain, disable, lessen freedom of, or deprive pleasure. He believes, similar to Ross, that these rules would be generally accepted by rational<sup>17</sup> persons to be harmful and undesirable. The second group of rules indirectly produce the actions that cause harm; it is wrong to deceive, break promises, cheat, break the law, and neglect one’s own duty. Gert believes that all moral agents should know these rules and be able to follow them with easy understanding.

Moral ideals differ from moral rules in that they are encouraged rather than required. Though Gert doesn’t explicitly state moral ideals in the same way he does the rules, he says that moral ideals prevent the harms that violations of moral rules can cause. For example, Gert’s 2nd rule is ‘Do not cause pain,’ which people in helping professions explicitly seek not to do. Therapists or doctors work to eliminate or reduce certain ailments of pain and thus embody moral ideals. While these ideals are certainly encouraged (so long as they don’t involve an unjustified violation of a moral rule) in Gert’s moral system, they are not required. Moral rules, in contrast need always be met unless there is adequate justification not to meet them. Adequate justification is determined by a two-step procedure; the first step is to ascertain what rule is in violation

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<sup>16</sup> Bernard Gert, *Common Morality: Deciding What to Do*. p. 2.

<sup>17</sup> Let irrational just mean a person who is not making decisions that would be regarded as in their best interest. (i.e. decisions that go against prolonging their life)

in terms of its morally relevant features and the second is to estimate the positive and negative outcomes of allowing the violation in the first step.

It is useful to show the two-step justification process in action. For example, imagine a father is sitting at a very crowded pool and has just made a promise to his child that he will get in the water with him in exactly ten minutes. But in eight minutes, somebody is in dire need of CPR and the father so happens to have a certification (though other people in the area also have a CPR certification). Moral ideals would generally encourage the father to help the person who isn't breathing, even though it would mean directly violating the moral rule of keeping a promise to your child. Adequate justification can be determined by the two-step procedure.

### **The First Step - Morally Relevant Features**

In order to find out what rule is in violation, it must be done in terms of its morally relevant features.<sup>18</sup> For Gert, this includes a thorough examination of ten different questions:

1. *“Which moral rule is being violated?”*<sup>19</sup>

This feature requires the agent to look at the ten rules that are given. Violating some rules (like do not kill) will probably require more deliberation and thought than others.

Case Application: First the rule in violation must be ascertained (in this case the rule being fidelity). The ideal being violated is beneficence (were it not to be met) seeing that the father is capable of saving the child and it is of little cost to do so.

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<sup>18</sup> Ibid.,58.

<sup>19</sup> Ibid.,59.

2. *“Which evils or harms (including their kind, severity, probability, the length of time they will be suffered, and their distribution) are being (a) caused by the violation, (b) avoided (not caused) by the violation, or (c) prevented by the violation?”*<sup>20</sup>

Not only are the different kinds of evils and harms being considered, but also the specific qualities that make them different are being considered. It is generally agreed upon that the kind of evil should be considered when making a moral judgment. However, the specific quality of consequences (i.e. severity, length of suffering etc.) is contented. Gert believes that what is relevant in this case is not the actual consequences of evils or harms (for they may be unforeseeable) caused by a violation, nor it is the intended consequences of evils or harms. Rather, it is the consequences that were foreseen by the agent at the time of judgment are the most relevant.

Foreseeable consequences largely rely on the beliefs, knowledge and intelligence of the agent. Those that have similar beliefs, knowledge and intelligence will foresee similar consequences.<sup>21</sup> However, this doesn't necessarily mean foreseeable consequences are objective to Gert. It is expected that a normal adult can foresee that putting a wet plug in an outlet might cause electrocution. It is not expected that a toddler can foresee the same thing. Because of this, people are able to make judgments about whether or not agents were capable of foreseeing consequences.

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<sup>20</sup> Ibid.,60.

<sup>21</sup> Ibid.,62.

Case Application:

Benefits of Allowing the Violation

- A child's life is saved
- Father is preventing the harm that will be incurred if the child has to witness a death.
- The child is taught a lesson

Drawbacks of Allowing the Violation:

- Weight of the broken promise on the child's psyche.

These two lists might not exhaust the full benefits and drawbacks of allowing the violation, and that is why Gert says morally relevant features may produce an innumerable quantity of outcomes. However, the considerations present are relevant to the decision at hand. The weight of a broken promise on a child's psyche doesn't appear to overpower the potential loss of a life.

3. *"What are the desires and beliefs of the person toward whom the rule is being violated?"*<sup>22</sup>

*Desires*

The desires of a person should be taken into consideration when deciding what the right thing to do is. For example, physicians should account for patient's desires when deciding which course of action to take. If a patient<sup>23</sup> desires to have

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<sup>22</sup> Ibid.,62.

<sup>23</sup> Assume they are capacitated, that is capable of 1) understanding/processing information about diagnosis, prognosis, and treatment, 2) weighing the relative benefits/burdens/risks 3) applying a set of values 4) arriving at a decision that is consistent (stable) over time, and 5) effectively communicating the decision



a treatment that doesn't restrict their breathing, but has a lesser chance of a survival rate, then that should be taken into consideration. Bioethics committees, which offer consultation on difficult ethical decisions in medical cases like these, do take into account the desires of the patients.

It may seem odd that someone would want to have a rule (especially one that harms them) violated. Consider a case where a mother requests that her daughter not tell her of the night she knows her daughter is bound to have. The mother is aware that the daughter will engage in certain debaucheries- under aged alcohol, staying up far past curfew etc. However, the next time the mother sees her daughter, the mother asks the daughter, "How did your night go?" The daughter did indeed, participate in an inordinate amount of debauchery and wishes to tell the mom, but decides to deceive. The mother desires to be deceived, because it gives her greater peace of mind. In other instances, though, the mother would probably state that she doesn't enjoy being deceived.

### *Beliefs*

Beliefs include if the person toward whom the rule is being violated knows about the consequences of their decisions.<sup>64</sup> Beliefs are determined by the level of intelligence and/or knowledge that a person is capable of. People have to consider whether or not to violate a rule when it regards a person who has beliefs, they may make them incompetent to make rational decisions. Depriving a person of freedom, such as incarcerating them, would require more debate if the person in question were inhibited due to serious lapses in knowledge.

Case Application:

A child doesn't have the same intelligence or knowledge of his older counterparts and therefore his beliefs may be shaped. Breaking a promise to a child, even when there is good reason to (a life is at hand) will be different than breaking a promise to an adult who can better understand the situation and all of its consequence.

4. *“Is the relationship between the person violating the rule and the persons toward whom the rule is being violated such that the former sometimes has a duty to violate moral rules with regard to the latter independently of their consent?”<sup>24</sup>*

Parents and children have relationships with inherently different levels of authority. Because of relationships like these, rules like ‘the deprivation of freedom’ act differently. When a parent puts a child in time out or grounds them, they are depriving them of their freedom. But this is of a different sort than if one normal adult kept another (non-related) normal adult in a house and told them they weren't allowed to leave. Relationships are important, and some explicitly involve one party violating moral rules without the consent of the others.

Case Application:

In this case the parent does, at times, have a duty to violate moral rules in regard to his child. This is not applicable in this case, though.

5. *“Which goods or benefits (including kind, degree, probability, duration, and distribution) are being promoted by the violation?”<sup>25</sup>*

This feature applies when the fourth one does as well. So, when the relationships are such that one might reasonably violate the other (by nature of the

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<sup>24</sup> Ibid.,65.

<sup>25</sup> Ibid.,66.

relationship), the outcome of the potential violation must be assessed. A parent might punish a child, and thus deprive them of freedom, for the sake of teaching them a valuable lesson. But if they ground them for three weeks, and the child is two years of age, the benefit being promoted by the violation might not even be met. Children two years of age are not capable of understanding punishment in the way that the ‘benefit promoted by the violation’ intends. For that reason, this feature is in need of consideration.

#### Case Application:

The duration of a person’s continued life will be longer if they are saved from CPR. Additionally, the practice of embodying moral ideals will occur. Practicing moral ideals is laudable and has the ability to set moral precedence for the people it reaches. Especially the child, who might be formed by the behaviors he acquires from his parents. If he sees his father acting in a way that is morally productive, it can possibly be a behavior that is mimicked.

6. *“Is the rule being violated toward a person in order to prevent her from violating a moral rule when her violation would be (a) unjustified or (b) weakly justified?”<sup>26</sup>*

Gert uses this feature to distinguish between unjustified and justified spying/deceiving. Actions may be done in order to prevent further violations that have weak justification<sup>27</sup> but can’t be done for violations that have strong

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<sup>26</sup> Ibid.,67.

<sup>27</sup> Weak justification will be referenced a couple of times here, but will be discussed at greater length a bit later.

justification. Suppose a group of people were enraged after a new bill was passed that would cause women to have significant barriers to reproductive healthcare. This group chooses to protest, but plans to do so with bombs and other forms of non-peaceful means. The policemen have reason to deprive people of their freedom to protest to prevent this form of protest, which has weak justification for how violent it intends to be. But, if the form of protest was to be peaceful and the policemen were to prevent the protest, then the violation (deprivation of freedom) on the policemen's part would not have good reason.

Case Application:

Not relevant for this case in particular.

7. *“Is the rule being violated toward a person because he has violated a moral rule (a) unjustifiably or (b) with a weak justification?”*<sup>28</sup>

This feature has to do with punishment- some have the duty to harm or deprive others of freedom as seen in the fourth morally relevant feature. So, if the rule is being violated toward a person in response to his unjustified violation, then that should be considered. This is how incarceration works- the government can deprive people of their freedom because they have unjustifiably or weakly made a violation that caused them to be put in said situation.

Case Application:

Not relevant for this case in particular.

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<sup>28</sup> Ibid.,68.

8. “Are there any alternative actions or policies that would be morally preferable?”<sup>29</sup>

If there are alternative actions or policies that involve no violations and (in consideration of morally relevant features 2 and 5) result in similar harms and benefits, then that action should be done instead of the action that produces some sort of violation.

Case Application:

Perhaps there is a lifeguard on duty, who can perform the CPR. In the case of a lifeguard being perfectly present and capable, there would be an action that doesn't involve a violation. If the father continued to commit this violation with this knowledge, then justification would be more questionable.

9. “Is the violation being done intentionally or only knowingly?”<sup>30</sup>

The difference between knowingly doing something and intentionally doing something is minute. Gert shows the difference here, “For example, a nurse may be willing to administer morphine to terminally ill patients in order to relieve pain even though she knows it will hasten their death, but with no other morally relevant changes in the situation, she would not administer morphine in order to hasten the death of the patient.”<sup>31</sup> The nurse would do something even though she *knows* there is a dire consequence, yet the nurse would not do that same something *in order* for the dire consequence to occur. Administering morphine in

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<sup>29</sup> Ibid.,69.

<sup>30</sup> Ibid.,70.

<sup>31</sup> Ibid.,71.

order to have a hasty death occur is different than knowing a hasty death will occur and still deciding to act in such a way.

Case Application:

Again it would be different if the father gave CPR to the person in need knowing that it meant breaking a promise to his child than if the father gave CPR to the person in need in order to not have to spend time with his child.

10. *“Is the situation an emergency such that people are not likely to plan to be in that kind of situation?”*<sup>32</sup>

This feature is included for emergency situations that usually force us to make extraordinary judgments. It is the case that we make judgments that we wouldn't otherwise in emergencies. Gert says, “. For example, in an emergency when large numbers of people have been seriously injured, doctors are morally allowed to abandon patients who have a very small chance of survival in order to take care of those with a better chance. However, in the ordinary practice of medicine, doctors are not morally allowed to abandon patients with poor prognoses in order to treat those with better prognoses, even if doing so will result in more people surviving.”<sup>33</sup> The most pressing matters receive the greatest priorities, and thus the greatest violations.

Case Application:

This case does involve an emergency and so, should involve an action that is proportionate to what is at stake.

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<sup>32</sup> Ibid.,72.

<sup>33</sup> Ibid.

These ten questions are capable of producing an amount of morally relevant features that can't really be estimated, says Gert.<sup>34</sup> However, this helps as a general guide in obtaining the morally relevant facts. With the case, at hand there are many morally relevant features that apply. When the discussion of public policy begins, these morally relevant features will also apply.

**The Second Step: Estimating the consequences of everyone knowing that a kind of violation is allowed and that it is not allowed.**

Now that the first step has been completed, the second step comes into play. The consequences of everyone knowing that a kind of violation is or isn't allowed must be weighed. Gert believes that, due to inter-subjectivity among persons, the word estimate has to be used because preciseness may not be a given. Publicly allowing certain violations to occur might make moral statements that come with even more sets of consequences. This is why the second step accounts for many forms of harm in a way that the first step doesn't.

Case Application: The consequences of saying that the life of a person doesn't constitute enough justification to break a small promise to your child seem detrimental. For one, the notion of being a Good Samaritan will be undermined. Also, it may seem like intra-familial situations are more important than outside ones. While this is true in some cases, it creates an everyman (or family) for himself mentality that is seemingly devoid of empathy.

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<sup>34</sup> Ibid.,73.

## **Verdict**

It doesn't seem that this small promise the father made will cause great harm if it is not met. Most people would think that the delayed fulfillment of the promise is not even nearly as important as a person's life. A greater evil (death) is being prevented at the expense of a much smaller evil (temporarily violated fidelity, assuming the father will get in the pool with the child directly after CPR).

Of course, just because the father isn't required to follow the moral ideal brought about by giving a person CPR doesn't mean he has no moral holding in the situation. If the father doesn't help the person, he isn't in a legal or moral sense liable to punishment. His lack of subjection to punishment, though, doesn't mean he isn't wrong for not embodying that ideal.

## **Requirement**

It seems odd to see that moral ideals aren't required, but can be used as adequate justification for breaking moral rules, which are required. In the example before, saving a child's life seemed to be adequate justification. Because moral ideals can be strong enough to overcome the responsibility to moral rules, Gert thinks it's important to draw a distinction between moral and utilitarian ideals. Moral ideals involve the betterment of deprived persons while utilitarian ideals involve the betterment of persons who are not deprived. This difference can be explained with the example of a firefighter and a manicurist. A firefighter is acting on a moral ideal by having a profession that helps those in need (through preventing further harm or harm altogether), and therefore provides them some sort of goodness. A manicurist is acting on a utilitarian ideal, where betterment is extraneous and only provides a good (beauty) to a person in want. Because



utilitarian ideals don't have the same moral power as moral ideals, they can't provide adequate justification. Gert says, "Providing pleasure for deprived persons counts as following a moral ideal, but providing more pleasure for those who already have a good life is following a utilitarian ideal."<sup>35</sup> Moral ideals are very specific in that their nature is to rectify disparity. That nature is what allows those ideals to overpower moral rules.

When moral rules are violated without justification, they are liable to punishment. So even if there is a justification for violating a moral rule, if it is a weak one, it still may be liable to punishment. If moral ideals are violated, they are not liable to punishment. People can be criticized for not embodying certain moral ideals, like giving to charity; they just cannot be subject to punishment. Punishment plays an important role in Gert's framework, because whether or not a violation of some principle should result in punishment can be indicative of its status as a moral rule or moral ideal. Ross makes no such distinctions.

Like Ross, Gert has his own criticisms of rival theories. Kant makes a claim that "It is morally wrong for a person to lie to a hired killer in order to protect an innocent person from being killed by that killer."<sup>36</sup> To Gert, this is a serious mistake; some violations of moral rules are and can be justified. Even killing someone, when it is for the sake of self-defense or the defense of a small child, has potential for justification. Rival theories don't allow for this, but Gert still finds it very important that the justification is concrete and equally agreed upon. Once the two-step process occurs, the strength of the justification and the degree of punishment can be assessed.

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<sup>35</sup>Ibid.,24.

<sup>36</sup> Ibid.,56.

1. When every qualified person agrees that the violation of a moral rule should be allowed → Violation is strongly justified and no punishment should occur.
2. When every qualified person agrees that the violation of a moral rule should not be allowed → Violation is unjustified and a person should be liable to punishment.
3. When qualified people disagree about whether the violation should be allowed → Violation is weakly justified and should be liable to punishment for violating the rule.

With these, a moral agent should be able to tell if their violation is subject to punishment. If the violation is subject to punishment, then the agent knows that there was weak or no justification. If the violation is not subject to punishment, then the moral agent either violated a moral ideal or violated a moral rule with strong justification. With this, Gert has created a very systematic approach of both how to obtain adequate justification and how to assess its strength.

## **Chapter 2**

Pro tanto principles seem to be worthy of a discussion: they are sometimes preferable to less flexible alternatives, they contain duties that are morally fruitful for a society, and they can help resolve morally complex situations. Though Gert and Ross both offer a version of pro tanto principles, they have many differences that make each account uniquely their own. I will discuss the flaws and benefits of each which will be taken into a further discussion of the applicability of pro tanto principles in public policy.

### **The Principles Themselves**

Ross' principles don't only neglect other principles such as autonomy; when considering all philosophers' pro tanto principles there is marked variation. Compared to Bernard Gert's ten principles, Ross has three less. This might mean that Ross' view doesn't have enough principles or that Gert's has too many. Alternatively, it might mean that they have agreed upon principles just expressed in different ways. When comparing Ross and Gert, it is important to note that the crux of their disagreement is not what the pro tanto principles are. Nor is it about how many should be included; neither of them are confident that their lists are exhaustive. The majority of the conflict surrounding pro tanto principles is the process in how they can be violated.

### **Gert V. Ross**

Gert and Ross both have pro tanto principles at the heart of their moral systems, but they differ exactly in what their principles are, and when they are required. Gert offers the systemization that critics of Ross believe is necessary. Ross, on the other hand, provides a system that depends more on thought than strict adherence to a two-step procedure. Out of the two, Gert gives a preferable system, but Ross still lays important groundwork that will contribute to the discussion.

Gert creates a distinction between ideals and rules, which allows principles to be more clearly defined. Gert's addition of an explicit guide to morally relevant features help strengthen the ambiguity present in Ross' version. Finding a solution to moral dilemmas, of course, involves consideration of all the relevant features of the dilemma. This is at the heart of what pro tanto principles are. But Ross' version doesn't offer precisely what the features are or how to go about obtaining them. Though of course, he

is certainly capable of doing such a thing and the presence of a list doesn't conflict with his system, Gert's addition is helpful.

### **What Works**

Gert and Ross both make positive contributions to pro tanto principles, but at times one fares better than the other in their accounts. Considering the similarities and differences of their versions, a productive task will be to find which parts of each system actually work. Principles should be included if they are unique in the morally significant content they contribute. Additionally, principles should be considered moral rules if their failure to be met is viewed as immoral rather than irrational. All other principles that are uniquely morally significant but not necessarily subjected to compliance should be considered moral ideals.

What comes out of this section should be (1) all the principles that are true and (2) the least amount of true principles as possible. Principles that just repeat themselves will be eliminated so that the most precise ones can be discussed in the public policy section.

### ***Finding the Principles***

#### Do Not Kill

Gert includes a duty of "Do not kill," which just seems to be a specific example of the Rossian principle of non-maleficence. Do not kill, on Gerts account, serves as one of "each of the other four general kinds of harms". Killing is not a general harm, though. Depriving of freedom, disabling, and depriving of pleasure cannot be placed in the same category of 'general harm' as killing. Killing is a specific instance of the deprivation of freedom, it is disabling, and it is the deprivation of future pleasure. Adding a rule like 'do not kill' is similar to adding a rule like 'do not rape'. Both are moral rules, but are moral

rules explicitly and universally understood to be under the scope of ‘do not harm.’ ‘Do not kill’ doesn’t seem like it works when compared to other frameworks, but it doesn’t even seem to fit within Gert’s own framework, largely for being so dissimilar to the other four harms in the grouping. Ross already foresees principles like do not kill and says:

“The recognition of the duty of non-maleficence is the first step on the way to the recognition of the duty of beneficence; and that accounts for the prominence of the commands ‘thou shalt not kill’, ‘thou shalt not commit adultery,’ ‘thou shalt not steal.’”<sup>37</sup>

For these reasons ‘do not kill’ should be eliminated and should be assumed to be under the scope of non-maleficence.

### Fidelity

Keep your promises (Gert), do not deceive, (Gert) and fidelity (Ross) are three different moral rules and duties that can be condensed into one. Deception entails misrepresentation, omitting truth, or just simply lying. If one fails to keep their promises, then they have, whether willfully or not, lied. For example, if Charise promises me that she will go to my improv show and doesn’t end up doing so because of her brother, she has not kept her promise, has deceived me, and has broken fidelity. It is generally thought that deception requires intent, but even though deception can have intent behind it, it doesn’t need to. The receiver of a broken promise has been deceived, because they were under the impression that a promise would be kept and had to live circumstances contrary to that impression. They were also lied to, again, without malign intent or not- the inability to keep a promise always entails lying and deceit. In the other way, every instance of deceit and lying is also the breaking of an implicit promise among moral

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<sup>37</sup> Ibid.,22.

agents who rightfully assume that the interactions they engage in are honest ones. Of course this is an implicit promise that only a moral agent involves themselves in, those who can't or blatantly don't wish to engage in moral soundness probably don't make this implicit promise.

Lying, deceiving, and keeping promises are all different variations of the same kind of wrongdoing. This makes them non differentiable, however, the kind of wrongdoing they all point to is an important one. For this reason fidelity should remain a principle while keep your promises (which is just the definition of fidelity) and do not deceive (which is just a variation of not enacting fidelity) should be dismissed.

