

Don't Kill Rule
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Introduction and Summary

People killing people is bad for a society. Therefore, a core rule for societies is:
"You shall not murder"¹

In this paper, I will consider this core rule to be a Social Contract [i.e. "I won't kill you and yours, IF you won't kill me and mine"]. Building on this, I will craft a Constitutional Amendment which would guide Legislatures in creating all Criminal Laws about *our* people risking [or taking] the life of another person in our society. The Social Contract is between *us* - killing *them* is not covered [e.g. War].

My precise version of this Social Contract is:

"Except for self-survival, every party to this Social Contract shall not kill anything on the Protected List.

The Protected List ["Human_1"s]:

- (1) a Human_1.1: Trusted to honor this Social Contract
- (2) a Human_1.2: A Dependent of a Human_1.1 [e.g. a child]
- (3) a non-threatening Strange Human in a public place. "

Non-exclusive definition: Anything recognizable at a glance as human is a "Human"

Moral Results:

Abortion: Not Immoral - unless the *potential human* has been Adopted.

Abandonment: Immoral - unless all Adoption attempts fail.

in vitro Medicine: Not immoral; not human-at-a-glance.

Suicide: Not immoral

Mercy Killing: Not immoral

Death Penalty: Not immoral - need volunteer executioner.

Amendment (TBD)

Section 1. Significantly endangering the life of a Human_1 shall be a crime.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

Exclusion:

This Amendment can not be used to make an ethical decision for situations where it contradicts itself. In those cases, the verdict is "No Decision - use a different rule".

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¹ Wikipedia; Ten Commandments; Jewish understanding; statement 6

Definitions

A Human_1 is a Human who is a party to this Social Contract, i.e. "protected".

A Human_2 is a Human who is not a party to this Social Contract. A Jury can re-classify a Human_1 convicted of murder as a Human_2 - removing their "protection". A Human_2 can not be trusted - they are a possible threat, one of *them*.

Definition of "Human_1.1"

Human_1.1's are trusted to obey the Social Contract. They demonstrate that they have accepted their duty to obey the Social Contract by applying for an official license. It is reasonable to trust Humans who have a Drivers License to refrain from deliberately killing other Humans. After all, many more Humans are killed by using automobiles than by using guns. A Drivers License can be an official license as a Human_1.1!

Of course, those who can't drive, but are trustworthy, can also be licensed as Human_1.1s. A special test and license for these people will be needed.

Definition of "Human_1.2"

Every Human_1.1 wants to protect their children. A Human_1.1 automatically makes a child into a Human_1.2 by making them an official Dependent [IRS definition] in that Human_1.1's Household. The Human_1.1 has contracted [with society] to train and control their children to obey the Social Contract. In return, Society granted Human_1.2 status to the Dependent.

There are probably a few individual Humans who can be trusted to drive a car - but not to raise children properly. They could be licensed as Human_1.2s - with a "restricted" Drivers License. Only an individual Human_1.1 can make an individual Human_1.2.

Definition of "Strange Human"

A "Strange Human" in (3) is seen to be Human - but is (s)he a Human_1 or a Human_2? To protect strange Human_1s, a Strange Human is, by default, assumed to be a Human_1.

Note that a Human_1.2 who leaves home and becomes self-supporting [without a Drivers License] becomes a Human_2. They will hardly notice the difference - being protected, usually, by the Strange Human provision.

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Definition of "Human"

The 'built-in' facial pattern recognition capabilities of a normal *Homo Sapiens* are fully developed before age three. Therefore, the Human-at-a-glance test works - for situations requiring quick decisions [e.g. a gunfight].

Unfortunately, the Human-at-a-glance test is culturally dependent. As children learn natural language, they may learn to apply the word "Human" to only some *Homo Sapiens*. In some societies, "slaves" are considered to be Human_2s!

Sometimes, a Human_1 has enough time to apply a more sophisticated test for "Human". This is where the violent controversy surfaces. Most people think that the categories, 'a group of living cells with *Homo Sapiens* DNA', 'potential human', 'human', and 'ex-human' [e.g. 'brain dead'] have meaning. Other people think that all of these categories are simply sub-sets of "Human" - even murderers are "protected" .

The controversy continues. We need a consensus on a [future] usable definition which can test for "humanity" in less than a week. I accept passing the Turing Test as scientific proof of "humanity". Unfortunately, if the 'possible human' doesn't speak our language [e.g. children less than three years old, foreigners], we would have to allow them three years to learn our language - before we could administer a 'fair' test.

Fairness

Each of the parties enter into a 'fair' contract voluntarily - each expecting to get more than they give, a win-win scenario. Since everybody gains, this is a moral action. If one party is cheating the other party out of even a small profit, the contract is immoral - an exercise in skullduggery, not cooperation.

