

CHPT. 13

Refine Your Resolution of the Issue

Chapter 11 demonstrated how critical thinking is used to refine the solution to a problem. This chapter makes a similar demonstration with issues. You will learn how to decide what action should be taken about your resolution of the issue and how to recognize and overcome whatever difficulties may arise.

Not all issues require the treatment described in this chapter. In many cases, your analysis of an issue will be complete when you evaluate your argument on the issue and, if necessary, revise it to overcome deficiencies. For example, the issue may concern whether General Dwight Eisenhower, as supreme commander of the Allied Forces in Europe during World War II, made a tactical error in waiting for the Soviet Army before advancing into Berlin. Once you have found the answer that is most reasonable in light of the evidence, nothing more need be done.

On the other hand, in many other cases, you will not be content with deciding what belief is most reasonable but will also wish to consider what action should be taken on that belief. If you were to decide, for example, that television programming and commercials have a seriously negative effect on young people's intellectual development, you would probably consider what should be done to eliminate or counteract that effect. And if you came to believe that handgun control would significantly reduce the number of lives lost in accidents, you might devise a plan to get tougher handgun legislation passed in Congress.

This chapter concerns the latter kinds of cases, those in which your positions on the issues prompt you to recommend further action. In such cases, you must decide what exactly should be done, what difficulties might arise in doing it, and how those difficulties could best be overcome, in much the same manner as you would proceed in refining your solutions to problems. To appreciate the importance of these decisions, you need only reflect on the fact that an ill-considered plan of implementation can make even the most reasonable belief appear deficient.

Step 1: Deciding What Action Should Be Taken

This step consists of asking and answering appropriate questions. Though not all of the following questions will apply in every case, most of them will apply in the majority of cases.

- What exactly is to be done?
- How is it to be done? If, for example, it is to be done in stages, specify the stages. If a special procedure is needed, detail that procedure.
- By whom is it to be done?
- Will those doing it volunteer for the job or be assigned to it? If the latter, how will the assignment be accomplished?
- Will these individuals need to be trained? If so, what will the training consist of? How, when, and by whom will the training be given?
- When is the action to take place? According to what timetable?
- How will this action be financed? Publicized?

Step 2: Recognizing and Overcoming Difficulties

At first consideration, you may be tempted to regard your plan of action as foolproof. That view is unwise because no matter how carefully a plan has been conceived, it is likely to encounter difficulties. By acknowledging this fact and making an effort to identify those difficulties in advance, you increase the chances of successful implementation. Following are four approaches to identifying potential difficulties.

1. Check for common kinds of imperfections, such as these. (This is an abbreviated version of the list in Chapter 11.)

Safety: Does your plan create any danger for those who use it or those for whom it is used?

Convenience: Will the plan be awkward to implement?

Efficiency: Will the plan involve significant delays?

Economy: Is the plan too expensive to implement?

Simplicity: Is the plan unnecessarily complicated?

Compatibility: Will the plan clash with any other procedure it should harmonize with?

Legality: Does the plan conform to the law or at least include provision for changing a law with which it conflicts?

Morality: Does any aspect of the plan violate one or more ethical principles? (See Chapter 2.)

2. Compare your plan of action with competing ones, if any exist. Determine whether those plans have any worthwhile features lacking in yours.
3. Consider what changes your plan would produce in the existing situation. List those changes, taking care not to overlook any undesirable changes.
4. Consider the effects your plan will have on people, including not only physical effects but also moral, emotional, intellectual, and financial effects. Be sure to consider eventual effects as well as immediate ones and subtle as well as obvious ones.

After you have used these four approaches and identified the difficulties that might arise in implementing your plan, consider how the difficulties might best be overcome. As with all idea production, defer judgment and extend your effort to produce a variety of ideas for overcoming each difficulty. Then select the best ideas and modify your plan accordingly.

To see how these steps would be applied in actual cases, let's examine two sample issues.

Should Children Pledge Allegiance?

From time to time, the issue of pledging allegiance to the flag is revived, and debate rages around the United States. The issue may be expressed as follows: "Should public school students be required to recite the pledge of allegiance in unison at the start of each day?" Let's assume that after careful analysis and some revision of your initial view, you reasoned as follows.

A system of government built on respect for the essential dignity and the corresponding rights of every human being deserves the allegiance of its citizens. Whatever its lapses of application may be, the United States is built on respect for the essential dignity and the corresponding rights of every human being. Therefore, the United States deserves the allegiance of its citizens. Furthermore, any effort to develop in citizens the understanding and appreciation that underlie such

allegiance is acceptable as long as it does not violate the dignity of the individual or cause him or her to compromise personal beliefs. Unfortunately, requiring public school students to recite the pledge of allegiance in school does in some cases cause them to compromise their personal beliefs or be subjected to abuse.* Therefore, this requirement is not acceptable.

*In the 1930s, hundreds of Jehovah's Witnesses were given the choice of reciting the pledge or being expelled from school. Because their religion holds that it is a form of blasphemy to recite the pledge, they chose expulsion. As a result, most suffered verbal abuse; some also suffered physical abuse. In Richwood, West Virginia, police forced nine Witnesses to swallow large amounts of castor oil after they refused to recite the pledge. Elsewhere, Witnesses were attacked, tarred, and feathered, and, in one instance, castrated. In Kennebunk, Maine, an angry mob of 2,500 pillaged and set fire to the local Kingdom Hall. At first, the Supreme Court upheld the rights of municipalities to require the pledge; then, in 1943, it reversed itself. For more details on these events, see Jerry Bergman, "Jehovah's Witnesses: A Brief History of a Century of Religious-State Conflicts," at <http://www.freeminds.org/history/conflicts.htm>.

Because your argument does not merely reject the required pledge but also affirms the value of allegiance and the cultivation of the understanding and appreciation that underlie allegiance, you would probably feel it was appropriate to recommend action on the issue. Accordingly, you might decide that school districts should mandate that teachers begin each day with a period of silence for students to reflect on what they owe their country and their fellow citizens for the blessing of living in this country. Further details of your idea could include the provision of statewide guidelines for the conduct of this period of reflection and a dissemination of these guidelines to the public to prevent any misunderstanding.

In examining this plan for imperfections and other difficulties, you might decide that though it would be non-controversial, it would not accomplish its purpose. Students might use the time to think about their social life, personal problems, and so on. And even if they used it as intended, there would be no way to ensure that their reflection would have helped them grow in understanding and appreciation.

In this case, your examination might well lead you to change your recommendation to one that more closely meets your objectives. For example, you might recommend that one period a week (a homeroom period, perhaps) be set aside for a class discussion of the rights and responsibilities of living in a democracy. You might further specify that the focus of the discussion be on important historical incidents that dramatize those rights and responsibilities or on timely problems and issues.

Should the Miranda Rule Be Abolished?

Judge Harold J. Rothwax of the Supreme Court of the State of New York believes that our criminal justice system is on the verge of collapse. The goal of finding the truth, he argues, has been superseded by concern for the rights of the accused. As a result, police, judges, and jurors are hampered in the performance of their duties. One of several proposals Rothwax offers for correcting the situation is to abandon the *Miranda* ruling.¹ That is the Supreme Court decision that requires police to read every suspect his or her rights before they conduct an interrogation. If they fail to meet this requirement, any statement a suspect makes, whether involuntarily or in answer to one of their questions, may be suppressed at trial.

For example, let's say the police take a man into custody on suspicion of murder and before they read him his rights, he begins sobbing and confesses, "I murdered that girl, and she wasn't my first victim but my tenth. I'll take you to where I buried them." Let's say, further, that he then takes them to the other nine graves. Because they failed to "Mirandize" him, the prosecuting attorney will very likely be unable to use either the man's confession or the evidence of the other crimes he confessed to.

Suppose that you examined Judge Rothwax's proposal closely, considered the responses of his critics, and after evaluation and some revision of your initial thoughts, framed the following view.



Whatever prevents the prosecution of criminals obstructs justice and threatens the safety of law-abiding citizens. The suppression of relevant evidence in the courtroom prevents the prosecution of criminals. Therefore, the suppression of relevant evidence in the courtroom obstructs justice and threatens the safety of law-abiding citizens. However, assault is a crime. Police coercion, intimidation, and threats of violence are forms of assault. Therefore, police coercion, intimidation, and threats of violence are crimes.