Another iterative principle Gert gives credence to is 'do not cheat.' 'Do not cheat' does the very same thing do not kill does, though, and seems to also fall under the scope of fidelity in a way that isn't deserving of its own category. Gert says,

“Although closely related to deceiving or breaking a promise, cheating is a distinct kind of behavior. The paradigm of cheating is violating the rules of a game in order to gain some unfair advantage over others...” (44)

Per Gert's words, cheating involves a violation in which one person uses their position to further their end means. Unlike other rules, to Gert, cheating must be intentional because it requires a willful form of deception. Cheating can occur in a situation like a game, but it seems that a person who bends the rules of the game to unfairly gain an advantage is just, once again, breaking a promise. Consider the case of a man who has just been tipped off as to who will be the winning horse in the upcoming race. He gathers all his friends and convinces them that betting on a horse will be a fun bonding activity. By doing this, the man is increasing the sum of the pool he wins in the end. The horse he chose wins, and the man takes home all the money. Yes, he has cheated but he has also very much

broken a promise to his friends and to the society in which he is a part of. When people go into a game, it is assumed that the only unfairness present is the inequity in skill, not inequity in base knowledge prior to or during the game. So when a person willingly violates this, they are breaking the promises implicit in engaging in social interactions. The productivity of any moral system depends on a foundation of trust; if a person wants to be a part of a society, they should always be assumed to mean what they say and to gain advantages in only just or natural ways. From these assumptions, when a man cheats, just as when he lies or deceives, he is breaking a promise.

#### Obey the Law

Gert's 'obey the law' is a good inclusion when considering the moral agents role within the institution they are a part of. In order for morality to occur, agents have to agree to be morally engaged. This engagement occurs, in part with the law and the premonition that agents will follow it. Certain times people are met with dilemmas that impel them to break the law, but these instances should always be met with a resistance similar to that of fidelity. Obeying the law is a promise to surrounding moral agents that you are a part of a system that has morality built into it. This is how people can have peace of mind in knowing that, though they might be robbed, raped, or killed, those instances would be something out of the ordinary.

#### Do Not Deprive of Freedom

'Do not deprive of freedom' is a principle that Gert's system has and Ross' account wrongfully overlooks. This principle is unlike do not kill because it is not a specific instance of harm. Inhibiting freedom is a unique from harm because it is not always regarded as harmful. There are many times when restricting freedom, like putting

a child in a time out, is regarded as formative and productive in affecting the formation of behavior (because of this, we could even go so far as to say that restricting certain freedoms are a form of beneficence). Medicating a severely mentally ill person, who would otherwise inflict harm on others, against their will is depriving them of their freedom, but it not only keeps others safe, but them safe as well. Without the freedom principle, there would be a less descriptive account of what is going on, and the weighing of principles would not be as complete or accurate. Consider the process without ‘do not deprive of freedom’ as a guiding force in the medical patient’s situation.

Non-maleficence would be the guiding principle on both sides and the problem of pitting non-maleficence against non-maleficence would occur once more. It is acceptable to put one principle against itself, but it may result in an incomplete weighing. Freedom is a unique good that we possess, and so it is valuable in making the decision with the incapacitated patient. For this, do not deprive of freedom works quite favorably and is proven to be an important distinction.

#### Beneficence & Self-Improvement

Gert seems to regard beneficence as something not required of a moral agent, but highly encouraged. Ross, on the other hand, works beneficence into his framework as being required of the moral agent. Of the two, it seems Gert approaches beneficence in the correct way.

Suppose there is a very active lawyer for the ACLU (who commits herself to rectifying social disparity) walking home one day. On her walk home, she sees a row of homeless people. Though she commits her life to the duty of justice and beneficence, she bypasses the row of homeless people and heads straight home. She, for the very life of



her, can't will herself to act beneficently even though she is capable of it. She is not enacting the duty of beneficence that seems to be required of her in the Rossian framework.

Even though she isn't enacting her duty, her failure to enact it won't result in her immorality, according to Ross. Unlike breaking a promise, or lying, the lawyer wouldn't be wrong in not being beneficent. She just wouldn't be actively beneficent. According to Gert, she is just not embodying an ideal that is generally encouraged. This seems to be the approach that Ross is implicitly taking; beneficence, all things held equal, is laudable and morally valuable. However, if it is not readily applied, a moral rule is not directly being violated. It is plausible that this is why beneficence is the only principle that Ross says is less incumbent than any of the others. In his framework, he maintains that each moral situation is taken case by case but that generally, beneficence is less pressing than non-maleficence. This may be due to its weakness when it is independent of other moral considerations.

Because Gert and Ross seem to be saying the same thing about beneficence, it seems accurate that beneficence shouldn't be regarded as morally required of us. The lawyer shouldn't have to take care of the people she sees suffering. If it was required of her, then there would be more of a moral infraction if she doesn't. If it was encouraged of her though, it would be more minute. Beneficence as an ideal serves to take away the notable tension with principles like non-maleficence. However, there are instances where being beneficent is the only moral option, and can be so without it being required of us. If the homeless person were starving to death and the lawyer had food with her that she wouldn't otherwise consume, Gert would still view it as morally wrong to not give the

food. There would be no punishment for the lawyer not giving her food; since ideals are encouraged, though, failures to meet those ideals still hold wrongness. They just aren't as wrong as being the direct perpetrators of harm (non-maleficence), the moral deficit is passive and thus not as worthy of being deemed a rule.

The duty of self-improvement, in a similar way, just isn't as convincing. Principles of beneficence and self-improvement, by themselves, do contribute greatly to the moral soundness of a person, but their non-compliance does not result in immorality. Rather, failing to be beneficent or failing to self-improve is irrational. Ross argues that seeking pleasure for others is just as important as seeking pleasure for the self, which is why duties like self-improvement can exist. But making self-improvement a principle imposes laborious expectations on us. People can choose to stagnate, or in rare instances to regress, and that is a part of their personhood. Acting in this way should not violate any principle. It appears that if self-improvement was a rule, rather an ideal we can choose to aspire to, then deprivation of freedom would occur. Making something so central to the self a moral principle, eliminates aspects of free will and does so wrongly.

### Do Not Kill

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rules explicitly and universally understood to be under the scope of ‘do not harm.’ ‘Do not kill’ doesn’t seem like it works when compared to other frameworks, but it doesn’t even seem to fit within Gert’s own framework, largely for being so dissimilar to the other four harms in the grouping. Ross already foresees principles like do not kill and says:

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For these reasons ‘do not kill’ should be eliminated and should be assumed to be under the scope of non-maleficence.

The division of moral rules and moral ideals, along with the use of Gert’s adequate justification tool for possibly violating said moral rules, will be used in the continuation of the discussion. The moral ideals will encompass principles that are encouraged, like being good or improving one’s self, but not required. The moral rules will include what is required of a moral agent: keeping promises, non-maleficence, etc. Violation of a moral rule will be acceptable if another moral rule is, upon thorough assessment of the morally relevant features, thought to be more incumbent in the given situation. Additionally, violation of a moral rule can be acceptable if a moral ideal is used as justification. All principles not discussed once more in depth can be assumed to be found non-problematic (in that they aren’t untrue or a repeat) and will be discussed in the next section.

### **Chapter 3**

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<sup>38</sup> Ibid.,22.

One situation where moral conflicts are indubitably complex is in government. If the legislative, executive, and judicial branch followed absolute morality they would be required to not cause harm, not kill, and never lie. We know this is historically inaccurate (and impossible), which prompts the question of morality's role in government. The government must act differently than a single moral agent, while in some ways acting the same. Perhaps the government operates in a utilitarian way- the most good for the most amount of people no matter the person. A parallel dilemma might occur for Ross though. In a democracy there are children, veterans, and inmates; should all of them be treated in the same regard? If the most amount of good for the most amount of people neglects to account for the various kinds of people and the competing interests that go along with it, then it seems utilitarianism might not meet the needs of public policy. This is where pro tanto principles can be useful in the creation of public policy. Using Gert and Ross' framework, I will propose a way to interpret some of the ambiguities, and create pro tanto principles specialized for public policy.

As America's existence stretches on, over time it has experienced different (and more) racial, social, and economic dilemmas. Multiple courts and bodies are tasked with cases that challenge immature and pre-existing ideas. Despite problems with the two party system and American democracy in general, it is evident that America has become better at assessing decency. Precedents have accumulated, historical context can better be applied, and the educational diversity within the population has expanded.

America is a comparative baby to many civilizations and yet, in such a short time, it seems there have been massive leaps made for social progress in American society. These leaps are in large part due to the American commitment to better itself, and to be a

place founded on certain moral principles. As America ages, and its population expands, moral conflicts and precedents will continue to arise, prompting policy makers to ask the same questions we do; “what is the *right* thing to do here?” A possible answer to this question comes in modifying the pro tanto principles Gert and Ross have made for the individual, to be applied to the scope of public policy.

### **Public Policy**

In this paper, public policy will be narrowed to the scope of the United States and will be loosely defined as, “made in response to some sort of issue or problem that requires attention. Policy is what the government chooses to do (actual) or not do (implied) about a particular issue or problem.”<sup>39</sup> This definition alone draws some similarities to the structure of moral conflicts. In every governmental decision, there is an active choice of what should be done at the expense of what cannot be done. Charise explicitly choosing to take her brother to the hospital<sup>40</sup> to prevent her brother’s wound from being infected was implicitly choosing to not go to my improv show. Much like Charise, when the government enacts a costly but extremely peaceful foreign policy, they are actively choosing the value of greater world peace and implicitly choosing to grow domestic debt.<sup>41</sup>

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<sup>39</sup> Administrator. “What Is Public Policy?” *Public Policy*, [www.civiced.org/pc-program/instructional-component/public-policy](http://www.civiced.org/pc-program/instructional-component/public-policy).

<sup>40</sup> See chapter 1

<sup>41</sup> This is assuming that America is in debt, and so any impactful monetary decision would include that consequence. Presently America is \$21 trillion in debt, so the assumption is a safe one.

Public policy is quite multifaceted; policymakers<sup>42</sup> have to make a variety of policy decisions that can include categories like healthcare, agricultural, criminal, educational, economic, environmental(etc.). Even these are just the domestic policies, there are also foreign policies that need to be considered. The different categories of public policy will add other moral considerations to the weighing of principles.

### **Trade Offs**

Trade-offs are as attributable to public policy as they are to our own moral lives as individuals. If you skip work in order to drive your mother home from surgery, you are making a trade-off. You are foregoing the cost of not going to work for the benefit of making sure your mother has successfully and safely arrived to her home. You are also weighing pro tanto principles against one another. Say your boss really needs you to come into your shift, and you promised that you would absolutely make it on this day at this time. But then, your mother calls explaining that your other sister got into a car accident and she has been at the hospital waiting to be picked up from her surgery. An extraordinary situation prompts you to weigh pro tanto principles against each other. If you go pick up your mother, then you are breaking your promise to your boss. If you go to work, then you are not being beneficent and you aren't exhibiting gratitude to a mother that has done so much for you. The consideration of the value of your relationships comes into play - the person who gave you life might be of different value to you than your employer, just as Ross suspects. Though beneficence isn't required of you, you

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<sup>42</sup> 'Policymakers' can really mean a variety of things. Public administrators, legislators, chief executives, and even private citizens have a part in balancing the interests of public policy. When the phrase policymakers is used it may be interchangeable with government since the two are inextricably related.

decide that it adequately justifies skipping work and you choose to pick your mother up from surgery.

The government similarly makes trade-offs and weighs pro tanto principles at the same time when creating and executing public policy. If a measure were proposed that would cost the government 8 million dollars, but would ultimately prevent the spread of a disease that would wipe out the population, the government would be forced to make a tradeoff between incurring debt (or spending savings) and indirectly causing multiple deaths. They would forego having 8 million dollars in expendable spending for the benefit of having the majority of the population survive. Consider the pro tanto principles being weighed here. What if it was the case that the government only had 8 million dollars and that would mean healthcare, incarceration, and the needs of certain communities were being sacrificed so that one half of the population could live. Even in this case, it still seems that the disease prevention would be beneficial, as it employs the principles of beneficence *and* self- improvement.

Public policy shouldn't be solely based on money, and if we look at current policy, we can see that it isn't. Many other motives and considerations besides purely monetary ones are weighed concerning public policy. This element of otherness, where decisions are made using more than one principle, is what makes public policy applicable to the structure of pro tanto principles. Different kinds of communities have different interests that shape what is morally relevant to what is produced in public policy.

Consider the debate surrounding Planned Parenthood<sup>43</sup>, an organization that provides vital reproductive health care and sex education. Planned Parenthood receives a good amount of government funding<sup>44</sup>, which is sometimes met with ideological dismay. A man and woman have vastly different needs when it comes to reproductive health. These needs ultimately require different amounts and kinds of resources in order to achieve their end goals. Different populations have innately different needs that need to be considered. Beyond these innate differences are the differences that occur as a byproduct of democracy. Liberals and conservatives view this issue quite differently and, for a variety of social and economic reasons, may or may not believe that government funding for Planned Parenthood is misplaced. This is one of many examples in public policy that show different communities (either innately different ones or different ones as an exercise of democracy), have different competing interests regarding any one conflict.

### **Similarities between the Moral Agent and the Government in Moral Conflicts**

It is impossible for a person to be in two places at once or to be able to predict the future in such a way that tells them the morally optimal outcome (especially because for all we know, the future is infinite). People work under the constraints of being human and are thus only able to make decisions that adhere to those limitations. This is why dilemmas arise; there are two (or more) possible avenues, each with their own moral value, and only one action can be taken. The same goes for public policy, where

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<sup>43</sup> Parenthood, Planned. "About Us." Planned Parenthood. Accessed December 08, 2018. <https://www.plannedparenthood.org/about-us>.

<sup>44</sup> Parenthood, Planned. "How Federal Funding Works at Planned Parenthood." Planned Parenthood Action Fund. Accessed December 08, 2018. <https://www.istandwithpp.org/defund-defined/how-federal-funding-works-planned-parenthood>.



resources are not adequate enough to meet all the demands of a growing society.

Policymakers operate under the constraint of time and money, and have to make choices that involve sacrifice of certain moral ideals and principles in light of ones that are more important at that time.

### **Differences between the Moral Agent and the Government in Moral Conflicts**

It is evident that trade-offs are inherent to moral conflicts experienced by both the moral agent and government alike, so where do the two differ? For one, there is an obvious difference between a singular entity (moral agent) and something that acts on behalf of millions of singular entities (government). We know that in the course of a moral agent's life, there will be times when principles are not adhered to. Even if we enter into society under the assumption that the interactions we engage in are pure, there will be moments that challenge our moral integrity. When Charise decides to take her brother to the hospital to get rid of his infection instead of going to my improv show, she (like all of us similarly might) violates a principle (even if it is considered to be justified). Public policy, since it deals with dilemmas of much greater caliber and frequency, will do this more often. They will violate principles in a way that if applied to a moral agent would be unacceptable, but because of the distinctness and magnitude of their decisions, it is allowable for them.<sup>45</sup>

#### ***Non- Maleficence***

It was discussed that in both accounts of Gert and Ross, non-maleficence was a more incumbent principle than beneficence, which moved beneficence to being regarded

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<sup>45</sup> Take the example of war. Agents aren't legally (or morally) allowed to kill or inflict pain, but under the safeguard of a government sanctioned activity like war, they are.

as a less incumbent but still generally important ideal. Not causing harm is more possible for the agent than it is in public policy, simply because of numbers. However, just because it is more possible to cause harm, doesn't mean it isn't equally as important that it doesn't occur.

Not causing harm to certain populations, in the scope of public policy, is a bit different. All things equal, it would be worse to cause harm to your mother than it would be to your waiter because of the history of relationship you have with each of those people. Public policy doesn't take into account the same nuance in relationship that moral agents do. However, it is tasked with accounting for nuance of a different sort. Should resources be distributed evenly among veterans and inmates? What about children and senior citizens? Or, should public policy make resource considerations for communities the country has previously disenfranchised? Sure, public policy doesn't have to deal with the dilemma involved in personal relationships that Ross talks about, but it does have to do deal with its own sort of complexity.

***Reparation:***

The moral agent needs to attempt to repair past misdoings- this fits quite nicely with intuitionism. What is wrong and how we deal with it evolves as time goes on. In the case of Charise and the improv show, she may have taken her brother to the hospital and caused harm to her friend. But in the future, when her friend realizes that she has caused Charise a great deal of emotional harm (even though Charise understood the reason for missing the show), the friend can make it up to Charise for missing the show. Time has passed, the brother has been taken to the hospital, and the friend can realize that promising Charise they will go to the next three shows will make her feel better. Of

course this is an example where wrongdoing was known. There are times when reparation needs to occur because, *upon reflection*, something was known to be wrong.

At any moment a violation can occur on a personal or governmental scale. A person could cheat on their partner or a government could disenfranchise a group of people and unjustly take their land. In many instances, these things are done in ignorance, though that does not lessen their impact. The government has a harder time than the moral agent here not only because of the number of individuals it interacts with, but also because of the time over which its interactions take place; a government's lifetime is far longer than an individual's (perhaps infinite). The realization that wrongdoing has occurred will be far more likely in the span of a government's life.

Agents that existed during the time of slavery (and participated in its practice) might have passed before slavery was normed to be extraordinarily horrendous. They will never realize the wrongdoing and will thus never be eligible for reparation. However, the government, which has had enormous changes in its moral and social norms over time, will be eligible for reparation. This will happen even if those who act on behalf of the government (policymakers), were not present for the action worthy of reparation.

Reparation may never be tantamount to the hurt inflicted in the primary offense, but it is still good form to at least include it in these rules (and attempt for it in our world). Reparation is unique in that it is retroactive. It can help provide accountability for actions that were wrong in the first place or, more so in the government's case, that were wrong once standards of decency changed.

***Justice***

For one, the individual moral agent puts its faith in public policy to rectify moral infractions. Public policy, in turn, has the added duty of punishing the individual moral agent who is in the wrong. Though public policy is made up of a collection of individual moral agents, it has additive considerations. The collectiveness of its nature makes it a more powerful body, which entails more responsibility. Unlike the individual moral agent, the government must embed the purposes of justice in development of its moral schema. For government even if no other consideration is present, it has to seek justice. Justice, unlike reparation, can be proactive and retroactive and is a moral rule to government.

### ***Do Not Deprive of Freedom***

There are many cases when depriving another person of freedom is considered to be morally justifiable as laid out in Gerts fourth morally relevant feature. The government is unique in that it is tasked with depriving people of their freedoms by the very nature of its existence. By being an enforcer of the law, and thus an insurer of safety, the government *has* to deprive persons of their freedom. The moral agent, if they occupy certain positions like being a parent, or being a physician, justifiably deprive persons of their freedom. But that is because they are occupying a role of authority that they temporarily go in and out of. Not all of their interactions with other moral agents will require them to act as an authority figure. At base, they are moral agents who are not supposed to deprive other persons of freedom. In contrast, the government does not occupy a role when it deprives their citizens of certain freedoms. The government is simply being its essential self.

Deprivation of freedom varies greatly from the individual to the government. It is seen as far more acceptable for the government to deprive individuals of freedom than it is for an individual moral agent to deprive other moral agents of freedom. This is because of many reasons, a large one being that we see the government as knowing best, probably based on our knowledge that it is comprised of many individuals, while we are one (and have knowledge contingent on such). I take it Gert would agree to the uniqueness of the government;

“When a government deprives one or more of its citizens of some freedom, that is not the same kind of act as when one citizen deprives another one of the same amount of freedom, even when the evils caused, avoided, and prevented, and the rational desires and beliefs of the person being deprived of the freedom, are the same. Of course, both acts of deprivation might be morally unjustified, but because they are not the same kind of act, one of them might be justified and the other not. For example, a government might be justified in forcing a person to sell his property in order to build a road, whereas no private citizen would be justified in doing so. This feature makes it possible that appropriate members of the government may be justified in inflicting harm on a citizen when people without this special relationship are not justified in inflicting that harm in what may otherwise count as the same kind of situation. This is an essential feature in distinguishing punishment from revenge.”<sup>46</sup>

The deprivation of freedom, on the government’s behalf, can be seen as a form of paternalism. Paternalism is defined as, “is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”<sup>47</sup>In this way, the government is preventing us from causing harm to ourselves. Moral agents don’t have the authority (unless occupying a role) to prevent another person from causing harm to themselves. When the moral agent does this, then, it is more of a violation than

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<sup>46</sup> Gert, Bernard. *Common Morality: Deciding What to Do*. (New York: Oxford University Press, 2007) pp.65.

<sup>47</sup> Dworkin, Gerald. "Paternalism." *Stanford Encyclopedia of Philosophy*. February 12, 2017. Accessed December 09, 2018. <https://plato.stanford.edu/entries/paternalism/>.

when the government does. That is not to say that the government isn't immune to depriving the freedom of others in such a severe manner that it becomes wrong, but they have more leeway in doing it in the first place.

Another reason to deprive a person of freedoms is not to protect them from themselves, but to protect society from that person (like in prison). Gert's seventh morally relevant feature takes this into account. While the government can and does pursue reasons of punishment like deterrence, retribution, incapacitation and rehabilitation, the moral agent doesn't. The moral agent resigns their hold on retribution and gives that duty to the government.

Although depriving freedom is obligatory to the government, it is a principle that is held to be the forefront of American ideals. "Innocent until proven guilty" and other legal safeguards perpetuate this American and democratic sentiment. So, even though the government may have to deprive persons of freedom more, they should generally be just as resistant as the moral agent.

### ***Keep Promises (Fidelity)***

Oddly enough, it doesn't seem that the government is subject to treating promises the same way as the moral agent. This is because of the different relevant features of the government. For one, a promise<sup>48</sup> made between moral agents is usually a finite one. A promise made between moral agents and a government, though, is one that is subject to fickleness. Both the moral agent and the government know this in a way. Any policy is

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<sup>48</sup> Unless the promise is something of the sort, "I'll love you forever." In these cases, these are either promises of deception or promises that are made where 'forever' means until death.

capable of being overturned, because administrations can substantially change every two to eight years. The 401k, a promise the government has made, is not a promise that it can foreseeably keep given constraints on resources and the increase in population. Even more than this, the money that is put away is subject to inflation due to the fiscal moves made by the government (either accidentally or knowingly). So the money a moral agent thinks they will be receiving and thus the premise of the promise, won't actually be the same amount they actually receive. In a way the promise by the government isn't fully kept.

When campaign promises are made, moral agents (at least should) understand that they may have been made as a means to win votes. Of course, deceiving the public in order to get a coveted position is immoral. But consider the case of a politician (this isn't so much a case as it is a recursive reality) who promises things to moral agents that he can't follow through with because of resource deficits, states of emergency, or competing interests held by a vaster majority of the population. When the moral agent begins to engage in an interaction where a promise is to occur, similar problems can occur on a smaller scale, but they aren't expected. With policy moves, there is more of an expectation that due to the nature of American politics, it is likely that promises are not fulfilled in the way they were presented.

