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Author(s): Okkonen, Ida; Takala, Tuomo

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Ethical Dilemmas in the Asylum System: Termination of Reception Services

EDITORIAL

Ida Okkonen

Tuomo Takala, Editor in Chief

Introduction

Among the political and legal challenges it faces, ethical and moral dilemmas are inevitably embedded in the immigration system. Furthermore, the current immigration crisis in Europe has given rise to an intense debate between European Union member states on the division of responsibilities between them and on human rights in general. In 2015, Finland, like many other European countries, faced great challenges as the number of incoming asylum seekers increased tremendously, mostly due to the lengthy and ongoing war in Syria and unrest among its neighbors (UNHCR, 2015, 2016). This has resulted in a tightening of the Finland's migration policy and legislation. In addition, the Finnish Immigration Service has been on the frontlines dealing with the unprecedented influx of migrants. They have tightened their practices and interpretation of the asylum policy after 2015. For example, in 2017 it did not consider asylum seekers' fear of violence in their home country as a legitimate reason for international protection as it once did in 2015. (Saarikomäki et al., 2018).

Close to 200 new reception centers were established in response to the crisis in 2015. Asylum seekers' reception services are required by Finnish law (Act on the Reception of Persons Seeking International Protection, 746/2011) to include housing accommodations, meals or cooking facilities, social services, health care, a reception allowance, legal aid, interpretation services, and employment and educational resources (Finnish Immigration Service, 2016). In situations where asylum seekers are not granted a residence permit, their access to reception services are terminated. If the clients (asylum seekers) cannot be forcibly returned to their home country by a public authority, they can either voluntarily return (financially assisted) or stay illegally in Finland without a residence permit or access to social security. Some estimates have suggested that there were 2000–4000 illegal asylum seekers in Finland in 2018 (Jauhiainen and Gadd, 2018), thus others have suggested that the number

was over 5000 already in 2017 (Yle Uutiset, 2017).

The Finnish Immigration Service makes decisions on asylum applications, and the reception center managers act as messengers to inform the clients of its decisions. After the asylum applications are processed and the decisions are made, the reception services are terminated within a certain time limit. Especially in situations where the decision is negative and the client's asylum application is denied, the managers may use their discretionary power to determine whether the amount of time before the services are cancelled should be prolonged. For example, they may continue to offer reception services to some extent if an asylum seeker's health is at stake. Moreover, managers might also think that it is inhumane and morally wrong to terminate the services if the clients really think that they cannot return to their home countries. Thus, managers may have doubts about the rightness/justness of the asylum process and the decision made, or their opinions might differ from those of the Finnish Immigration Service in terms of the severity of an asylum seeker's health conditions.

In this editorial, reception center managers' hypothetical ethical dilemmas are considered in the context of immigration. Hence, in this paper, we will examine the managers' ethical reasoning regarding the termination of reception services when asylum seekers refuse to return to their home countries voluntarily or they cannot be returned there by a public authority and thus choose to stay illegally in Finland without a residence permit. Specifically, we focus on hypothetical situations in which civic activism is applied or deliberated, meaning that the managers either refuse to terminate the services or seriously consider doing so. We examine the reasoning applied in such situations from the points of view of Kantian ethics and Aristotelian virtue ethics.

Kant and duty ethics

According to Kant, an act's moral value does not depend on either its consequences or happiness, like in teleological ethical theories, but on the good will of

humans. In other words, an act is always judged independently of its consequences because actions can be morally wrong even if they (unintentionally) have good outcomes. In Kant's duty ethics, an act is ethically sound if it is done because of and according to a moral duty or law. Thus, the motivation is grounded in an obligation. The universal moral law is premised on the concept of intrinsic value and good will. In other words, an individual's good will and adhering to the moral law is valuable in itself (Deigh, 2010; Kannisto, 2007; Shakil, 2013).

Duty ethics views reason as being divided into theoretical and practical reason. Put simply, theoretical reason is knowledge, whereas practical reason is action grounded in the will. In other words, theoretical reason refers to our ability to know, whereas practical reason is associated especially with ethical behavior when deliberating on what is right (Deigh, 2010; Kannisto, 2007). According to Kant, practical reason is in fact willing and primary in relation to theoretical reason. Furthermore, ethicality is based on rationality, dictating that unethicity is irrational, and only individuals whose will is free are ethically responsible (Deigh, 2010; Kannisto, 2007). Thus, moral law is firmly rooted in the concept of freedom, which accompanies autonomy of the will and universality of the moral law. In conclusion, only people that are capable of rational reasoning are free.

