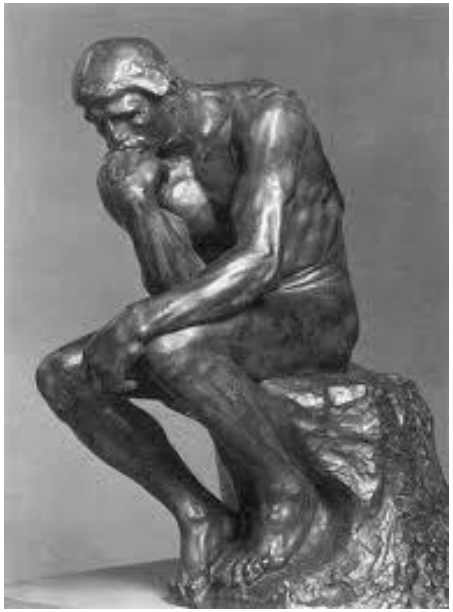
Modes of Reasoning

Lecture 8

Human Rights Methodology

Malcolm Langford

1. Questions



Moral-practical reason

- Is the right to food a human right?

Cognitive-instrumental reason

- Do all democratic revolutions begin because of violations of socio-economic rights?

Aesthetic reason

These three types of reason are from Habermas

Questions/Statements for Discussion

- Why common law countries have a tendency to ratify HR treaties at a much slower and lower rate than civil law countries (Simmons, p. 354 – reader p. 154)?
- Why Western and other developed countries have entered the greatest number of reservations to HR treaties (Simmons, p. 369 – reader p. 169)?
- There are practically no circumstances in which military force could be used proportionately – that is, in a way that could be calibrated to achieve a specific human rights objective without inflicting much more harm than good (Simmons, p. 374 – reader p. 174).
- The one fairly unambiguous success story for trade sanctions was the bringing down of apartheid in South Africa (Simmons, p. 375 – reader p. 175).

2. Common Problems in Argument

- “Students sometimes confuse argument with debate, taking a strong, oppositional position on a topic and then trying to "win" points.
- Students sometimes conceptualize an argument as a fight: they spar with a text without taking the time to understand it.
- Students sometimes think in black and white, neglecting the nuances of an argument.
- Students sometimes jump on the first band wagon they find, citing an authority with almost blind reverence and ignoring all other points of view.
- Students can mistake argument for opinion, writing papers that are subjective and self-gratifying rather than objective and reader-based.
- Students sometimes construct a weakly supported or poorly reasoned argument because it is, after all, their opinion, and they have a right to it.
- Students can find themselves overwhelmed by the complexity of an intellectual problem, unable to take a stand.
- Students too often rely on structures that they learned in high school (for instance, the five-paragraph theme), thereby crippling their arguments from the get-go.“

Teaching Argument, Karen Gocsik

3. ”The Good Critical Thinker”

Irrespective of the sphere of thought, "a well cultivated critical thinker":

- raises important questions and problems, formulating them clearly and precisely; [*research question*]
- gathers and assesses relevant information, using abstract ideas to interpret it effectively;[*method, sources*]
- **comes to well-reasoned conclusions and solutions, testing them against relevant criteria and standards;** [*internalist and analytical reasoning*]
- **thinks open-mindedly within alternative systems of thought, recognizing and assessing, as need be, their assumptions, implications, and practical consequences; and** [*broader and critical reasoning*]
- communicates effectively with others in figuring out solutions to complex problems; without being unduly influenced by others' thinking on the topic.

Source:Wikipedia, Critical Thinking

4. What is Reason?

- ***Classical Reason***: every type of thing had a reason for being. (cosmological teleology)
- ***Enlightenment Reason***: the "knowing subject", who perceives the rest of the world and itself as a set of objects to be studied" (epistemological/calculative)

Kant:

- ***Practical reasoning***: self-governing formulation of universal norms,
- ***Theoretical reasoning***: the way humans posit universal laws of nature

Foucalt's application of Kant:

- ***Private reason*** is used when one is "a cog in a machine" or "has a role to play in society and jobs to do: to be a soldier, to have taxes to pay, to be in charge of a parish, to be a civil servant."
- ***Public reason*** is used "when one is reasoning as a reasonable being (and not as a cog in a machine), when one is reasoning [freely] as a member of reasonable humanity."

5. Reason Distinguished

- Are ***emotion, faith, habits/tradition*** compatible with ***reason***?
- Is ***intuition*** part of reason?
- Reason more than ***associative thinking*** (e.g. cause-and-effect) and ***symbolic thinking*** (e.g. mere language).
- Reason involves a ***type of thought*** of which ***logic*** describes much of the rules by which it is taught.
- And logic involves usually a third step in any thinking process: .e., the "***syllogism***".

II. Syllogistic Reasoning

1. Three Simple Forms

Deduction

- All the balls from this bag are green (rule)
- This ball is from this bag (case)
- Therefore, these balls are green (result)

Induction

- This ball is green (result)
- This ball is from this bag (case)
- Therefore, all beans from this bag are, or are likely to be, green (rule)

Abduction:

- All the balls from this bag are green (rule)
- This ball is green (result)
- Therefore, this ball is (or is likely to be) from this bag (case)

All forms (with variations) tend to be present in an argument but one may dominate the research question.

2. Deductive

1. Major Premise/Rule: All humans are mortal
2. Minor Premise/Case: Socrates is a human.
3. Conclusion/Fact: Socrates is mortal.

- Conclusion is true if premises are true

- Fallacious reasoning:

1. If a drink is made with boiling water, it will be hot.
2. This drink was not made with boiling water.
3. This drink is not hot.