Because your argument acknowledges valid points on both sides of the issue, it raises the question "What, then, should be done? Should the Miranda rule be abolished or retained? Should police abuse of suspects, when it occurs, be ignored or punished?" This creates the burden of recommending a course of action and addressing the difficulties involved in implementing it. Out of the many possible responses to this challenge, you might adopt the following:

1. The Miranda rule should be suspended and all relevant evidence be allowed at trial, regardless of how it is obtained. The present system punishes society for the mistakes of police and serves to encourage and embolden criminals. The sole purpose of the criminal trial should be to determine whether the accused is guilty and, if so, whether any mitigating circumstances were present.
2. Emotional or physical abuse perpetrated on the suspect by the police should be treated as a crime. Offenders should face appropriate criminal penalties, as well as possible dismissal from the force. Victims should be allowed to bring civil action against the officer(s) involved and the municipality that employs them.

A final note about refining your resolution of issues: Critical examination of a plan you are enthusiastic about requires real self-discipline. That self-discipline is one of the qualities that distinguishes outstanding thinkers. Moreover, it is one of the principal reasons for their effectiveness in persuading others to endorse their views.

Warm-Up Exercises

-   13.1 Decide whether the following argument is sound. Explain your judgment thoroughly.

Unicorns must exist because no one has ever been able to prove that they don't.

- 13.2 Decide whether the following argument is sound. Explain your judgment

thoroughly.

It is wrong to blame people for being born with a disease. Criminality is a disease some people are born with. Therefore, it is wrong to blame people for committing crimes.

- 13.3 A logician died and left this will: "I leave \$1000 to be divided among my four daughters. Some of the money is to go to Annabel or Beatrice. I know that Beatrice and Clarissa are under Deirdre's thumb, so if any of the money goes to either of them, she is to have none. I want Beatrice and Clarissa treated alike—in fact, all four, or as many as possible, are to receive equal treatment." Who was the logician's favorite daughter, and what was the size of her legacy?² Explain your reasoning fully.

Applications



Apply your creative and critical thinking to the following issues. After resolving each issue, decide whether it would be appropriate to take action on your belief. (In most cases, it would be appropriate.) Where action is called for, apply the two steps explained in this chapter.

- 13.1 Carelessly used, fireworks can cause severe burns or blindness. That's why many states have outlawed their purchase by the general public. (In those states, fireworks displays on holidays are managed by professionals.) Some people believe that it is not a proper function of government to protect people from their own negligence nor to forbid anyone from buying what a relative few will misuse.
- 13.2 Many environmentalists believe that the government has an obligation to protect plants and animals threatened with extinction. Others believe that if individuals want to take up that cause, that is their right but that it is not the government's business.
- 13.3 Some people believe that religious proselytizing (attempting to convert other people to one's religion) is not only morally justifiable but a moral obligation. Others believe that it is morally wrong.
- 13.4 For years, a controversy has raged over pornography. Some people believe that it affronts human decency and should be outlawed. Others regard it as quite harmless. Still others claim it is beneficial, that it helps people overcome their inhibitions and provides a means to ventilate strong sexual urges.
- 13.5 Controversy extends even to such a basic question as the nature of humankind. Are human beings essentially good and noble creatures who are corrupted by society in the course of their development? Or are they inherently violent and savage, their darker tendencies kept in check only by the threat of punishment? (There have been intelligent and educated supporters of each view.)
- 13.6 Sharia law is the Islamic legal system based on the Qu'ran and the teachings of Mohammed. Among its precepts are that drinkers and gamblers should be whipped; thieves should be mutilated or crucified; that

Muslims who renounce their religion, critics of Mohammed or the Qu'ran, and homosexuals should be executed; and that husbands may beat and/or rape their wives. Some believe that Muslims who embrace Sharia law should be allowed to invoke it as a defense in U.S. courts. For example, in a New Jersey case (*S.D. v. M.J.R.*) the initial ruling was that a man was legally justified in raping his wife because of this religious belief. Should Sharia law have any standing in U.S. courts? Explain your view and your reasons for holding it, taking care to anticipate and respond to possible objections to it.

Issue for Extended Analysis

Following is a more comprehensive thinking challenge than the others in the chapter. Analyze and respond to it, following the instructions for extended analysis at the end of Chapter 1. Also, review "The Basis of Moral Judgment" and "Dealing with Dilemmas" in Chapter 2.