Kant formulated categorical imperatives—a set of maxims (rules or principles) that are categorical in nature—to define the moral law and provide a framework of rational rules and principles. The categorical imperatives obligate people absolutely (do X). Absolutism of categorical imperatives means that a moral act is independent of external factors like personal qualities, emotions, desires, or environment. Kant stated that ethical behavior minimizes heteronomy of the will. Kant also defined hypothetical imperatives—imperfect duties—that bind only indirectly (if you will X, then do Y). They also rest upon pure rationality but are prone to subjective interpretation and preferences; thus, they are context dependent to some extent. Hypothetical imperatives are still morally binding, but individuals are not judged by not completing them; however, they are praised if they do. In summary, perfect duties are always truly completed, while imperfect duties are not because they are inconsistent in nature. (Deigh, 2010; Kannisto, 2007; Shakil, 2013).

Situations in which reception services are terminated can be examined from the viewpoint of ethics of duty. In these situations, managers may apply civic activism and refuse to terminate the services or otherwise question the law and policies. The first categorical imperative dictates: "Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction" (Kant, 1785, see Shakil, 2013). According to Kant, this implies that moral law is independent of the personal qualities of a moral actor, and thus a moral principle should be applicable to any rational being. Furthermore, the perfect duties dictated by moral law should not result in logical contradictions (Shakil, 2013). Reception center managers might consider that services should never be terminated if a service recipient's human rights were threatened by the lack of services. This could be the case even if the client's health was not at stake. Thus, acting this way could be willed to become a universal law.

Furthermore, in situations in which managers encounter ethical dilemmas, the second formulation of the imperative could be suggested to apply as well. The second categorical imperative states: "Act in such a way that you treat humanity, whether in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end" (Kant, 1785, see Shakil, 2013). This refers to respecting eve-

ry individual's rational will to the same extent as one respects one's own (Kannisto, 2007). Thus, a moral actor must comply with a moral duty to ensure an end that is fair and equal for all people (Deigh, 2010; Shakil, 2013). Therefore, the reception center managers might reason that every human being should be treated humanely, fairly, and with respect. In other words, some reception center managers might feel that the policy related to immigration and asylum is not just or fairly implemented.

Finally, the third formulation states: "Therefore, every rational being must so act as if he were through his maxim always a legislating member in the universal kingdom of ends" (Kant, 1785, see Shakil, 2013). This is an interesting proposition from the ethical dilemma point of view at hand. A truly autonomous will is subject both to the laws that it makes for itself and as if others are bound by the same laws as well. In the ideal of autonomy, people create their own moral laws, and thus there is a duty to act by maxims that fit into the universal kingdom of ends. The reception center managers that refuse to terminate services to unsuccessful asylum seekers therefore act in a way that they would like (will) to become a universal moral law.

In Kantian ethics, the value of rationality cannot be perceived by experience, but an actor obtains it through categorical imperatives. The objectives are determined by the categorical imperatives and especially within their limits (Deigh, 2010). This raises the following question: Should managers leave their feelings and moral particularism (apply no overriding moral principles, regardless of the circumstances) behind and obey the law without question? Kant's ethics is often criticized because of its dogmatic nature. For example, it cannot reasonably be applied to most ethical dilemmas, since its premises do not acknowledge exceptions or hierarchical rules (although refraining from killing is a higher moral duty when compared to lying). It does not recognize situations where one could choose between a bad or a less bad choice. The act is either right or wrong, good or bad. Thus, Kantian ethics' greatest problem is found in its strictness when it disregards consequences and values only the moral worth of an act. (Deigh, 2010; Shakil, 2013).

Aristotle and virtue ethics

Contrary to Kant's ethics, in which duties do not necessarily advance happiness, Aristotle's ethics aims to define what is required to promote happiness. According to Aristotle, a well-lived life constitutes friendship, pleasure, virtue, honor, and wealth (Kraut, 2018). Aristotle, among other ancient philosophers, thought that selfishness and the pursuit of happiness did not conflict with each other. Thus, they saw nothing wrong with egoism. Egoism was thought to be a natural part of humanity, but it should be exercised properly (Kraut, 2018).

In Aristotle's virtue ethics, an individual cannot achieve happiness if psychological, physical, and social dimensions are not simultaneously achievable. In other words, an individual also needs external resources like wealth, beauty, health, and friends in order to be happy. Virtue ethics covers certain virtues that people should have and cultivate in order to live well and achieve happiness (Kraut, 2018). Examples of intellectual virtues are wisdom, considerateness, and discernment. Furthermore, moral virtues include features such as courage, justice, modesty, honesty, and generosity. In general, ethical virtues are comprised of discretion and emotional and social skills. However, there is no clear consensus among contemporary virtue ethicists on what the list of virtues should entail (Tännsjö, 2013). Finally, Aristotle believed that upbringing plays a crucial role in leading an ethical, and thus a good, life. Thus, it is im-

portant to learn virtues and good manners in childhood, and then in adulthood one can reasonably use this capacity in order to pursue happiness (Kraut, 2018). This continues to be an important part of virtue ethics to this day, for virtue ethics is not about the features that we are born with (personality traits), but rather our character traits that can and ought to be developed through education (Tännsjö, 2013).