Similarly, a contract may be dissolved by mutual agreement of all affected parties [the Government representing the general public]. However, each contracting party is still responsible for both the short-term and long-term results of their actions. A party hit by unexpected long-term "costs" is morally bound to eat them - honoring the contract, all the way to bankruptcy.

Forcing someone else to pay for your desires is immoral; Armed Robbery is illegal - because it is immoral. Getting the Government to forcibly collect taxes and then pay for your personal desires is usually immoral; but, if we agree to jointly fund each others projects, we may both come out ahead [a moral win-win scenario]. If only a few citizens bear almost all the cost, the arrangement is immoral.

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Limited Utility

The Social Contract being used is very specific. It forbids killing "Human_1"s.

However, every individual moral human is free to use an expanded personal definition of Human_1 - or even refrain from killing Human_2s.

In cases where this Social Contract produces a logical contradiction, the result must be considered to be a "No Decision" verdict. More detailed analysis and, probably, multi-valued logic will, hopefully, produce a usable moral decision.

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I will now give the moral judgments which I have derived from the Social Contract, the 'Human at a glance' test, and Fairness.

Moral Positions

Abortion

A pregnant woman wants an Abortion. We want to determine the morality of three scenarios:

- (1) Abort the birth.
- (2) Deliver the child - but don't raise it.
 - (2a) The child is Adopted by a Human_1.1
 - (2b) The mother Abandons the child

The *potential human* is not "Human at a glance" until approximately 12 weeks after conception. Because it is not "Human at a glance", early Abortion is "Not immoral"

Any *potential human* can be Adopted into the Household of any Human_1.1 - this makes them an official Human_1.2, on The Protected List. This action includes Adoption of the *potential human* into a different Household than that of the potential mother.

If the potential mother still wants an abortion [after a valid offer of adoption], we have a logical conflict. I believe that the potential mother has a right to have an abortion - which kills the Human_1.2 But, the Human_1.2 is now "protected" - it may not be killed. In this case, my Social Contract is in conflict - it can not make a moral decision. A different moral rule must be found.

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It would be immoral to force a Human_2 woman to have an abortion against her will. Nothing prevents a willing mother from having and raising her baby - if only as a Human_2.

Conclusion: Abortion is immoral ONLY IF the unborn has been "adopted" as a

Human_1.2

It was immoral to force a woman to have an abortion against her will. But, if she does not also agree to raise it, she is saying that she won't promise not to Abandon it. That is the next subject.

Abandoning a Child

It is perhaps more accurate to think of Abortion as simply an early "Abandonment of a child by their mother". Dumping a newborn baby into a garbage dumpster produces the same result as Abortion - a dead *potential human*.

By definition, "Abandonment" is the mother committing [by default] to raise the child - and then not doing it. "Abandonment" is immoral because it is a breach of contract.

Not raising the child may be involuntary! Consider a woman who married, had a child, started to raise it - and then had a messy divorce. Also assume that the only job she can find will not allow her to pay for both day-care [so she can work] and enough food for them. She is in the equivalent of bankruptcy! Her apparent choices are letting the baby die [by working] or letting them both die [by not working] - both undesirable. A moral option is to try and find someone else [it may be a group] to raise the child; if she can't, then it would not be immoral to let the baby die!

Conclusion: Abandoning a child, without trying for Adoption, is immoral.

Suicide

A Social Contract [before it becomes Criminal Law] is voluntary. Almost every Human_1 was placed on the Protected List by default - without their consent. When they are mature enough to commit suicide, they may remove themselves from the Protected List - by simply performing suicide.

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Forcibly preventing suicide is called "Protecting a person from himself". That action is obviously not a contract - the "protection" is involuntary. Seizing a Human_1 by force and restraining them, indefinitely, under suicide watch is immoral - I think of it as a 'living death', "killing" the mind, not the body.

Conclusion: Suicide is not immoral.

The Human_1 may request help in performing a painless suicide. Because death is irreversible and temporary depression does occur in humans, a Law [like the Dutch have] to provide a 'cooling off' period before assisting a suicide is reasonable.

Professor J-P Vessel suggested the following problem. Performing suicide will Abandon your children. Is this suicide immoral? Note the results of using my procedures: suicide is not immoral; Abandonment is immoral; the results are a logical contradiction.

Conclusion: this Social Contract cannot tell you if that suicide is moral or immoral - you must find another moral rule to decide this case.

Mercy Killing

A Human_1 has fallen into a sustained coma. The patient failed to leave instructions upon when to "pull the plug" - and also failed to name an agent to make medical decisions for them. Who is morally responsible for decisions to continue, or stop, life support for the body?

