

# [Duskas conception of loyalty philosophy essay](https://assignbuster.com/duskas-conception-of-loyalty-philosophy-essay/)

Central to Duskas discussion of whistle-blowing is his conception of loyalty. Do you find his account of loyalty convincing? What elements of it might you disagree with? What implications might an altered conception of loyalty have on his contention that whistle-blowing does not require moral justification?

Whistleblowingis the release of information by a member (or former member) of an organization that is evidence of illegal or immoral conduct in the organization, or conduct in the organization that is not in the public interest (Boatright).

Ronald Duska argues that the employee does not have an obligation of loyalty to a company, and that whistle-blowing is permissible, especially when a company is harming society. Duska has argued that firms or organizations cannot incur a duty of loyalty. There is no moral dilemma of whistle-blowing since ?? one does not have an obligation of loyalty to a company, even a prima facie one, because companies are not the kind of things that are properly objects of loyalty?? therefore, whistleblowing needs no moral justification. Duska contends that the idea of loyalty to a company imposes barriers and negative stigma to those that whistle-blow. Within the premise of loyalty to a company, whistle blowing is seen as conflicting with obligations to act in the interest of your employer and not to reveal confidential information. I see his argument as support to those that do whistle-blow and their conduct and actions are mislabeled as being dis-loyal to the company. Duska? s argument contends that an individual is not being dis-loyal to the company when whistle-blowing, but are being loyal to their community. That moral justification of right or wrong should not be hindered by the non-existent duty of loyalty to the company.

With regard to an employee not having a duty of loyalty to a company, I agree in part. Duska has stated that the primary reason a company in business is to earn a profit, and in that effort, if the need arose a company would reduce the workforce to insure a profit without hesitation showing no loyalty to the employees. That loyalty can only be conveyed between moral agents, and a company is not a moral agent. I agree a company is not a moral agent, but in so much that a company is comprised of moral agents, loyalty can be conveyed to each of those individuals. Loyalty does not imply that we have a duty to refrain from reporting the immoral actions of those to whom we are loyal. An employer who is acting immorally is not acting in her own best interests and an employee is not acting disloyally in blowing the whistle, a Indeed, the argument can be made that the employee who blows the whistle may be demonstrating greater loyalty than the employee who simply ignores the immoral conduct, inasmuch as she is attempting to prevent her employer form engaging in self-destructive behavior.

Duska has stated that loyalty must be a reciprocal process, in this I disagree. As a retired Navy Officer, I was loyal to my country, and my flag, neither of which are moral agents nor are they able to reciprocate. Loyalty amounts to acting in another’s best interests and that may mean qualifying what seems to be in one’s own interests, but it cannot imply that one take no steps to protect oneself from the immorality of those to whom one is loyal. The reason it cannot is that, as has already been argued, acting immorally can never really be in a person’s best interests. It follows, therefore, that one is not acting in a person’s best interests if one allows oneself to be treated immorally by that person.

The implications of an altered conception of loyalty on Duska? s contention that whistle-blowing does not require moral justification could result in compounding of issues. In that an employee who has no loyalty to the company, and perceives a wrong-doing being committed and since their lies no loyalty to the company, reports it externally which may result in erroneous, or malicious reporting, and possibly damaging impact to the company. Whereas an employee with loyalty to the company, but with no moral justification to support the decision to whistle-blow may not report an issue at all. The solution lies in realizing that to whistle-blow for reasons of morality is to act in the best interests of the employer and involves, therefore, no disloyalty.

Question 2

After reading the articles in the Chapter 4 discussing affirmative action, what do you believe to be the primary moral wrong committed by discrimination (appeal to the moral theories that have been discussed in the articles to support your position)? What do you see to be the primary moral justifications in favor of affirmative action (again appeal to moral theories to support your position)? Based upon your position, do you believe that affirmative action is justified? Why, or why not?

Answer

The primary moral wrong committed by discrimination is the belief that and the behavior towards a particular group which is considered inferior and therefore should be excluded from certain jobs, advancements, and educational opportunities available to other groups; making an adverse decisions against an individual who belong to a certain class because of a morally unjustified prejudice toward members of that class. According to utilitarian principles discriminating against individuals on the basis of race, sex, religion or other characteristics unrelated to job performance is necessarily inefficient. Kantian theory, for example, holds that human being should be treated as ends and never used merely as means. At a minimum, this principle means that each individual has a moral right to be treated as a free person equal to any other person and that all individuals have a correlative moral duty to treat each individual as a free and equal person. Discrimination violates social ethics by arbitrarily closing off to minorities the more desirables offices and position in an institution, thereby not giving them an opportunity equal to that of others.

The primary moral justifications in favor of affirmative action are to overcome the wrongs committed, and to achieve a more representative distribution of minorities and women within an organization. Within the context of social ethics there is a societal obligation to remedy past discrimination by accepting; as viewed through justice ethics racial discrimination is unjust requiring corrective justice: that one who wrongfully harms another is obligated to make amends.

Affirmative action is a justified policy when applied correctly and fairly, without insertion of preferential selection. With the immediate goals of outreach, practicality, diversity, social justice and remedying discrimination, affirmative action programs that are designed to achieve a more representative distribution of minorities and women within the firm by favoring qualified women and minority candidates over qualified men or nonminority candidates, I believe it is justified.

Question 3

Epstein claims that the positions of both employers and employees are essentially even with regard to EAW. Do you find this argument convincing? Why, or why not?

Answer

? The freedom of the employee to quit, the freedom of the employer to fire, and the right of the employer to order the employee to do his bidding define the essence of the employment contract?

EmploymentatWillemerges from common law and asserts that in the absence of a specific law or controlling contract, employers have right to hire, promote, demote or fire whomever and whenever they please; employment is terminable at the will of either party. Nocause of action against the employer for wrongful termination, as well as the employees have parallel rights to quit whenever they please.

Employment at Willis the principle process primarily found in 50-60% of the private workforce. Business where employees are not covered by a union agreement, a legal statute, public policy or a contract, the employers may dismiss employees ? for good cause, for no cause or for causes morally wrong without being guilty of legal wrong. In contrast to EAW, for those primarily in the public sector, are under the policy of Due process. Due process is a means by which an employee has the right to appeal a decision in order to get an explanation of the action and an opportunity to argue against it.

Epstein argues EAW is adopted not because it allows the employer to exploit the employee, but rather because over a very broad range of circumstances it works to the mutual benefit of both parties, where the benefits are measured at the time of the contract? s formation and not at the time of dispute. Epstein focuses on the implied fairness of symmetry ? either party may terminate the relationship. He supports his argument by stating the freedom of contract is a basic liberty akin to our freedom to choose marriage partners or religion. It is an unacceptable violation of that freedom for government to interfere with our ability to create our own contracts. If terms are unacceptable then that is the responsibility of that party since he freely entered into the employment relationship, yet both retain the freedom to leave the relationship at any time. However, he claims thatreputationaleffects goagainstthe employer

I do find Epstein? s argument convincing regarding Employment at Will with respect to the employers and employees being essentially even. As one that is currently working in a state that exercises the Employment at Will, and having recently retired from military service, which exercises Due Process, they both have their merits and applicability. But within the private sector, employment at will provides the employer and the employee the means to attain the right fit for each other. Although the employer has the right to hire, promote, demote or fire whomever and whenever they please, they do so at great risk to their reputation, and ability to attract new hires, and cultivate business. The employee has the right to terminate their position, and seek other employment they may find more acceptable. This provides a mutual benefit to both parties, meeting the needs of the employee to find a position they are comfortable and capable at, and the employer having a capable and productive workforce. The employer has the burden to position themselves such so they attract and retain the best and the brightest, and the employee has the burden of self-improvement, and a demonstration of commitment to the company.

Question 4

Davis provides two distinct theories of morally justified whistle-blowing. Which theory do you find more convincing? Why? Appeal to moral theories discussed in Chapter 3 to support your position.