The Issue: Statutory Rape

Statutory rape is a special category of offense in which the age of the parties is the sole determining factor—in other words, an offense in which the element of consent is irrelevant. If one of the persons engaged in the sexual activity is younger than specified in the statute (18 in many states, 16 or a lower age in others), a crime has been committed. Until fairly recently, men were the usual perpetrators of statutory rape. Today the number of women offenders—in many cases teachers—seems to be increasing. The most publicized cases occurred in Texas, Tennessee, Florida, and California; the one that got the most headlines was that of Mary Kay LeTourneau, a 34-year-old married teacher and mother who began having sex with one of her students when he was 12, had two out-of-wedlock children with him, spent seven years in jail for the offense, and then married him when she was released.

The Essays

An Outmoded Concept
By Salvatore Scuderi

Statutory rape is a very old legal category. It made sense in an age when sexual activity was considered to be proper only in marriage and only between adults. But over the last century, Freud, Kinsey, and other researchers have documented that sexual desires and urges are present even in young children, that hormones begin raging at puberty, and that acting on such urges is natural.

To appreciate how illogical statutory rape laws are, we need only consider some hypothetical cases. If two 12-

With Age Comes Responsibility
By Quentin Miller

Society has a right to expect that adults will behave more responsibly than children. The laws about the relationships between adults and children are based on that expectation. That is why there are laws prohibiting parents' neglect of children but not the reverse.

The general rule that has evolved over millennia of human history is that the closer an adult's association with children, the more accountable the adult is for his or her behavior. Teachers, school administrators, and

13-, or 16-year-olds engage in sex, no crime has occurred. In most states, the same is true of a 12-year-old and a 16-year-old (a four-year difference in ages). But in some states, if an 18-year-old has sex with a 17-year-old (a *one-year* difference in ages), statutory rape has occurred.

playground personnel, youth group directors, and members of the clergy have an obligation to help young people grow in understanding and wisdom and to protect them from harmful influences. Working with young people is a high calling, and it should never be used for personal gain or for the satisfaction of personal desires.

The supporters of such laws claim that teenagers don't know their own minds and therefore aren't in a position to make a decision about sex. In reality, many preteens are as capable of such decisions as the average 20-year old is. If a 14-year-old is sexually attracted to a 30-year-old neighbor or teacher, and that person also feels an attraction, it is natural and proper for them to act on their desires.

Tradition wisely holds that young people cannot genuinely consent to sex with adults—that to do so requires an adult understanding of the physical, intellectual, and emotional consequences of such a relationship.

It makes no sense to send the older person to jail simply because he or she is older. In any other context than sex, such punishment would constitute age discrimination. It should in a sexual context, as well.

However mature minors may be in other respects and however much they may be physically attracted to an adult, it is impossible for them to have that understanding. That is why adult sexual contact with children or teenagers is considered a particularly egregious violation of their trust.

In sum, laws against statutory rape do not fit our current, advanced knowledge of the nature of human sexuality; nor do they square with the sexual choices that young people make in contemporary society. Laws against statutory rape should therefore be repealed.

When adults engage in sex with minors, they are taking advantage of the minors' naiveté, much in the same way that a sober person might take advantage of an inebriated or mentally incapacitated one. That is the compelling reason for the law having proscribed such activity in the past and for continuing to do so.

Class Discussion

SAMANTHA: The only consideration in any sexual relationship should be whether both parties enter into it freely. And that is measured by the couple's feelings, not by the dictates of legislatures.

ALFONSO: That's especially evident when the adult is a woman and the teen is a boy. Boys fantasize about having sex with women authority figures such as teachers, so they naturally have positive feelings when their fantasies become reality.

MEGAN: I'm surprised that neither of you acknowledges that feelings can be deceptive, particularly young people's feelings.

Teenagers feel they can drink large amounts of alcohol without getting drunk, drive fast without endangering themselves and others, engage in sex without emotional and physical consequences. Adults know better and should not pretend otherwise.

ALFONSO: You make sex sound dirty and dangerous when it's actually natural and fulfilling.

SAMANTHA: You also make teenagers seem like infants. They know a great deal more than you give them credit for.

MEGAN: I'm not selling teenagers short. I'm simply acknowledging what you are ignoring—the intellectual and emotional differences between adults and minors and the obligation of adults to protect minors from harm. The people who have the deepest love for children—their parents—overwhelmingly oppose adult/child sexuality and support statutory rape laws. You'd both do well to ponder that fact.

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