First, we must decide if this is a moral problem! Only moral agents can be parties to, and protected by, this Social Contract. Moral agents have both bodies and minds. If the "mind" is dead, then a mindless body is outside the moral jurisdiction of this Social Contract.

The Human-at-a-glance test works fine when the Human is active - looking human and acting like a human correlates nicely with the implications of "Human". This standard also protects sleeping humans and infants. For so-called "mercy killing" cases, we need an additional test for "brain death". The mind needs a brain to function ["mind" is a dynamic process - requiring the use of high-order brain functions]; if the brain has been damaged, such that it cannot ever again perform higher-order functions, then the "mind" is forever gone from our experiential universe [i.e. "dead"].

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The health of the brain is a medical fact, not a moral judgment - to be determined by medical experts. It is irrational for politicians to ignore significant facts and create counter-factual Criminal Laws [they do, anyway].

Is removing life support "killing"? NO. The "pro-life" phrase, "passive killing" is a meaningless noise, a logical contradiction. "Killing" is an active process. A "passive active process" is gibberish. Ethics requires multi-valued logic - NOT(NOT(A)) does not equal "A"! Not providing life support is not "killing". Whatever generated the condition

that is killing the Human is morally responsible for the killing.

This has been very abstract. I note that providing life support is very expensive. Is it moral for someone who is not paying the bills to force someone else to pay these bills? The answer is obviously "NO". On these grounds, the Government should not interfere in these cases. The practical result would be that those willing to pay the price, out of their own pockets, can use their personal definition of "Human" and keep the body alive - for as long as they can afford it.

Conclusion: So-called "Mercy Killing" is not immoral.

In Vitro Medicine

The group of cells is not visibly "Human".

Conclusion: *In Vitro* Medical procedures are not immoral.

The Death Penalty

A Criminal Justice Jury has removed the criminal from the Protected List.

Conclusion: Killing the convicted criminal is not immoral.

There is a problem IF the State can not find someone to be the executioner. Does the State have the moral right to force a Human_1 to kill the criminal?

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Teaching Social Contracts

A Social Contract is going to be imposed upon everyone, willing or unwilling, in "our" society - by making it into Law. If all members of our society are to be able to do their "duty", they must know the exact terms of the contract. Therefore, "society" must teach everyone the exact terms of our social contracts. Thus, it is the duty of every individual Human_1.1 to teach our social contracts to their Human_1.2s. And, all schools must also teach our social contracts to every student. Note that this is actually "trying to teach"; if a student will not, or can not, learn, it is impossible to teach them.

Note that "teaching" includes encouraging everyone to obey the social contract.

Visitors to "our" society are not "above the law" - they must obey it. It is the duty of a visitor to learn, and comply with, local laws.

Enforcing the Social Contract

A contract without defined penalties for "breach of contract" is a weak thing - a "gentleman's agreement". Any human society with more than 50 adults will be big enough to contain individuals who will try to "cheat". Society needs social contracts with "real teeth in them" - i.e. Society needs a Criminal Justice System: Criminal Law, Police, Criminal Courts, and Penalties.

The Legislature must decide which "immoral" acts are so damaging to the "fabric of society" that they must be actively discouraged. "Killing any Human" is so destabilizing to society that there must be "Do Not Murder" Laws.

I envision a Criminal Court system where the accused gets two trials. First, a panel of three Judges determine the "facts", i.e. Did the accused do it?. Then a Jury [10 Citizens] determines the "Penalty"; at least 9 of the 10 must agree upon that Penalty. The applicable Law will give them a [TBD] range of options. There will be a maximum Penalty and the Jury will always be able to let him free [the minimum "Penalty"]. Note that this is a change from our present norm of having the Jury determine the facts and the Judge determine the Penalty [from the choices specified by the Law].

I believe that the proposed Criminal Court system would be faster [No time-wasting attempts to confuse the Jury] and cheaper [faster is cheaper - plus, less hung Juries due to one maverick juror] than our present system. And the Jury can still prevent a "framed" person from being Punished.

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The Criminal Meta-Law on Possibly Killing a Human_1

Changing my Social Contract into a Meta-Law [with the power of a Constitutional Amendment, over-ruling any normal Law] requires a couple of changes. First, trying to murder and failing should not be rewarded. The Meta-Law must cover all of the following:

- (1) Premeditated Murder [deliberately using Lethal Force and killing a Human_1]
- (2) Attempted Murder [trying to kill a Human_1 (using Lethal Force) and failing]
- (3) Accidentally killing a Human_1 by inappropriately using Lethal Force
- (4) Accidentally killing a Human_1 with a non-weapon [e.g. an automobile]

(5) Reckless Endangerment [just lucky that you didn't kill a Human_1], e.g. drunk driving and, inappropriate use of Lethal Force.