3. Inductive

1. Premise/Result: The sun has risen in the east every morning up until now.
2. Case: Tomorrow will have a morning
3. Conclusion/Rule: The sun will also rise in the east tomorrow.

- One moves from singular facts towards a universal: characterised by probability/inexactness.

4. Inductive Reasoning

- Throughout inquiry the reasoner makes use of rules that have to be transported across intervals of experience, from the masses of experience where they are learned to the moments of experience where they are applied. Inductive reasoning is involved in the learning and the transfer of these rules, both in accumulating a knowledge base and in carrying it through the times between acquisition and application.
- Learning. The principal way that induction contributes to an ongoing inquiry is through the learning of rules, that is, by creating each of the rules that goes into the knowledge base, or ever gets used along the way.
- Transfer. The continuing way that induction contributes to an ongoing inquiry is through the exploit of analogy, a two-step combination of induction and deduction that serves to transfer rules from one context to another.
- Testing. Finally, every inquiry that makes use of a knowledge base constitutes a "field test" of its accumulated contents. If the knowledge base fails to serve any live inquiry in a satisfactory manner, then there is a prima facie reason to reconsider and possibly to amend some of its rules.

5. Abductive

- H explains D (would, if true, explain D),

  D is a collection of data (facts, observations, givens),

  No other hypothesis explains D as well as H does.

Therefore, H is probably correct.

- The aim is develop one conclusion that is more likely to be the case than another.
- Crucial for development of hypotheses

6. A human rights syllogism

Deduction

- Solitary confinement of more than 28 days is torture (rule)
- This man was confined solitarily for 28 days (case)
- This man was tortured (result)

Induction

- In 20 of 24 legal decisions solitary confinement of more than 28 days (case/s)
- was considered torture (result)
- Therefore, solitary confinement of more than 28 days is (or is likely to be) considered torture (rule)

Abduction (one variation):

- Courts are *likely* to find torture when a person is put in solitary confinement for longer than 28 days (rule)
- In a case of solitary confinement, a court found this man was tortured (result)
- The man was confined longer than 28 days (case)

7. Elements of Critical Thinking

- **"Observations.** From a series of observations, we can come to establish:
- **Facts.** From a series of facts, or from an absence of fact, we make:
- **Inferences.** Testing the validity of our inferences, we can make:
- **Assumptions.** From our assumptions, we form our:
- **Opinions.** Taking our opinions, we use ***evidence*** and the principles of ***logic*** to develop:

- **Arguments.** And when we want to test our arguments and to challenge the arguments of others, we employ:
- **Critical Analysis** (through which we challenge the observations, facts, inferences, assumptions, and opinions in the arguments that we are analyzing)."
- Source: Karen Gocsick

III. Argument

ar·gu·ment /ˈɑrgyəmənt/

—*noun*

1. an oral disagreement; verbal opposition; contention; altercation: a violent argument.

2. a discussion involving differing points of view; debate: They were deeply involved in an argument about inflation.

3. a process of reasoning; series of reasons: I couldn't follow his argument.

4. a statement, reason, or fact for or against a point: This is a strong argument in favor of her theory.

5. an address or composition intended to convince or persuade; persuasive discourse.

6. subject matter; theme: The central argument of his paper was presented clearly.

7. an abstract or summary of the major points in a work of prose or poetry, or of sections of such a work.

In logic, an **argument** is a set of one or more meaningful declarative sentences (or "propositions") known as the premises along with another meaningful declarative sentence (or "proposition") known as the conclusion. This relates to point 3.

1. Intellectual Criteria in Writing and Argument

- Significance

- Clarity
- Accuracy
- Precision

- Relevance
- Credibility
- Depth
- Breadth
- Fairness

- [Form]

2. What is a good argument?

- "The Relevance Principle: One who presents an argument for or against a position should attempt to set forth only reasons that are directly related to the merit of the position at issue.
- The Acceptability Principle: One who presents an argument for or against a position should attempt to use reasons that are mutually acceptable to the participants and that meet standard criteria of acceptability.
- Sufficiency Principle: One who presents an argument for or against a position should attempt to provide reasons that are sufficient in number, kind, and weight to support the acceptance of the conclusion.
- The Rebuttal Principle: One who presents an argument for or against a position should attempt to provide an effective rebuttal to all serious challenges to the argument of the position it supports and to the strongest argument on the other side of the issue."

Attacking Faulty Reasoning, T. Edward Damer

3. What are the do's and don'ts in your discipline or particular method?

- Each discipline will *tend* to favour certain types of logic, evidence and other aspects of argument over others.
- The method you use within a discipline will also have consequences: e.g. interpretive, comparative, qualitative, quantitative
- When choosing a method within a discipline examine carefully what is written about it. E.g. in law, what are the good arguments and pitfalls in using comparative law.

4. Tips on Good Argument

- What are the counter-arguments to your position? Does your argument fit with a hypothetical or counter-factual or an alternative?
- Are your assumptions valid or justifiable?
- Have you built a good enough case for your argument? Does the evidence fit the argument?
- Is there a logical connection between the different stages of the argument? Logical consistency within and between the arguments?
- Does the structure of your writing help or hinder good reasoning?
- Don't overlook the benefits of *sustained analysis (*re-reading and re-critiquing a source) and *broad reading* (to get more opinions and perspectives).
- Is your argument clear? Read it like an outsider? Ask someone else to read it.

IV: Policy Recommendations

- Many arguments have a natural policy or other *consequence*
- It is useful to identify what types of policies or behavioural changes could flow from your argument
- But the pros and cons should be considered if there are alternatives or unintended consequences.
- Consider relevant elements in a public policy cycle analysis (even if very briefly): justification, design, cost, implementation, relevant actors and voices, and monitoring.
- Tailor the depth, breadth and thrust of your policy arguments to your audience: