Caring for Justice:
Thinking Critically and Creatively about
Economic, Social and Cultural Rights

Stanford Human Rights Education Initiative Symposium presentation, 8 June 2013

To my SHREI colleagues:

Let’s begin with a common problem: When we ask students to define human rights, they often respond by listing liberties enshrined in the United States Bill of Rights. But the *Universal Declaration of Human Rights* asks us to value not only human freedom but also human dignity. Further, it prompts us to embrace responsibility for addressing needs—for food and water, for shelter and security, for education and medical care—that make a dignified life possible. The United Nations outlines these needs and responsibilities most directly in articles 22-30 of the UDHR and in the *International Covenant on Economic, Social and Cultural Rights*. The Stanford Human Rights Education Initiative has increased my awareness of how crucial economic, social, and cultural rights are to my vision of a just and humane future. How can I most effectively work with students on examining the value of these rights?

This SHREI workshop presents techniques for engaging students in thinking about the importance of economic, social, and cultural rights. Informed by the work of Martha Nussbaum, Carol Gilligan, and Martin Luther King, Jr., my approach to human rights education encourages us to value both rights and responsibilities, both justice and care. To accomplish this goal, I have developed a series of activities that guide students in examining and questioning the conventional division of civil/political rights and economic/social/cultural rights.

The three educational units presented here combine values clarification techniques, critical thinking skills, and creative expression. Materials for each unit—handouts, video links, and supplemental readings—are provided in the Appendix. These units are works in progress; I look forward to discussing them with you, and to being inspired by your creative work as human rights educators. Please feel free to contact me to continue our mutual exploration of Human Rights Education.

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Unit 1. Definitions of Human Rights

| Objectives | Identify fundamental human rights.  
Define economic, social and cultural rights.  
Analyze both stated and implied values in human rights documents. |

| Materials (included in Appendix) | **Handouts**—give one to each student:  
*A child has a right to* . . .  
*These Fathers Are Behind in Their Child Support*  
*United States Bill of Rights*  
*Universal Declaration of Human Rights*  
Structure of the *Universal Declaration of Human Rights* |

| Process | **Step 1. Defining Fundamental Rights**  
- Think: Ask each student to quickly jot answers to the question “What does a child have a right to?” in the white space on the handout *A child has a right to* . . .  
- Pair: In teams of 2-3, students discuss their responses and identify the rights that they all agree are necessary for a child to have a decent life. Each team chooses five rights to designate as fundamental.  
- Share: Each team presents its list of fundamental rights for a full-class discussion. |

| | **Step 2. Examining Civil and Political Rights**  
- Using the handouts *These Fathers Are Behind in Their Child Support* and the *United States Bill of Rights*, lead a discussion about the ironic use of the phrase “child support” in this ad.  
- Compare the content of the US Bill of Rights with the fundamental rights developed by teams in Step 1. Note which rights are included, and which are not mentioned, in these amendments to the *United States Constitution*. |

| | **Step 3. Engaging with Economic, Social and Cultural Rights**  
- Using the handout describing the structure of the UDHR, teams search the UDHR for statements that correspond to the rights on their “fundamental rights” list. Give students this HINT: Look at articles 22-28 for rights that aren’t covered by the *United States Bill of Rights*.  
- Have teams report to the class about their findings. In full-class discussion, analyze the underlying values in UDHR articles 22-30: community responsibilities for the welfare of individuals. |
## Unit 2. Human Rights and Critical Thinking

| Objectives | Introduce the three major documents of the United Nations Bill of Rights: 1) the *Universal Declaration of Human Rights*, 2) the *International Covenant on Civil and Political Rights*, and 3) the *International Covenant on Economic, Social and Cultural Rights*.  
Define logical fallacies and use them to critically evaluate arguments.  
Examine assumptions about dichotomies.  
Evaluate two ethical systems: justice-based morality and care-based morality. |
|---|---|
| Materials (included in Appendix) | **Handouts**  
*Universal Declaration of Human Rights*  
Structure of the *Universal Declaration of Human Rights*  
*These Fathers Are Behind in Their Child Support*  
*Choice*  
**Selected Readings**  
*Fallacies*  
*A Different Voice of Carol Gilligan*  
*Moral Judgment*  
**Videos**  
*Human Rights* from the WissensWerte Project  
*A Dirty Job: Making the Case for Sweatshops* |
| Homework | Before class, students should read the **Selected Readings** listed above. |
Show the first part of the video *Human Rights* from the WissensWerte Project in class (3 minutes 40 seconds). Begin a discussion about the video's content by asking students why there are two Covenants. You may need to fill in information about these points:  
- Cold war politics in 1948  
- Two Covenants: *Civil and Political Rights* and *Economic, Social and Cultural Rights* (See the WissensWerte Project's video *Focus Human Rights: Second Dimension*).  
- Three dimensions of human rights:  
  1. Civil and political rights  
  2. Economic, social and cultural rights  
  3. Collective rights (See the WissensWerte Project's video *Focus Human Rights: Third Dimension*) |
Caring for Justice:
Thinking Critically and Creatively about Economic, Social and Cultural Rights

Step 2. Logical Fallacies

- Summarize the four fallacies presented in the handout Fallacies: false dichotomy, hasty generalization, straw man, and weak analogy.
- Examine the implied analogy in the handout These Fathers Are Behind in Their Child Support. Analyze the strengths and weaknesses in the analogy between Founding Fathers and delinquent fathers.
- Ask students to identify fallacies in the ad Choice, especially in the “Facts Matter” section of the ad.
- Show A Dirty Job in class (5 minutes). Lead a discussion on the dichotomy that Kristof presents: work in a sweatshop or work on a garbage dump. Develop definitions of the term “sweatshop”: meager wages; long hours; unhealthy, unsafe environment. How might fair work practices provide alternatives to the options presented in this video essay?

Step 3. Moral Orientations

- Ask students to brainstorm a list of common dichotomies that underlie moral dilemmas. Examples:
  - reason / emotion
  - thinking / feeling
  - rights / responsibilities
  - individual liberties / attachments to one’s community
  - justice and impartial standards / fairness and caring for others
  - universalism / cultural relativity
- Lead a discussion in which students explore alternatives to thinking about these as mutually exclusive opposites.
- Drawing on the handouts A Different Voice of Carol Gilligan and Moral Judgment, define concepts and values systems: the ethic of justice and the ethic of care. Lead a discussion exploring both the differences and the connections between the ethic of justice and the ethic of care.
- Drawing on these discussions, examine the claim that human rights are “indivisible”—that civil/political rights and economic/social/cultural rights are equally necessary for human dignity to flourish.
# Unit 3. Human Rights and Creative Expression

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Evaluate messages and techniques used in public service announcements (PSAs). Demonstrate awareness of the communication triad: speaker, message, audience. Use creative writing and theater arts techniques to examine ideas about the economic, social and cultural rights delineated in the UDHR.</th>
</tr>
</thead>
</table>
| Materials (included in Appendix) | **Handouts**  
*Universal Declaration of Human Rights*  
ACT UP! Assignment Sheet  
**Videos**  
*30 Articles—30 Rights* |
| Process | Step 1. Analyzing a Public Service Announcement  
Hand out the Act Up! Assignment Sheet. Use the PSA for article 19 of the UDHR to illustrate how the assignment works:  
- Write key elements of Article 19 on the board while a student reads it out loud:  
  - freedom  
    - of opinion  
    - of expression  
  - without interference  
  - receive and give information  
    - through any media  
    - across frontiers  
- Show the PSA for Article 19 (62 seconds). Ask students to identify the elements it includes, and the elements it leaves out.  
Step 2. Creatively Enacting the UDHR  
Assign students to teams that will work together to create and perform original skits based on a UDHR article chosen by their team. Limit the choices to articles 22-30 to ensure that students focus on economic, social and cultural rights.  
Step 3. Presenting Creative PSAs  
On the presentation day, each team will  
1. Read the relevant UDHR article to the class  
2. Show the professional PSA about this article  
3. Perform their own PSA  
4. Lead a discussion about the elements of the UDHR included in their PSA. |

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Appendix

Handouts
Universal Declaration of Human Rights
Structure of the Universal Declaration of Human Rights
A child has a right to . . .
Act Up! Assignment Sheet
These Fathers Are Behind in Their Child Support
Choice

Selected Readings
United States Bill of Rights
Fallacies
A Different Voice of Carol Gilligan
Moral Judgment

Videos
Focus Human Rights from the WissensWerte Project
A Dirty Job: Making the Case for Sweatshops
30 Articles—30 Rights
All human beings are born with equal and inalienable rights and fundamental freedoms.

The United Nations is committed to upholding, promoting and protecting the human rights of every individual. This commitment stems from the United Nations Charter, which reaffirms the faith of the peoples of the world in fundamental human rights and in the dignity and worth of the human person.

In the Universal Declaration of Human Rights, the United Nations has stated in clear and simple terms the rights which belong equally to every person.

These rights belong to you. They are your rights. Familiarize yourself with them. Help to promote and defend them for yourself as well as for your fellow human beings.

Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission
which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13
(1) Everyone has the right to freedom of movement and residence within the borders of each State.
(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14
(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15
(1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16
(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
(2) Marriage shall be entered into only with the free and full consent of the intending spouses.
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17
(1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.

Article 18
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19
Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20
(1) Everyone has the right to freedom of peaceful assembly and association.
(2) No one may be compelled to belong to an association.

Article 21
(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
(2) Everyone has the right to equal access to public service in his country.
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22
Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23
(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(2) Everyone, without any discrimination, has the right to equal pay for equal work.
(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24
Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25
(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, old age or other lack of livelihood in circumstances beyond his control.
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26
(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27
(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28
Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29
(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30
Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.
### Structure of the *Universal Declaration of Human Rights*

#### Preamble: Reasons for the Declaration

- Recognition of inherent human dignity is the foundation of freedom, justice, and peace.
- Contempt for human rights results in barbarism, cruelty, tyranny, and rebellion.
- Nations pledge to promote friendly relations, social progress, and respect for human rights.

#### Articles 1-3: General Principles

- Human beings are born free and equal with inherent dignity, reason, and conscience.
- Equality involves freedom from discrimination.
- Rights are universal across nations.
- Fundamental rights: life, liberty, and security.

#### Articles 4-21: Personal, Legal, and Political Rights

**Articles 4-5**

- **Personal Safety**
  - (freedom from slavery; freedom from torture)

**Articles 6-11**

- **Legal Rights**
  - (equality before the law; rights to justice, due process, and a fair trial)

**Articles 12-18**

- **Personal Rights**
  - (rights to privacy, movement, asylum, nationality, family, property, and religion)

**Articles 19-21**

- **Political Rights**
  - (freedom of opinion and expression; freedom of assembly; right to vote and participate in government)

#### Articles 22-28: Social, Economic, and Cultural Rights

**Article 22, 28**

- **Social Rights**
  - (right to social security; right to national and international efforts to uphold human dignity; right to a social and international order that promotes human rights)

**Articles 23-25**

- **Economic Rights**
  - (rights to work, to receive fair pay, and to form a union; right to leisure; right to a decent standard of living including food, clothing, housing and medical care)

**Articles 26-27**

- **Cultural Rights**
  - (right to education; right to participate in cultural life; protection of intellectual and creative products)

#### Articles 29-30: Responsibilities

- Everyone has duties to contribute to the common good.
- Everyone is responsible for respecting and upholding other people’s rights.
- Individuals or governments may not destroy some rights in order to protect other rights.
A child has a right to . . .
ACT UP!

A HUMAN RIGHTS EDUCATION PROJECT

Process

1. On your own or with a partner from class:
First, review Articles 22-30 of the Universal Declaration of Human Rights (UDHR). Next, watch the Public Service Announcements (PSAs) for these articles produced by Youth for Human Rights and available for viewing on their website: www.youthforhumanrights.org. Notice what rights these PSAs emphasize, and what issues they leave out.

2. In a team:
Each team will choose ONE article from this group (Articles 22-30 of the UDHR) and design a short PSA (no longer than 90 seconds) that addresses a key issue missing from the professionally produced PSA.

Product

Your team’s Public Service Announcement can take any of these forms:
- a skit that your team will perform in class
- a video
- a radio advertisement recorded in advance or performed in class
- a puppet show

Presentation

On ______________________ each team will have 5 minutes to complete these steps:
- Read the entire article to the class.
- Show the original PSA.
- Present the team’s PSA.
- Ask the class to analyze how ideas in your team’s PSA differ from the ideas in the professionally produced PSA.
These fathers are behind in their child support.

In a study of 7 industrialized nations, the United States had the worst child poverty rate. Democracy exists not just for the few, but for everyone. Including children. To join our campaign to Leave No Child Behind, call 1-800-CDF-1200.

The Children’s Defense Fund
To smoke or not to smoke. In this country, almost 50 million people choose to. A great many others choose not to.

At Philip Morris, we believe adults should be able to make the choice they feel is right for them.

Of course, as a tobacco company, we support those who choose to smoke.

But we also respect the decisions of those who choose not to smoke.

The important thing is that no matter what adults decide, they have a right to their individual choice.

Minors, on the other hand, should not have that choice. Minors should not smoke.

At Philip Morris, we’re working hard to keep smoking strictly an adult choice.

We want you to know where we stand.

Facts Matter In a TIME/CNN poll conducted by Yankelovich Partners, 73% of respondents, regardless of how they feel about smoking, agreed that instead of a ban, people should have their own choice about whether or not to smoke.
The United States Bill of Rights

Amendments to the US Constitution passed by Congress on September 25, 1789

Amendment I – Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II – A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III – No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV – The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V – No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI – In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII – In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII – Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX – The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X – The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Ratified by the States on December 15, 1791
The Writing Center

Fallacies

What are fallacies?

Fallacies are defects that weaken arguments. By learning to look for them in your own and others’ writing, you can strengthen your ability to evaluate the arguments you make, read, and hear. It is important to realize two things about fallacies: First, fallacious arguments are very, very common and can be quite persuasive, at least to the casual reader or listener. You can find dozens of examples of fallacious reasoning in newspapers, advertisements, and other sources. Second, it is sometimes hard to evaluate whether an argument is fallacious. An argument might be very weak, somewhat weak, somewhat strong, or very strong. An argument that has several stages or parts might have some strong sections and some weak ones. The goal of this handout, then, is not to teach you how to label arguments as fallacious or fallaey-free, but to help you look critically at your own arguments and move them away from the “weak” and toward the “strong” end of the continuum.

So what do fallacies look like?

For each fallacy listed, there is a definition or explanation, an example, and a tip on how to avoid committing the fallacy in your own arguments.

From Fallacies, a handout created by the Writing Center at the University of North Carolina, Chapel Hill. Selections were edited by Prof. Julie Maia for use in English 903, West Valley College, Saratoga, California. The complete handout is available at the UNC Writing Center website: <http://writingcenter.unc.edu/handouts/fallacies/>
False Dichotomy

Definition: In false dichotomy, the arguer sets up the situation so it looks like there are only two choices. The arguer then eliminates one of the choices, so it seems that we are left with only one option: the one the arguer wanted us to pick in the first place. But often there are really many different options, not just two—and if we thought about them all, we might not be so quick to pick the one the arguer recommends!

Example: “Caldwell Hall is in bad shape. Either we tear it down and put up a new building, or we continue to risk students’ safety. Obviously we shouldn’t risk anyone’s safety, so we must tear the building down.” The argument neglects to mention the possibility that we might repair the building or find some way to protect students from the risks in question—for example, if only a few rooms are in bad shape, perhaps we shouldn’t hold classes in those rooms.

Tip: Examine your own arguments: If you’re saying that we have to choose between just two options, is that really so? Or are there other alternatives you haven’t mentioned? If there are other alternatives, don’t just ignore them—explain why they, too, should be ruled out. Although there’s no formal name for it, assuming that there are only three options, four options, etc. when really there are more is similar to false dichotomy and should also be avoided.

Hasty Generalization

Definition: Making assumptions about a whole group or range of cases based on a sample that is inadequate (usually because it is atypical or just too small). Stereotypes about people (“librarians are shy and smart,” “wealthy people are snobs,” etc.) are a common example of the principle underlying hasty generalization.

Example: “My roommate said her philosophy class was hard, and the one I’m in is hard, too. All philosophy classes must be hard!” Two people’s experiences are, in this case, not enough on which to base a conclusion.

Tip: Ask yourself what kind of “sample” you’re using: Are you relying on the opinions or experiences of just a few people, or your own experience in just a few situations? If so, consider whether you need more evidence, or perhaps a less sweeping conclusion. (Notice that in the example, the more modest conclusion “Some philosophy classes are hard for some students” would not be a hasty generalization.)

Straw Man

Definition: One way of making our own arguments stronger is to anticipate and respond in advance to the arguments that an opponent might make. In the straw man fallacy, the
arguer sets up a wimpy version of the opponent’s position and tries to score points by knocking it down. But just as being able to knock down a straw man, or a scarecrow, isn’t very impressive, defeating a watered-down version of your opponents’ argument isn’t very impressive either.

