

2023 Heilbron Lecture

Value Conflicts in Life and Law

This is a summary of the lecture as delivered by Prof. Ruth Chang on 24 May 2023 written by Henrietta Knight.

Professor Ruth Chang began her lecture by thanking Dana Denis-Smith and other organisers of the event, including trustees and patrons of the Next 100 Years project. She then moved on to introducing value conflicts in everyday life, such as the decision of what to eat for breakfast or how to present an argument in a courtroom. We learnt that hard value conflicts occur where we are presented with multiple options to choose from, and we are unable to discern which of our choices is the best choice.

Professor Chang outlined that there are three common theories regarding what makes a conflict hard: ignorance, incommensurability and incomparability. She suggested that whilst most people may argue that ignorance is what makes a value conflict hard, to think this way is a mistake. In first person authority cases, where the best choice is subjective to the individual, one often finds themselves unable to determine which option is best. Professor Chang then illustrated that in this scenario, improving one of the options must result in a conclusion that the improved option is now better than the other. However, this is not the case in hard value conflicts, and the improved option is not better than the other option, but neither is it worse, nor are they equal.

The lecture then moved on to discuss the interplay between the importance of a judgement one makes, and the degree of practical certainty required to make that judgement. Through use of humorous metaphor, we concluded that the degree of certainty required to make a choice is increased in proportion with the importance of the decision one is facing. Thus, as long as one has the correct degree of practical certainty, the structure of every case can be the same.

However, Professor Chang then explored the idea that what makes a conflict hard is not to do with the individual, but instead dependent on how the alternatives relate to one another. The concept of incommensurability is that two things cannot be put on the same cardinal scale, thus cannot be equated to each other. Their value is inherently different, and cannot be measured in a quantifiable manner. Despite this, Professor Chang then explained that even where value cannot be measured, it can still be concluded that one item or choice is better than another. You may not be able to quantify how much better, or how much more valuable, but it is nevertheless, better.

Finally, Professor Chang suggested that value conflicts may be hard because the values cannot be compared because they are so different. However, she quickly disproved this using the idea that comparability is only useful where there are a finite number of options to compare something to. In real life, this is not often the case and we are often faced with conflicts, and the options in these conflicts may be compared against a myriad of factors, many of which are subjective. Further, we learnt that also value cannot often be quantified, the fact that options are qualitatively different doesn't mean they are incomparable.

Through these discussions, it was concluded that ignorance, incommensurability nor incomparability are the correct diagnoses for hard value conflicts. In Professor Chang's opinion, the correct way to understand our conflicts are to consider our options as on a par with each other. The balance scale on

which we weigh up our options doesn't tip one way or another based on the value of the options, but instead oscillates; the options are evenly balanced, but not equal to each other.

With this oscillation in mind, Professor Chang then illustrated that while one option may not be objectively 'better' than another, by committing to that option, we are creating value within it. In a hard conflict, Professor Chang suggests that one either commits to or drifts into a choice, and this in turn crafts our identities. By committing to a choice, or by drifting into it, we constitute ourselves, showing the world who we are and what we care about - and what we deem to be less important.

In her closing remarks, Professor Chang notes that in cases of parity, one must open themselves up to the possibility of making a commitment to one option as opposed to another, and by doing this, we shape our identity. In the case of the legal system, this could be a judge facing a difficult choice, and by committing to one option, she is creating the identity of her jurisdiction and precedent in a democratic society. We have the power to create value for ourselves, and for others through committing to our choices.

NB This lecture has not been recorded and a full write up will not be available.