### ***Obey the law***

In order for society to endure, the moral agent must obey the law. By living in a society, we are consenting to being governed. By that same token, the creators of public policy must uphold the law. The government is something that we have agreed to, and through agreeing have entered into a type of promise to follow its rules (as long as they

are moral).<sup>49</sup> Policymakers have a duty to not use their power as a means of abuse to evade obeying the law. Public policy is sometimes seeded with actors who can be bought out by wealthy private parties for interests that don't have pure moral intent. This should not be the case, even though it often is. The government should be expected to act like the moral agent and obey the laws in an equal way. For the government, this means engaging in the law in a way that promotes interests without corruptive infiltrates. Upholding the law must be as strictly met as obeying the law.

*(Social and Political Consensus)*

This is a part of obeying and thus upholding the law. It is considerably immoral for the government to act in a way that doesn't consider the time or the growing needs of a population. The founding fathers foresaw this problem and evolving standards of decency were constitutionally created in response. If a measure is voted on, it is within the governments' duty to enact the policy in accordance with how it was voted. Additionally, if social consensus leans towards something (like equal rights for the LGTBQ community) then that must be upheld as well. To act or implement policies otherwise would hold wrongness.

***Beneficence***

The moral agent and the government treat beneficence quite similarly. Both ideally should act beneficent, but if additive good isn't obtained it isn't reprehensible. Not being beneficent will produce defeatist attitudes among policymakers and those who are affected by policy, but won't subject policymakers to punishment (just failure). This

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<sup>49</sup> This rationale comes from the social contract



is a strong moral ideal that the government should strive to embody, but it remains as just an ideal in the scope of public policy.

### *Self-Improvement*

In order for a moral system to work for the moral agent, self-improvement is desirable but not generally required. Self-improvement is a laborious task<sup>50</sup>, one that imposes certain expectations on a moral agent. Though it can be used as a reason for violating some other moral rule in significant enough instances, it is not a task that in and of itself must produce action. Public policy, on the other hand, must always use self-improvement no matter what dilemma it involves itself in and must always produce action. The very fabric of public policy relies on betterment- policy shapes America so that it can be its best possible self. Healthcare reform, taxes, legal precedents etc. all are working towards a harmonious society. Self-improvement, then, is a moral ideal used in each and every instance of policy making. In contrast, no one ideal or rule is used every time a person weighs potential moral outcomes. This draws one difference between the agent and public policy in their dealings with pro tanto principles. There is no weight with the agent- no one principle is every time more important than the other, as self-improvement is for government.

Earlier, I argued that self-improvement as a moral rule for the agent imposes some kind of laboriousness that isn't required. In public policy this is not the case-

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<sup>50</sup> Beneficence and self-improvement don't act the same here because beneficence is doing an additive good, and self-improvement is acting in the direction of good (rather than stagnating or acting in the direction of bad).

formulating policy that betters the nation isn't laborious it just is a part of the process. If it weren't to be done, then public policy would be pointless.

### **Reputation- A New Principle**

Self-Improvement is an intrinsic good for the government and is why public policy even exists. Reputation, a new principle, is how public policy can continue to exist in a productive manner. Acting in a way that would prevent the continued existence of something that, at its heart, aims to promote good, would be a violation.

Public policy should also include reputation because it includes the maintenance of a good image. America must act in a way that shows it is worthy of being a part of the world. It must enter peace accords, help neighbors, and exhibit some amount of cordiality in its global interactions. In doing this, America is able to remain a power that is capable of affecting more change, and thus more goodness (for its citizens, and for the world as a whole that it is a part of). If America completely destroyed its international reputation by committing genocide, and losing the respect of all other nations, then it is possible that it would lose out on lucrative trade deals and positive relationships. Without this, the country would have less opportunity to act on other moral principles and ideals, and would even end up violating more moral principles and ideals more often.

The individual doesn't operate as a figure that needs to consistently make moral statements under the scrutiny of others. If they commit wrong, they do so microscopically, and because of this, their actions typically hold less weight than wrong done in public policy which can have domestic and international repercussions. Preserving reputation is a means to an end, with the end being more principles proactively preserved. Additionally, since scrutiny is inescapable, maintaining a good

reputation is beneficial for modeling proper behavior (for the moral agent, for the American government, and for international ones)

For the agent, preserving reputation would maybe secure goodness for the self by means of pleasure. For the government, preserving reputation would mean securing future goodness for the selves within so that potentially depraved persons could be more benefitted. Consider enacting a policy that could cause serious international scandal but would be most in line with the majority of the population at the time. It might be the case that, when this moral dilemma arises, the government's homage to their own population (social consensus) is more incumbent. Or it might be the case that preserving reputation is more incumbent, because that would mean that more acts in the future could occur which would benefit America's own population.

### ***Stability – A new principle***

In the discussion before, the moral agent's own source of pleasure and self-improvement aren't necessary principles in the weighing of moral conflicts. This seems to be different in the case of the government, as seen by how incumbent the role of self-improvement and beneficence are. In addition to maintaining a good global image, the government must preserve its own health by maintaining a fiscal stability that allows it to continue to exist and act on its moral schema. By engaging in harmful economic policies, even if they are for the welfare of the citizens, the government will be sacrificing its own health. This is where monetary concerns come into play- stability is also a principle that will always be weighed. Will said policy move put the country in an unsalvageable state? If so, perhaps the beneficence of the move isn't as incumbent as the stability. Stability is included for the continuance of the state, either in the monetary sense or the actual one.

### *Security - A new principle*

The American entity is tasked with making sure that its citizens are safe. This is why so many resources are used on self-defense, governmental agency, etc. The right to privacy is sometimes breached, and so America must do what it can to protect its citizens. Of course, this comes at a cost. When airport security requires flyers to go through extensive security measures, they are employing this principle of security. They are depriving persons of their freedom while they are doing it, though. Especially in the case of random TSA checks, where people are sometimes invasively felt up in order to continue on. Data collection on the individuals social security numbers, etc. all seem to serve a purpose that is correct, though the way in which it is dealt with often encounters error.<sup>51</sup>

Security can justify certain behaviors on the governments' behalf. The purpose of incapacitation is to isolate wrongdoers from society, so that they do not commit more wrong. The government deprives people of freedom, for general security. Similarly, when extremely personal data is collected, the government justifies it as a security measure. If this data collection helps to prevent an act of terrorism, or informs the government in a way that perpetuates our safety, then this principle might be able to override the deprivation of freedom.

### **Principle Overview**

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<sup>51</sup>One problem with some security measures, like the one in the airport example, has to do with racial profiling. Public policy has a duty to reparation, which includes acting in a way that recognizes America's deep racial history

Even though public policy acts similar to the moral agent in some ways within the individual duties, there are many other considerations because of the breadth of government's power. The small nuances in each duty collectively make great changes when paired together, thus making the application of pro tanto principles in public policy succinctly different and more difficult. In both Gert and Ross' framework, even the simplified version we discussed contains no principle regarded as more incumbent than another. But with public policy, self-improvement is the most incumbent principle, with the nation being regarded as the self. Some principles, such as reparation act quite differently, and in the case of stability, there are some principles that have failed to be considered at all in Ross', Gert's, and our amalgamated accounts.