Example: “Feminists want to ban all pornography and punish everyone who reads it! But such harsh measures are surely inappropriate, so the feminists are wrong: porn and its readers should be left in peace.” The feminist argument is made weak by being overstated—in fact, most feminists do not propose an outright “ban” on porn or any punishment for those who merely read it; often, they propose some restrictions on things like child porn, or propose to allow people who are hurt by porn to sue publishers and producers, not readers, for damages. So the arguer hasn’t really scored any points; he or she has just committed a fallacy.

Tip: Be charitable to your opponents. State their arguments as strongly, accurately, and sympathetically as possible. If you can knock down even the best version of an opponent’s argument, then you’ve really accomplished something.

Weak Analogy

Definition: Many arguments rely on an analogy between two or more objects, ideas, or situations. If the two things that are being compared aren’t really alike in the relevant respects, the analogy is a weak one, and the argument that relies on it commits the fallacy of weak analogy.

Example: “Guns are like hammers—they’re both tools with metal parts that could be used to kill someone. And yet it would be ridiculous to restrict the purchase of hammers—so restrictions on purchasing guns are equally ridiculous.” While guns and hammers do share certain features, these features (having metal parts, being tools, and being potentially useful for violence) are not the ones at stake in deciding whether to restrict guns. Rather, we restrict guns because they can easily be used to kill large numbers of people at a distance. This is a feature hammers do not share—it’d be hard to kill a crowd with a hammer. Thus, the analogy is weak, and so is the argument based on it.

If you think about it, you can make an analogy of some kind between almost any two things in the world: “My paper is like a mud puddle because they both get bigger when it rains (I work more when I’m stuck inside) and they’re both kind of murky.” So the mere fact that you draw an analogy between two things doesn’t prove much, by itself.

Tip: Identify what properties are important to the claim you’re making, and see whether the two things you’re comparing both share those properties.
Carol Gilligan is associate professor of education at the Harvard Graduate School of Education. Her 1982 book, *In a Different Voice*, presents a theory of moral development which claims that women tend to think and speak in a different way than men when they confront ethical dilemmas. Gilligan contrasts a feminine ethic of *care* with a masculine ethic of *justice*. She believes that these gender differences in moral perspective are due to contrasting images of self.¹

**GENDER DIFFERENCES: MEN WHO ARE FAIR, WOMEN WHO CARE**

For centuries, ethical theorists have talked about two great moral imperatives—justice and love. The second term has been interchanged with the concepts of goodness, beneficence, and utility. Gilligan chooses the word care to identify her different voice because she believes it points to a "responsibility to discover and alleviate the real and recognizable trouble of the world."² She says that under an ethic of justice, men judge themselves guilty if they do something wrong. Under an ethic of care, women who allow others to feel pain hold themselves responsible for not doing something to prevent or alleviate the hurt.

People who merely browse through Gilligan’s book might conclude that she takes a “we versus they” approach to differences between the sexes. Almost all of the evidence she presents is drawn from the experiences of women. Yet Gilligan was careful not to title her book “In a Woman’s Voice” because she realizes that there are women who view moral questions in terms of justice, duty, and rights. There are also men who make moral decisions based on whether their actions help or harm the people involved. She merely sees two separate but noncompeting ways of thinking about moral problems. One is associated with men; the other is typical of women.

Both sexes have the capacity to see ethical issues from the two perspectives, but they tend to select one focus or the other depending on how they view themselves. Ego psychologists have traditionally recognized the role of the self in determining the extent to which people base decisions on ethical considerations. Gilligan says that self-image also determines whether fairness or caring will be the basis for moral judgment.

What distinguishes an ethic of care from an ethic of justice? According to Gilligan it's the quantity and quality of relationships. Individual rights, equality before the law, fair play, a square

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² Ibid., p. 18.
deal—all of these ethical goals can be pursued without personal ties to others. Justice is impersonal. But sensitivity to others, loyalty, responsibility, self-sacrifice, and peacemaking all reflect interpersonal involvement. Care comes from connection. Gilligan rejects biological explanations for the development of a given moral voice. She believes that women’s greater need for relationships is due to a distinct feminine identity formed early in life. The greater need for relationships in turn leads to the ethic of care.

Gilligan supports her theory with research of children at play conducted by Northwestern University sociologist Janet Lever. Lever found that boys like games with lots of intricate rules. Disputes often arise over interpretations of the rules, but the argument doesn’t break up the game. In fact, Lever notes that some boys seem to enjoy wrangling over the rules even more than the game itself. Since rules are sacred, a cry of “That’s not fair!” is an accusation with moral force. Girls, on the other hand, play shorter and less complex games. When arguments arise, girls will usually bend the rules so no one will feel hurt. Gilligan believes that this difference carries over into adult life. Women change the rules in order to preserve relationships; men abide by the rules and see relationships as replaceable.

IMAGES OF SELF: MALE SEPARATION, FEMALE CONNECTEDNESS

“How would you describe yourself to yourself?” The question is Carol Gilligan’s open invitation for women to voice the images of self they carry inside. The answers she hears are sometimes muted, often halting, but together they reveal a common image which she believes guides women throughout their lives. The responses show a feminine fusion of identity and intimacy. Women speak of being a daughter, wife, mother, lover, or friend. In short, they define who they are by describing relationships.

Contrary to the descriptive words of attachment chosen by women, men select a vocabulary of self-reference that is clearly individualistic. The male “I” is defined by separation. Men distinguish themselves from others by their accomplishments, and their individual climb to the top is a solitary pursuit. Gilligan notes that these masculine and feminine self-portraits are consistent with childhood fairy tales. The common male fantasy is going forth alone into the world to slay dragons. The typical female dream is an intimate relationship. Snow White and Sleeping Beauty wake up not to be world beaters but to marry a prince.

Gilligan says the male image of going forth alone is consistent with masculine relationship patterns. The average adult male has a wide circle of friendly relations, but no intimate friends. Women picture themselves as part of a closely knit network of intimates; they are in the center of a web of connectedness. The difference between the self-descriptions of men and of women is consistent with a distinction long recognized in the field of group dynamics. Groups need a mix of task-oriented and relationship-oriented members. Males tend to be more concerned with getting the job done; females tend to be concerned with holding the group together.

* * *

THE MASCULINE ASCENT UP THE STEPS OF JUSTICE

Gilligan believes that the field of psychology has tried to treat women as if they were men. Psychologists who study moral and intellectual development have assumed that male experience is the typical way childish views of right and wrong grow into adult ethical thinking. When

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women don’t follow the normative path laid out by men, “the conclusion has generally been that something is wrong with women.”

To understand the basis of Gilligan’s criticism, you need to be familiar with the work of her well-known colleague at Harvard, psychologist Lawrence Kohlberg. He measured ethical maturity by analyzing responses to hypothetical moral dilemmas. The story of a man named Heinz is typical of the case studies he used:

In Europe, a woman was near death from a very bad disease, a special kind of cancer. There was one drug that the doctors thought might save her. It was a form of radium that a druggist in the same town had recently discovered. The drug was expensive to make, but the druggist was charging ten times what the drug cost him to make. He paid $200 for the radium and charged $2,000 for a small dose of the drug. The sick woman’s husband, Heinz, went to everyone he knew to borrow the money, but he could get together only about $1,000, which was half of what it cost. He told the druggist that his wife was dying and asked him to sell it cheaper or let him pay later. But the druggist said, “No, I discovered the drug and I’m going to make money from it.” Heinz got desperate and broke into the man’s store to steal the drug for his wife.

Should the husband have done that? Was it right or wrong?

Most people say that Heinz’s theft was morally justified, but Kohlberg was less concerned about whether they approved or disapproved than with the reasons they gave for their answers. Starting in the 1950s with a group of seventy-five boys ranging in age from ten through sixteen, he monitored the reasons they gave for their judgment over a twenty-year period. He was able to isolate six distinct stages of moral thought. Each stage built on previous thinking, but each one also represented a qualitative jump from the type of reasoning that went before. From Kohlberg’s standpoint, higher meant better. Although most of his subjects never reached the highest stages, those who did invariably went through the sequence one stage at a time without ever skipping a step or reversing the order.

NOT ALL PEOPLE ARE MEN

Gilligan worked closely with Kohlberg at Harvard, and they coauthored an article which reported on the use of his theory in analyzing adolescent development. But the more she used Kohlberg’s criteria to judge moral sophistication, the more she became uncomfortable with the way women are categorized in his model of development. According to his method of analysis, the average young adult female scores a full stage lower than her male counterpart.

Gilligan notes that men respond decisively to Heinz-type dilemmas, using set prescriptions or formulas to line up each person’s rights. It’s like a math problem to be solved. The story contains

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enough information for the listener to plug in the variables and solve the equation to get the "right" answer (Stage 4).

Women, however, are uncomfortable responding to hypothetical ethical dilemmas. They ask for more information about the characters, their history, and their relationships. They seem to feel that the storyteller has asked the wrong question. The real question for them isn't "Should Heinz steal the drug?" The issue is "Should Heinz steal the drug?" Females look for ways of resolving the dilemma where no one—Heinz, his wife, or the druggist—will experience pain. Gilligan sees this hesitation to judge as a laudable quest for nonviolence, an aversion to cruel situations where someone will get hurt. But Kohlberg considered it a sign of ethical relativism, a waffling which results from trying to please everyone (Stage 3).

Gilligan charges that Kohlberg's downgrading of female moral sensitivity was just another case in a long history of male intellectual bias. Freud claimed that "women show less sense of justice than men . . . , that they are often more influenced in their judgments by feelings of affection or hostility." He called women's relationships the "dark continent" of psychology. Swiss child psychologist Jean Piaget wrote that "the most superficial observation is sufficient to show that in the main, the legal sense is far less developed in little girls than in boys."8

Gilligan doesn't challenge the fact that there are differences of identity and moral reasoning between the sexes. On the contrary, she develops her theory to explain these differences. But it does bother her that Kohlberg's influential theory relegates loyalty, compassion, and care for the individual to a lower plane than individual rights and justice. It seems to her "an unfair paradox that the very traits that have traditionally defined the 'goodness' of women are those that mark them as deficient in moral development."9 To those who would claim that Kohlberg was merely reporting the facts of his twenty-year study, Gilligan points out that his is a theory conceived by a man and tested on an all-male sample. She has no quarrel with its validity for those who see ethics in terms of justice, but she objects that psychology has "tried to fashion women out of a masculine cloth." Her thesis is that most women speak in a different—but not inferior—moral voice.

FOR WHOM DO YOU CARE? THREE PERSPECTIVES

Just as Kohlberg's justice-based model of development claims different levels of moral maturity, so Gilligan assumed that there would be different perspectives within an ethic of care. Rather than relying on hypothetical dilemmas to spot different nuances in the feminine voice, she was determined to hear women speak about real-life moral struggles where they had the power to chose. [She conducted] extensive interviews with twenty-four women and successfully followed up with twenty-one of them a year later. As predicted, these women discussed their choice[s] within a care orientation rather than a framework of justice. Over and over they used the words selfish and responsibility to explain their thinking. Responsibility was interpreted as exercising care; not being selfish meant not causing hurt.

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... Kohlberg assigned his six ordered stages to three levels of maturity: preconventional, conventional, and postconventional. Gilligan found evidence of a similar sequence within an orientation of care.

1. Orientation to Individual Survival (Preconventional Morality). At this base level, women [discussed real-life moral dilemmas in terms of] looking out for themselves. They usually felt alone in a hostile world and were unable to look beyond their own self-interest. ... At this egocentric level there is no feeling of “should.” Gilligan calls it “moral nihilism.” The only problem of choice women face here is getting in touch with what they really want. ...

Gilligan points out that [thinking about] motherhood often brings a change in [a woman’s] self-concept. ... With a new sense of connectedness, a woman may begin an internal dialog contrasting the selfishness of a willful decision and the responsibility of moral choice. This debate marks a transition to the second level of ethical thinking.

2. Goodness as Self-Sacrifice (Conventional Morality). Instead of Level 1 selfishness, conventional feminine morality is selfless. Women with this view defined their moral worth on the basis of their ability to care about others. They searched for solutions whereby no one would get hurt, but realized that they often faced the impossible task of choosing the victim—usually themselves. They felt a responsibility to give others what each of them needed or wanted, especially when these others were conceivably defenseless or dependent. They therefore made a decision ... on the basis of the choices or advice of others. They felt compelled to respond to the vocal appeals of people around them. Twenty-five-year-old Denise [had an unplanned pregnancy and] wanted to have the baby, but her married lover convinced her the consequences would be disastrous for him and his wife. Gilligan’s level 2 ethic of care would give Denise credit for her belated sense of responsibility. She was now willing to put others first. Had she been at this stage earlier, she might not have had the affair.

The woman who thinks she is responsible for pleasing others may begin to feel manipulated. Denise started to question the worth of a relationship that required passive acquiescence—“just going along with the tide.” She also began to doubt her own moral worth for blaming the man for the abortion decision rather than having the strength of her own convictions. Here again, the changing self-image can stimulate a transition to more mature ethical thinking.

3. Responsibility for Consequences of Choice (Postconventional Morality). Writing within the framework of care, Gilligan states that the “essence of moral decision is the exercise of choice and the willingness to take responsibility for that choice.”10 For the women [in her study] this meant recognizing that great hurt was inevitable whatever they decided. Although most women in the study didn’t reach Level 3, those who did understood that there were no easy answers. They made an effort to take control of their lives by admitting the seriousness of the choice and considering the whole range of their conflicting responsibilities.

The criterion for judgment thus shifts from goodness to truth when the morality of action is assessed not on the basis of its appearance in the eyes of others, but in terms of the realities of its intention and consequence.11

Unlike conventional goodness, the perspective of truth requires that a woman extend nonviolence and care to herself as well as others. Gilligan says that she claims the right to include herself among the people whom she considers it moral not to hurt.

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10 Gilligan, In a Different Voice, p. 83.
11 Ibid., p. 92.
Women on Level 1 cared only for themselves. Women on Level 2 saw virtue in caring for others. Women on Level 3 saw care as a universal imperative and were able to assert a moral equality between caring for self and others. As one nineteenth-century feminist, Elizabeth Cady Stanton, proclaimed: "Self-development is a higher duty than self-sacrifice."  

CRITIQUE: IN SEARCH OF A JUST AND CARING EVALUATION

Gilligan's theory is a compelling description of differences in masculine and feminine moral perspective. Her book is required reading for those who want an in-depth understanding of women's self-concept. Yet her two-voice hypothesis has drawn considerable criticism.

Some people fear that Gilligan's attempt to establish a different but equal voice merely reinforces the cultural stereotype that men act on reason while women respond to feelings. Others censure Gilligan for swallowing the anger that many women feel. They note that her "voice of care" takes care not to accuse men of anything more than ignorance or insensitivity to a feminine perspective. Many ethical theorists are disturbed at the idea of a double standard—justice for some, care for others. Moral philosophy has never suggested different ethics for different groups. Each ethical theory... assumes a moral standard that applies to all. People who think in terms of justice often object that Gilligan's ethic of care has no external criteria by which to judge whether people have met their responsibility. . . .

In response, Gilligan could point out that people who hold the welfare of individuals as their moral ideal may have to adjust what they do to meet the requirements of the situation. The same action could be ethical in one case but unethical under a different set of circumstances. If flexibility is a fault, it is one shared by all utilitarians who seek the greatest good for the greatest number.

Many social scientists criticize the thin research support which Gilligan offers to validate her theory. For example, the small, specialized sample in [Gilligan's] study casts doubt on whether these women represent the thought of most females. . . . We should remember, however, that Freud's, Piaget's, and Kohlberg's developmental theories were based on biased samples as well. The case study approach is always open to the charge of being nonrepresentative. Mead and Gilligan think that the rich interpretations of self-concept make the risk worth taking.

The voices Gilligan recorded are not the final word. Some follow-up studies by other researchers using Kohlberg's scoring system have found men and women at the same level of moral development. When the samples are controlled for education and occupation, findings of greater male moral sophistication are rare.

Readers of both sexes report that Gilligan's theory resonates with their own personal experience. Many men are encouraged that Gilligan does not exclude males from an ethic of care. She even holds out the possibility that in postconventional morality, the voice of justice and the voice of care can blend into a single human sound. If so, the result might be a caring law that resembles the Golden Rule—"Do unto others as you would have them do unto you."

12 Ibid., p. 129.
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Mary Brackeck
Video Resources


Playlist available on YouTube:
http://www.youtube.com/playlist?list=PLCAAA1D8F69131A393

For Unit 1, I recommend using the first four minutes of *Human Rights*, the first video in the series, available through Vimeo:  http://vimeo.com/26961893

![Human Rights](image)

*A Dirty Job: Making the Case for Sweatshops.* Video essay by Nicholas Kristof for the New York Times. Available online:


![New York Times](image)