

State Neutrality in the Context of Morality and Voluntary Laws

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Abstract

Political philosophy's basic idea of state neutrality emphasises the government's objectivity towards the unique opinions and values of its constituents. But there is a lot of disagreement over whether the government should remain impartial when it comes to moral and ethical matters. Some contend that state neutrality necessitates that the government remain impassive on moral matters, allowing citizens to freely follow their moral and ethical convictions. Others contend that the government should uphold moral principles, even if it means restricting citizens' ability to behave in ways that go against such principles. Additionally, since voluntary laws are made by individuals rather than the government, they raise concerns about state neutrality. This essay examines the many defences of state neutrality in the light of morality and voluntary legislation, emphasising the implications for democracy and individual freedom. It contends that, despite the fact that state neutrality is an essential component of a democratic society, the government should uphold moral principles that are important for its people's welfare while still preserving their right to personal autonomy and independence. Additionally, voluntary laws expose the limitations of state neutrality and provide citizens the chance to develop laws that are consistent with their views.

Keywords: Kant's political philosophy; Arthur Ripstein; justice as fairness; John Rawls; political liberalism; democracy

Introduction

Immanuel Kant's political theory emphasizes the value of state neutrality and sparing use of force by the government. As long as they don't hurt others, Kant said everyone should be allowed to live their own values. This viewpoint is in line with liberalism, which emphasizes personal autonomy and little government involvement. However, Kantian morality also proposes some requirements that people must adhere to, even if it means curtailing their freedom. As a result, there is conflict between the moral obligations to uphold particular moral ideals and the principles of individual autonomy.¹

The obligation to respect other people's property is an illustration of an obligatory end in Kantian morality. Individuals are obligated to refrain from stealing or misusing the property of others. This right must be upheld by the legal system, and those who do so may face punishment from the

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¹ Tyler, Tom R., and John M. Darley. "Building a law-abiding society: Taking public views about morality and the legitimacy of legal authorities into account when formulating substantive law." *Hofstra L. Rev.* 28 (1999): 707.

government. To advance a required objective, such as preventing harm to others or advancing the general good, the state may occasionally need to interfere with a person's property rights. Similar obligations may necessitate legal action are created by the obligation to respect others' bodies. To safeguard the public's health, the state might be required to enforce laws that forbid violence or mandate vaccinations.

Because the state is supporting specific moral principles and restricting individual freedom in these situations, its action may jeopardise state neutrality. However, proponents of this strategy contend that while individual liberty is a desirable quality, it is not a required one for the welfare of society as a whole. Philosophers like Arthur Ripstein and John Rawls investigate this conflict between the right to pursue one's own goals and the obligation to do so. According to Ripstein, the state has a responsibility to uphold some moral requirements in order to safeguard human liberties and advance justice. The state should only support ideals that are consistent with a reasonable pluralism of opinions, according to Rawls, who emphasises the significance of public reason.²

Politics, specifically political liberalism and democracy, are affected by this tension. Political liberalism places a strong emphasis on the ideal of individual liberty and state impartiality, but it also acknowledges that the state must advance particular values in order to safeguard liberty and advance justice. On the other hand, democracy places a strong emphasis on the concept of personal freedom and the right of citizens to engage in politics and advance their own values.

There are significant concerns regarding how the legal system can advance morality, justice, and the common good given the conflict between individual autonomy and the obligation to achieve required purposes in Kantian morality. Kantian political philosophy places a strong emphasis on state neutrality and minimal government involvement, although there may be instances where legal action is required to further compulsory purposes. To striking the correct balance between promoting moral ideals and the common good and preserving individual freedom is a challenge for philosophers and policymakers.

Kantian morality and political philosophy, as explored by thinkers such as John Rawls, Robert Nozick, and Arthur Ripstein, utilize two concepts of freedom that may appear similar but are actually distinct. These philosophies suggest that a government should be impartial and treat its citizens as equals by maintaining a "neutral," "minimal," or "public" stance. Regardless of their differences, Rawls, Nozick, and Ripstein all agree that a government should enable its citizens to pursue their chosen goals without interfering with others' life plans or objectives, as long as they do not infringe on anyone else's freedom. The government's role is to identify, protect, and equitably distribute the essential resources necessary for any human endeavor, regardless of its

² Mason, Andrew D. "Autonomy, liberalism and state neutrality." *The Philosophical Quarterly* (1950-) 40.161 (1990): 433-452.

specific content. This implies that citizens' rights to political and external freedom are linked to the government's responsibility to maintain neutrality with respect to their goals and life plans.³

The role of the state in regulating moral behavior has been a contentious issue throughout history. On one hand, there are those who believe that the state has a responsibility to promote certain moral values and prohibit behaviors that are considered immoral. On the other hand, there are those who argue that the state should not be involved in regulating morality, and that individuals should be free to make their own choices.⁴

In recent years, the concept of voluntary laws has gained popularity as a way to reconcile these two positions. Voluntary laws are laws that individuals can choose to follow, but are not mandatory. Supporters of voluntary laws argue that they provide a way for individuals to act in accordance with their moral values without forcing those values on others. However, the question remains: should the state be neutral with respect to morality, or should it actively promote certain values? In this article, we will explore the concept of state neutrality and its implications for morality and voluntary laws.