It is not just irrational for policymakers to not act beneficently or justly, as was argued with the moral agent, it is immoral. For them to not act in ways that is in accordance with the needs of the population, who desire goodness and fairness, policymakers become subject to punishment. This is often in the form of not being re-elected or severely criticized (and in the worst cases, overthrown), but is still evident.

### **Morally Relevant Features**

In Gert's Common Morality, he mentions the government a few times and thus points to instances where considerations about public policy might be relevant. In his moral rule, 'do not deprive of freedom,' he talks about the government's specific authority to deprive freedoms. In his eighth morally relevant feature, there is a question of whether or not a certain other action or *policy* would be preferable. His sixth morally relevant feature similarly references the government and how certain occupations, like police, *may* have in committing a violation (their job description entails it). All of these

contribute to how Gerts framework is able to apply to public policy. However, there are a few features, in light of the differences discussed within the principles that can be added.

The morally relevant features Gert includes will help guide policymakers in their decision-making, but here are a few suggested additions.

*1. Does the violation target one certain population? Does that violation make a moral statement?*

One large difference between the moral agent and public policy is scale. Moral agents only have relationships with a few select others, but every moral agent has a relationship with the government. And the government has a relationship with every moral agent. Will everyone be affected negatively or positively if the violation occurs? Or will a small/ succinct group have to receive the harm of the violation?

Numbers are not as important with the individual as they are in public policy. It might be more right to enact a policy that helps a group of people and minutely harms everyone (i.e. causing taxes to be higher). Or it might be more right to enact a policy that minutely benefits everyone and only harms a small group of people. This case is trickier, though, because the effect might be viewed as targeted (either intentionally or by neglect.) In this case, the next morally relevant feature should be considered.

*2. How vulnerable is the population to whom the rule is being violated?*

The more vulnerable the population, the less the violation should be allowed. Vulnerability should be noted as a term that is not in any way demeaning. Rather, vulnerability is it is a term that accounts for the positionality

of members in a society in accordance with the way society treats them (to no fault of their own). Vulnerability, as it is used here, can be determined by a variety of factors that include:

*Social Standing-* One way to assess social standing is to see what members of the population occupy positions of power, have full access to their rights, and are treated justly. Men disproportionately occupy positions of power(governmentally, and in the corporate world) and so if a violation were to harm women(less access to reproductive rights) and benefit men then policy makers can easily discern between who has higher social standing.

Up until 2008, members of the LGBTQ community didn't have full access to their rights, and this affected their social standing in America. Policy movements that effect this community in particular should be considered, as the consequences might be that the group feels more targeted or societally subjugated. In order to signify that these groups have gained the equality that legislation supports, policies should consider these attributes.

Inmates have no voting rights and have infamously been treated inhumanely. Since they have been violators in the past, this might make it seem more admissible to allow violations. The opposite might be true though, and they might be unjustly subordinated due to their social stigmatization. The realization that all people, including inmates, are human should be considered when enacting policies.

*Age-* Senior citizens and children should be considered more vulnerable populations. Because of this, enacting policies that target elementary education or

children in general, should be considered heavily. Children are not considered moral agents because they don't have the same decision making abilities their older counterparts do. They are more vulnerable due to their neurological formativeness, and overall impressionability.

Additionally, children are quite literally the fabric of the future. In an analysis of potential policy enactment, the government should realize its relationship with time is similar to children (there's more of it). Improving the lives of children, will be the improvement of the society as a whole and will coincide with the principle of stability.

Senior Citizens should also be considered in regards to age. They have been productive members of the society that we all engage in and now may be less able in a variety of ways. Plans for their retirement and continued welfare after they have completed their most active capitalist role in society, should occur. If a policy helps or harms them, this should be considered.

*Physical Ability-* The world is not built in deep consideration for people who don't have a good amount of physical agency. They have less physical access to a large part of the resources public policy intends to provide. Because of this, they should be considered more than persons who do not have this physical impediment. This will help improve a condition that is not at present optimal.

*Mental Ability-* Policies should accommodate to features regarding mental illnesses and there should generally be a basic psychological understanding of how groups that have cognitive deficits interact with the world. When weighing a



principle that will harm this group in particular, considerations should be made for the capabilities they lack.

*Historical Standing-* If a policy move violates a certain group of people that have been historically disenfranchised, this should be considered. It is within America's moral duty, and is a part of reparation, to not continue the behaviors they have been prone to in the past. A policy that involves relocating Native Americans would be of a different moral sort, after consideration of our history, than a policy that involves relocating a random group of Californians.

*Veteran Status* – If the policy recommendation results in a violation against a group of veterans, this should be a morally relevant consideration. Seeing that harming this certain group would also violate the principle of gratitude.

In consideration of these relevant characteristics, public policy will be able to follow moral ideals rather than utilitarian ones. Of course, everyone in a society is able to have his/her life improved in some way. There are some groups, though, where this ability becomes a need. It is important to identify when this is a need, and when having more goodness is not a need. The former should receive more urgency in consideration.

3. *Is the violation a violation that would be regarded by other (progressive) countries as justified? Does it meet the standards of a social consensus internationally?*

Just as moral agents look to other moral agents and how they would view justifications, policymakers should look at other policies and see how they view

things. Progressive countries will be the ones that uphold the same values about race, creed, color, gender and sexuality.

If a violation is usually allowed or not allowed internationally, this should be a factor in America. One example would be basic healthcare, and the how some European countries would regard our treatment of human rights to be a violation.

### **Conclusion: Balancing Pro Tanto Principles**

In terms of actually balancing principles, it seems that public policy can use the frameworks provided by Gert and Ross. The two step- justification process will work, with the modification of what the principles mean, what they are, and how the morally relevant features are dealt with.

When a public policy is being formulated, the most important duty, which should be weighed at all times is to improve the self. This moral ideal in Gerts version will move to being a moral rule. If public policy acts in a way that is ideologically regressive and seeks to self-damage, then that will prove to be reprehensible (unlike other moral ideals).

Public policy should try its very best to keep its promises to citizens. In a practical sense, though, the government is not accountable if they don't fulfill certain promises. This is because of its unique relationship with time, resources and emergencies. For this reason, fidelity should be moved to a moral ideal.

All other principles should act, within the binary of moral ideals and moral rules, the same. When faced with dilemmas that sacrifice the needs of one group of individuals, morally relevant features should be assessed through the first step of the two step process. In addition, in order to account for the relationships between people (and governments)

like Ross wanted, vulnerabilities should be assessed. After all, public policy should act more so on moral ideals than utilitarian ones. That is, it should aim to provide goodness to the lives of those that are deprived. Utilitarian ideals should be secondary to this, in which goodness is added to the lives that are already good. This is why vulnerabilities should be assessed, they make certain populations more in need of good than in want of good.

Once vulnerabilities are assessed and the first step is completed, the second step of estimating the consequences of allowing or not allowing the violation should occur. This can be done more empirically than on the thought the individual moral agent has to rely on. Social consensus can be obtained within the country on what policy moves are acceptable and desirable.<sup>52</sup> Social consensus among progressive countries can too be assessed when looking at these factors. Then, the government will have to decide the consequences of letting everyone know the violation was or wasn't allowed. Unlike the moral agent, it's very likely everyone will know the violation was or wasn't allowed. America will make a moral statement each time it makes a policy move, and so must do each move cautiously. How will citizens react if their freedom is severely deprived for the sake of preserving security? Are the consequences of this inevitably widespread knowledge of the violation worth committing the action? The tools given in this paper should help guide the answers to this question and ones that are similarly problematic.

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<sup>52</sup> Alternative tax laws can be measured quite intelligently, through voter consensus and mature cost benefit analyses.

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