Replacing: "... shall not kill anything on the Protected List"

with: "... shall not endanger the life of a Human_1"

covers all of the above cases - yielding several different Criminal Laws [with different penalties].

Penalties

Penalties can actively protect society in two ways:

- (1) They discourage some potential criminals from committing that crime, and
- (2) They actively prevent the convicted criminal from doing it again and again.

For every individual, there is a level of punishment for the crime that is so severe that the potential criminal ignores the promised punishment - assuming, however irrationally, that he will never be caught. The Legislature must try and find a one-size-fits-all sentence that maximizes the deterrence.

A Jury must find the appropriate penalty for each individual and crime. Among other factors, they must assess the probability that the guilty person can be reformed - and become a positive contributor to society. But, what do we do with those who are expected to continue to be a drag on society? The range of possible cases, and their corresponding penalties, is staggering!

Example: A drunk driver that kills, and has another drunk driving accident, has refused to learn from experience; they are proven lethal threats to all of us. Taking away their drivers license doesn't protect us - they simply get a car by stealth [They "must" have a car to get to work!] and keep drinking. Society needs a reliable way to keep them from driving drunk. Note that installing a drunk-o-meter on their personal car does not stop them from driving a rental car. I have not heard of a workable solution to this problem.

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The drunk driver is an example of the complexity of determining an "appropriate penalty". What about reckless drivers? What about dumping toxic waste [slowly poisoning Human_1's]? Determining an "appropriate penalty" for all the threats in our complex society is a massive project - well beyond the scope of this simple paper. But, I can see the "maximum penalty".

Suggested Maximum Punishment

For "Being a proven lethal threat to Human_1s" – forcible expulsion from society

"Expulsion from society" starts by making the criminal a Human_2. Therefore, the Death Penalty would not be immoral. If society wants to spend \$50,000 a year for 50 years [most murderers are younger than 30], a penalty of "Life, without parole" will also keep the criminal from additional destructive acts against *our* society [they can still kill other inmates and guards inside the prison]; an additional cost to society is having an occasional "lifer" escape and kill more good citizens. "Exile, with instant death upon re-entry" is a third option that would remove the threat to our Human_1's; unfortunately, nobody else will take in our "trash".

Final Words

Everyone agrees that both the "money man" and the "hit man" are equally guilty of First Degree Murder in a contract killing. The "pro-life" advocates have built upon this consensus to pass Criminal Laws making "assisting" Suicide and Abortion crimes.

Many people planning suicide have decided that more days of suffering will only subtract from their lifetime sum of pleasure-minus-pain. The anti-suicide advocate justifies his position by claiming that every additional day of pain is better for the sufferer than being unconscious! I refuse to believe that maximizing the amount of pain experienced is "moral" - I believe that it is immoral.

Anti-Abortion Laws do not target the pregnant woman - she doesn't go to jail! The most admired [by "pro-life"ers] Anti-Abortion Laws specifically punish anyone for "assisting" an Abortion. Doctors are prosecuted for performing a surgical Abortion; Pharmacists are prosecuted for dispensing a Chemical Abortion pill. Furthermore, such a Law can be used to prosecute the office workers and the Janitor in an Abortion Clinic! Anti-Abortion Laws try to make it physically impossible for the woman not to have the child.

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Existing Anti-Abandonment Laws make it a crime for the mother to not raise the child - to governmental standards. Since the woman [who knows her own situation much better than a group of old, male Legislators - distant in space and time] has already admitted that she cannot perform this task, the usual result is 18 years of double misery [mother and child]. Indeed, in many cases, the child is seriously damaged before the social services people intervene and "rescue" the child. Both mother and child are damaged - to satisfy the cheap [they don't pay anything] "morality" of the political activists. Therefore, I believe Anti-Abortion Laws are inherently "immoral".

Criminal Law is a sledgehammer demolishing freedom of choice for individuals. Making Abortion a Crime should therefore require an 80% approval score from the women in our society who have been pregnant [Who else has the real-world experience to determine this "morality"?] Providing a range of possible penalties in the Criminal Law provides

the equivalent of a super-majority for the penalty - while providing the Jury with the flexibility to fit the penalty to the crime and criminal.

In short, creating the actual legal definition for "Human_1" calls for a great degree of certainty / consensus. To quote Oliver Cromwell [Letter to the Church of Scotland], "I beseech ye, in the bowels of Christ, think it possible you may be mistaken."

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