State Neutrality

Modern democratic countries place a strong emphasis on the idea of state neutrality, which calls for the government to treat all citizens equally without favouring or biasing any one group or ideology. The idea of neutrality has a number of effects on governmental actions and public policy.

State neutrality implies, among other things, that the government shouldn't treat people or groups differently based on their moral or religious convictions. This implies that the government shouldn't favour one religion over another or force its moral or religious principles on people who don't subscribe to them. All people should be treated equally by the government, and everyone should have an equal opportunity to participate in public life.

State neutrality also means that the government shouldn't utilise its authority to advance any particular moral or religious goal. This suggests that the state shouldn't enact moral laws unless there is a strong public interest or a risk of harm to others. For instance, while the state may forbid murder or theft, it should not manage people's personal lives or impose moral standards on their actions.

The concept of state neutrality calls on the government to maintain its impartiality in disagreements between people or groups who have divergent moral or religious values. This indicates that the government shouldn't support one group over another in such conflicts or take a

³ Wall, Steven. "Neutralism for perfectionists: The case of restricted state neutrality." *Ethics* 120.2 (2010): 232-256.

⁴ Gaus, Gerald. "Liberal neutrality: A compelling and radical principle." (2003).

side. The government should instead offer a neutral setting where people can settle their differences amicably through mediation or arbitration.

In conclusion, the idea of state neutrality is a cornerstone of democratic governance, requiring the government to uphold objectivity and treat all individuals fairly. This idea of individual autonomy and the freedom for people to pursue their own lives in accordance with their own ideals, provided that they do not harm others, is the foundation of this principle.

Morality and the State

There are valid points of contention on both sides of the complex and divisive debate over whether morality should be governed by the state. People who support morality laws frequently make the case that particular moral principles are essential to the health of society as a whole. They can contend, for instance, that drug use or prostitution ought to be outlawed since they are detrimental to both people and society as a whole. They can also contend that in order for society to function, the government needs support moral principles like charity and honesty.⁵

The argument that certain behaviours may have unfavourable externalities on others and that the state therefore has a legitimate role to play in regulating them is one that proponents of state regulation of morality frequently make. They might contend, for instance, that drug usage can result in addiction and health issues, both of which can be costly to society as a whole. They can also contend that prostitution can result in human trafficking and exploitation, both of which are detrimental to both individuals and society. Additionally, proponents of morality regulation by the government would counter that moral principles like justice and honesty are necessary for upholding societal cohesiveness and trust.

On the other hand, those who are opposed to the government regulating morality claim that doing so infringes people's right to personal autonomy and threatens the legitimacy of the government. They contend that people should be allowed to make their own decisions, even if others find them to be immoral. They can also contend that the state shouldn't be in the business of advancing particular moral principles because doing so might provoke animosity from minority groups or religious organisations.

The possibility for misuse is another argument used by opponents of government moral regulation, particularly when the government is granted broad authority to control behaviour. They contend that these capabilities have the potential to undermine the rule of law and democratic norms by being used to repress dissent or target particular groups. The argument that morality is a highly subjective and personal topic and that the state shouldn't be in the business of imposing its own moral ideas on others may also be made by opponents of governmental regulation of morality.

⁵ Kymlicka, Will. "Liberal individualism and liberal neutrality." *Ethics* 99.4 (1989): 883-905.

In conclusion, there are strong reasons for both sides of the complex and contentious debate over whether the government should control morality. While opponents contend that such regulation breaches individual autonomy and can be misused by the state, supporters of state regulation of morality contend that a number of attitudes and practises are essential for the health of society as a whole. In the end, philosophers, decision-makers, and people will all continue to disagree on the issue of whether the state should control morality.

Voluntary Laws

The idea of voluntary rules, usually referred to as moral laws or self-imposed laws, has gained popularity in recent years as a means of resolving morally diametrically opposed political ideologies. These laws are principles or directives that people or communities voluntarily agree to follow without the intervention of the state or the legal system. Voluntary laws' proponents contend that they can foster moral conduct and societal cohesiveness without imposing values on people who disagree with them.