Answer

Whistle blowing is the release of information by a member or past member of an organization who has evidence of illegal or immoral conduct in the organization, or conduct in the organization that is not in the public interest. Whistle blowing reveals information that would not be ordinarily revealed in everyday context. In almost every case whistle blowing involves an actual or at least a declared intention to prevent something bad that would otherwise occur.

The two theories ofWhistleblowing as discussed by Davis (text), are DeGeorge? s Standard Theory, and Davis? s Complicity Theory. According to the Standard Theory, whistle-blowing is permissible when: The company will do serious harm, The whistleblower has reported the threat to her superior, but concludes it will not be fixed, The whistleblower has exhausted other internal reporting procedures. Further more, Whistle-blowing is required when: There is convincing evidence to an impartial observer, Good reason to thing revealing the threat will prevent the harm at reasonable cost.

The Standard Theory? s justification for whistle-blowing is in the application of the harm principle, as stated by Davis ? people have a moral obligation to prevent serious harm to others if they can do so with little cost to themselves? (149) (text). Within this context the harm principle is a form of ? minimally decent samaritanism? and not a form of ? good samaritanism? which requires going beyond the moral minimum. (text)

According to the Complicity Theory, whistle-blowing is morally required when: the information derives from your work for the group and not as spy, you are a voluntary member of the group and not held against your will or coerced, you believe there is serious wrong-doing, a moral wrong and not a harm, you believe your work will contribute to the wrong if you do not go public, does not require prevention, only belief that behavior is wrong. Additionally, you are justified in beliefs if you believe to be true, there is serious wrong-doing, and your work will contribute to the wrong if you do not go public requires truth revealer to be justified and correct about moral wrong.

I find the Complicity Theory to be more compelling and convincing. There are multiple advantages of Davis? s Complicity theory over De George? s Standard theory. The Standard theory fails to recognize that whistleblowers go well beyond the moral minimum, in many cases the harm has already occurred therefore prevention cannot be the goal, and if prevention is not an option, then it makes no sense to require a good reason to think the whistleblower can prevent the harm.

Complicity theory requires a distinction of the worker from a spy. The information cannot simply belonging to the company, but must also be related to the whistle-blower? s work, whereas the Standard theory does not provide any indication to how the whistle-blower comes in contact with the information.

The complicity theory requires a moral wrong to be determined and not harm as opposed to the standard theory to satisfy justification criteria for whistle blowing. The wrong does not have to be a newer event as harm must be if it is to be prevented.

Complicity theory requires a belief by the whistleblower that their work will have contributed to the wrong if nothing is done, but does not require any belief about what the whistle blowing can accomplish, prevent or undo the wrong. The belief is the whistle-blower is seeking to prevent complicity in a wrong doing, not necessarily to prevent harm or wrong-doing by publicly revealing what they know.

Complicity theory brings about a more demanding obligation than the ability to prevent harm, in that we are morally obliged to avoid doing moral wrongs.

Case Study:

Kaiser Aluminum and the United Steel Workers

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Kaiser Aluminum and the United Steel Workers

Kaiser Aluminumand Chemical Company plant inGramercy, Louisiana made an agreement with the labor union, United Steelworkers of America, to establish an on-sitetraining programfor the company? s unskilled labor in an effort to develop craft skilled workers from within the company. In an effort to increase the number of minority craft skilled workers half of the training opportunities offered were set-aside for black workers. Kaiser and the labor union? s plan was voluntary and temporary, it was designed to create new opportunities for black workers and to overcome past job discrimination.

Are the percentage figures in the case ? quotas?? Are they justified under the circumstances?

Kaiser did in fact establish quotas for itself, which under the conditions and circumstances they were conforming to, were justified. Kaiser and the United Steelworkers of America negotiated an affirmative-action plan, which stipulated a percentage of available openings would be filled by minorities. The plan was implemented to comply with Presidential executive order which required companies doing business with the federal government refrain from discriminating and to take “ affirmative action” to correct any racial imbalance and supporting the Union desires to hire from within the company.

The available openings in the training program were devised so that at least one black or female employee had to be admitted for every white male openings in the program. This equated to about one half of the available slots would be set-aside for minorities. It was further delineated that the company and the union would alternate selection of candidates between the most senior qualified white and black employee until all openings were filled. This process would remain in place until the race mix of skilled craft workers reflected the race mix in the pool of local labor force.

Does Kaiser have a justified employment policy? If not how should it be revised?

According to (text) only 5 of the 273, or approximately 2 percent of the skilled workers employed at the Gramercy, Louisiana plant in 1973 were black, which was not relative to the 39 percent of blacks in the local labor pool.

To be eligible for employment in the skilled craft positions, Kaiser required the prospective employee have at least 5 years of prior craft experience, this requirement was applied to all prospective hires. Since the skilled labor was provided through the Union that had historically excluded blacks from the craft union, and apprenticeship programs thus the skilled craft work force was almost exclusively white males.

Kaiser employment policy was justified, as it applied to all regardless of their race. From outside of the Union pool three blacks did in fact meet the employment requirements and were hired into the skilled craft positions. Kaiser? s employment criteria were fair, non-biased, and applicable to all prospective employees. If Kaiser had lowered their criteria it may have impacted the company? s production or quality of their product. In the areas of non-skilled labor, Kaiser was reflective of the local labor pool.

With regard to selection of unskilled labor for the training, Kaiser and the Union attempted to provide a balanced and fair approach, by dividing the labor force into black and white, and selecting the most senior of both for the available openings. If Kaiser had not divided the labor force, then only white non-skilled employees would have been selected. Kaiser and the Union could have proceeded with selection through chance or lottery, still dividing the labor force into black and white, but taking the seniority aspect out of the equation.

Does Kaiser? s policy eventuate in reverse discrimination against Weber? If so, is it justified?

“ Today the Court grapples with the question whether, in a collective bargaining agreement, recognition of race for remedial purposes in employment practices is legal ‘ affirmative action’ or illegal ‘ reverse discrimination.”- Judge Wisdom’s dissent on this case in the Fifth Circuit court,

Kaiser and the Unions? selection process did not eventuate in reverse discrimination against Weber. Weber had the same opportunity as any of the white non-skilled employees for selection into the training program. If Weber had been more senior, his placement in the eligibility list would have been higher which could have resulted in his selection.

According to () Weber, because of his seniority over the majority of the black non-skilled labor he was the subject of reverse discrimination, since the blacks were being selected over him due to their race. But as stated by the Equal Employment Opportunity Commission Guidelines on Affirmative Action, () under the Guidelines employers and unions may take reasonable corrective action to improve employment opportunities of women and minorities. Such actions may include goals and timetables or other employment tools, which recognize the race, sex, or national origin of workers.

The policy was a temporary process enacted to correct an issue which needed to be corrected, the racial imbalance of the skilled labor force. The policy as designed did not reduce or restrict the opportunities of white employees. The policy did not cause the reduction or firing of white employees to open employment opportunities for new black hires. The policy did not remove advancement opportunities from white employees. Even with the possibility that the policy eventuated in reverse discrimination against Weber, Kaiser and the Union were justified in doing so, as a means to eliminate racial imbalance.

Does the fact that the agreement was voluntary and temporary make the case morally different?

In so much that the policy was temporary, voluntary, and with an established end goal of achieving balance and proportional distribution with regard to race, it is morally justified. Had the policy been permanent, thus eliminating opportunities, advancements, and potential earnings for whites in the local labor pool, as it had been for the blacks, then it would have been immoral and unjustified.

How much should companies be willing to do to correct historical inequalities?

A company should make every effort possible to discontinue and rid the permeation of inequalities within every venture, business opportunity, operation and policy they are associated.

A company should establish policies that affirm the company’s commitment to equal opportunity, stating clearly that discrimination and harassment will not be tolerated. The company should develop and implement procedures which provide for employees the ability, and process to file complaints.

There are several laws that have been enacted to compensate for past discrimination, all of which are developed in hopes of achieving a ? color blind? society. A society in which all are equal in education, job, and monetary opportunities, and each individual is measured by their merits and deeds and not by their race or gender.