Empathy, Contractual Ethics, and Justification

To this point, I have shown that empathy makes a valuable epistemic contribution to producing sensitive understanding of others, and that it can play an important instrumental role in enabling moral deliberation as it is defined in a variety of ethical theories. I now turn to examining empathy’s role in contractual ethical theories in particular, specifically, those of John Rawls, John Harsanyi and David Gauthier. Contractual ethical theories are distinct from other normative ethical theories because they are based on the idea of rational agreement through a kind of social contract, and seek the public justification of moral principles. Public justification involves showing that an action, principle, or practice is reasonable because a variety of people have reasons in favor of that action, principle, or practice. My aim here is to show that contract theories model different types of perspective-taking empathy and empathetic deliberation. This means contract theories express the reasoning of empathetic deliberation, in that they provide a rationale for agreement to moral or political principles that takes into account a variety of perspectives, or points of view that are thought to be irreconcilable. Insofar as contract theories seek to express the reasoning of a variety of perspectives, they seek what could be called both public justification and interpersonal justification.

This may be a rather surprising thesis, given that contract theories are usually described as a product of rational choice and are rationally justified; nevertheless, I show that the reasoning modeled in these three social contracts is empathetic, in that the reasoning involves thinking about, imagining, or reflecting on another person’s feelings, thoughts, and responses in a certain situation to discover their reasons for supporting particular principles. Ultimately, my analysis will provide a richer understanding of our deliberative processes, and will provide a
unique defense of contract ethical theories: they express empathetic
deliberation, and the type of empathetic deliberation expressed tells
whether the principles are strongly or weakly publicly justified.

I begin by describing how social contract theories model empathetic
deliberation, and then show that they model deliberation by constructing
a point of view characterized by three features: idealized circumstances
for reasoning about the principles, a commitment to rationality as central
to agreeing on principles, and value pluralism. These features enable the
three theories to model different kinds of empathetic deliberation: other-
focused empathy, self-focused empathy, and dual-perspective empathy.
I argue that contract theories are understood as seeking public justi-
fication, and public justification should be interpreted as a kind of inter-
personal justification. Using this interpretation, I show that the kind
of empathetic deliberation modeled corresponds to the nature of the
interpersonal justification achieved and that it can be strong or weak.
I conclude that the empathetic deliberation modeled in Harsanyi’s and
Gauthier’s theories do not achieve strong public justification because they
model weaker types of empathetic deliberation.

6.1 Contract theories and public justification

In contemporary moral and political philosophy, there has been a
revival in using the idea of the social contract as a way to justify moral
or political principles. Justification in moral and political philosophy
expresses, roughly, the idea that a moral or political principle is valid if
it applies to everyone, or if it is reasonable from each person’s point of
view. The best known of these theories is John Rawls’ theory of justice,
but there are several other “contract” theories, including David Gauthier’s
contractarianism, T.M. Scanlon’s contractualism, and John Harsanyi’s
equiprobability theory of contractual morality. The contractual approach
to justification is unique in that it tries to show that certain moral or
political principles are justified on the basis that they could be agreed
to by the rational (or reasonable) agents governed by them. Essentially,
the idea of agreement models what reasons people have to accept or
endorse certain principles, policies, etc. That is, the reasons articulated
in particular theories capture or model the deliberations of idealized
rational agents deliberating in appropriate circumstances. Since the method
presumes to capture the reasoning of rational citizens and thus secure
rational agreement to principles, it has gained popularity in the last
decade as a way of justifying things like capitalism, rights, democracy,
and even punishment.