The ability of voluntary laws to let communities establish their own moral standards free from governmental intrusion is one argument in favour of them. An example of a voluntary law that would be enforced by social pressure rather than disciplinary action is one that a community might pass is one that forbids the use of plastic bags. Voluntary law proponents contend that this strategy can be more productive and less forceful than conventional legal enforcement.⁶

Similar to this, some companies have adopted voluntary codes of conduct that support moral and ethical business practices, such the United Nations Global Compact. Although these codes are optional and unenforceable, organisations that sign up to them are required to uphold their values. Voluntary codes' proponents contend that they can encourage ethical company conduct without the need for governmental oversight.

Voluntary laws have their detractors who claim that they are ineffectual and can lead to legal ambiguity and inconsistency. Voluntary laws can be disregarded or broken without legal repercussions because they are not legally binding. This may result in a lack of consistency and clarity in the legislation, making it challenging for people and companies to understand what is required of them. Additionally, detractors contend that depending on the beliefs and values of individuals who adopt them, voluntary laws may be capricious and subjective.

The fragmentation of society that could result from voluntary laws when individuals and groups adopt their own moral standards is another issue with them. As various groups dispute over their ideals and views, this could cause social divides and conflicts. Critics contend that in order to

⁶ Madeley, John. "European liberal democracy and the principle of state religious neutrality." *West European Politics* 26.1 (2003): 1-22.

preserve social harmony and advance the common good, the government must work to advance a set of shared principles.

In summary, the idea of voluntary laws offers a potential means of resolving moral and political disagreements by allowing people and communities to establish their own moral standards. Voluntary laws have strong supporters, but there are also critics who question their usefulness and worry that they could lead to ambiguity and inconsistency in the law. In the end, there are no simple solutions to the difficult question of how the government should go about fostering moral principles and social cohesiveness.

On the Right/Virtue Relation: The Practical Angle

The categorical imperative, which argues that we should always act in a way that can be made into a universal law without contradiction, is the foundation of Kantian morality. This indicates that rather than being motivated by selfish goals or self-interest, our activities should be motivated by a sense of obligation.

This essentially indicates that we should never view other people as merely a means to an aim, but rather as ends in and of themselves. We should refrain from exploiting people for our own ends and protect their individuality and dignity.

According to the principle of Kantian political neutrality, the state should not interfere with people's moral decisions and should only be concerned with defending their rights and liberties. Kant believed that the government had no right to intrude on people's personal lives or impose its own moral standards.⁷

Practically speaking, this means that while the state should enact laws to safeguard people's rights and liberties, it should not micromanage their private affairs or impose moral standards upon them. The state should, for instance, uphold people's freedoms of expression and assembly, but it shouldn't control their intimate relationships or sexual preferences.

A just legal system that treats everyone equally and impartially is also emphasised in Kantian political theory. Kant believed that the rule of law ought to be founded on the ideas of justice and reason, and it ought to be strictly upheld.

In real words, this means that the government should make laws that are impartially applied and that are fair and just. People should not be subjected to discrimination in the legal system based on their race, gender, or other traits, and no group should be given preference over another.

⁷ Kemaghan, Kenneth. "Politics, policy and public servants: Political neutrality revisited." *Canadian Public Administration* 19.3 (1976): 432-456.

Overall, the stress on responsibility, respect for others, and the value of a just legal system is shared by Kantian morality and political philosophy. They both aim to further the principles of reason, fairness, and autonomy as well as to build a society where everyone is treated with respect and dignity.

Conclusion

In summary, the conflict between moral duty and individual freedom is a complicated matter that needs serious analysis. The author contends that while there are instances where it may be necessary to restrict someone's freedom in order to accomplish a significant moral purpose, there is also a compelling moral case for respecting people's capacity for self-control.

In these cases, a completely just society would permit a small amount of interference with someone's body or property without infringing their rights. However, it could be important to tolerate differing opinions and permit some freedom to be constrained in order to appreciate people's differences in a diverse society with varying values.

The author contends that the best way to resolve this conflict is to adopt a Kantian perspective, which upholds individual autonomy while simultaneously emphasising the significance of particular moral objectives. People may be more willing to tolerate some restrictions on their freedom in a culture where this strategy is widely accepted in order to accomplish significant goals without feeling as though their autonomy is being abused.

Overall, this study emphasises the significance of striking a balance between moral responsibility and individual freedom in a just society. It also highlights the importance of continual discussion and persuasion in order to advance a Kantian perspective that respects both individual freedom and specific moral objectives.