In Aristotelian ethics, virtues rest on both the sensitive soul and rational soul. The sensitive part is comprised of emotions, feelings, and desires. As appropriate feelings are of great importance in virtue ethics, moderateness is one of the central concepts in Aristotle's ethics. Furthermore, the rational part constitutes theoretical and practical reason. Theoretical wisdom (reason) comprises knowledge and intuitive understanding, whereas practical wisdom (reason) includes skills and discretion. In Aristotelian ethics, virtues always position themselves in the middle of two extremes, guided by practical reason. This is referred to as the golden mean. In sum, an ethically virtuous individual acts both sensitively and rationally, whereupon their behavior is truly motivated by their will and reason (Kraut, 2018). However, theoretical wisdom always overrides practical reason; for instance, in Aristotle's opinion, a philosophical lifestyle is more valuable than a political one.

Similar to how we examined the termination of reception services and civic activism/questioning of immigration policies from the duty ethics point of view, we can also investigate it from the viewpoint of virtue ethics. The situation can be evaluated from the perspective of managers' ethical virtues. Virtue ethics is based on the features a virtuous person should have and cultivate in order to live well and happily. An ethically virtuous individual has the knowledge and ability to balance and practically reason between two extremes, and thus they can put their feelings and emotions into perspective. In contrast to duty ethics, moral particularism applies in virtue ethics, meaning that each case is evaluated based on its particular circumstances and there are no analogous moral principles that could be applied to new cases. Could the managers' civic activism therefore be considered a virtuous act and morally right? On the one hand, we could say that the managers' behavior is virtuous when they aim to ensure the protection of asylum seekers' human rights when they could be considered at risk. In this case, the managers may possess ethical virtues like fairness, caring, courage, gentleness, and honesty. On the other hand, the managers' ethical behavior could also relate to their obedience and effectiveness in terms of pursuing the policy goals involved. Would it therefore be morally right to focus on the moderateness—the golden mean—between two extremes: a) caring for asylum seekers' well-being and b) caring for the protection of society's political and legal

system (the overall well-being of the society)?

Conclusions

Kant's duty ethics outlines reasonably strict instructions in terms of what is right and wrong, claiming that categorical imperatives and universal moral law guide us toward righteous behavior. By contrast, Aristotle's virtue ethics does not offer any specific process model for ethical decision-making, but it does help to systemize our understanding of the quality of virtues. Like other normative ethical theories, including Kant's duty ethics that aims to answer the question of what is it that makes a right action right, virtue ethics focuses on the question what kind of person one ought to be (Tännsjö, 2013). Thus, virtue ethics focuses on individual features that can be assumed to be good in general, but it fails to offer a profound or all-encompassing explanation for or justification of why these features are valuable. However, it could be suggested that virtue ethics are useful for pondering the rightness of an ethically challenging situation by considering both feelings and practical reason. Although Aristotle claimed that ethical decision-making cannot rest upon rules and specific moral principles because it is always context dependent, he also admitted that some rules are necessary in the pursuit of happiness, such as refraining from murder, theft, and infidelity. Nonetheless, no rule can make ethical virtues and deliberation unnecessary.

When comparing Kant's duty ethics and Aristotle's virtue ethics, it can be concluded that duty ethics is duty-bound (rule-bound), whereas virtue ethics is value-objective (Knuutila, 1982). In the ethically challenging situation presented in this paper—the termination of reception services—reasoning can be explained from various points of view, not only based on the dichotomy between Kantian duty ethics and Aristotelian virtue ethics. While Kant's duty ethics is grounded in duties and rules that are binding in nature, a moral duty could be targeted at various recipients. In this regard, reasoning could follow moral principles that carry obligations toward asylum seekers, legislation (state and society), or oneself. Similarly, a person might reason based on certain virtues that are embedded in their professional code of ethics, such as those that relate to administrative managerial positions or those of a caring manager. The managers considered in this editorial are able to exercise their discretionary power in situations where services to asylum seekers must be terminated, but it is not by any means an easy task to do so and it seems to result in genuine ethical dilemmas. The question is are these dilemmas avoidable and could these dilemmas be prevented through better political decision-making?

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Authors

Ida Okkonen is a MSc in Kinesiology (2015) and MSc in Business and Economics (2017) from University of Jyväskylä. She is currently a doctoral student in the University of Jyväskylä, School of Business and Economics. Her areas of interest include Business and Organizational Ethics, Responsible Management and Qualitative Research.

Professor Tuomo Takala is a Doctor of Business Economics (1991), Philosophy (2012) and Sociology (2013). He has been a Full Professor in charge of Management and Leadership since 2002, and has also had several administrative duties, e.g. Vice Dean of the faculty (2001-2003) and Dean of the Faculty (2003-2004) in the University of Jyväskylä, School of Business and Economics. His research areas include Responsible Business & Administration, Leadership & Narratives and Charismatic Leadership. Takala is a continuing contributor on journals like Journal of Business Ethics, Emerald Journals, Business Ethics - An European Review and Social Responsibility Journal.