Third Equal Prize

The Oxford Riots Legal Case

By Linda Hattersley

The Judge's Rationale for the Sentence

I have given the defendant the lightest possible sentence in these very particular circumstances. Nicholas has committed murder, the pre-meditated killing in cold blood of another man. This cannot go without punishment, as it was an impermissible act under our moral and legal code.

Our moral system is based on a code of moral rules and universal laws. Our deontological code sets out clearly and definitively what is morally right and wrong, our duties, our obligations, and clear principles. For example, in the Bible, "you shall not murder" is one of the Ten Commandments. Immanuel Kant's system of moral law also provides absolutes : "A categorical imperative commands unconditionally that I should act in some way," and "moral laws ….. apply unconditionally. That is why they apply to everyone in the same way." (Stanford Encyclopedia of Philosophy, Immanuel Kant, section 5.4)

There are no shades of grey here: actions are either right or wrong. Actions can be clearly categorised into those that are obligatory, permissible or impermissible. This crystal-clear moral code is our system of choice under the umbrella of normative ethics which "give[s] us a systematic and comprehensive system of rules, principles and precepts to guide the conduct of our lives". (Oxford Introduction to Philosophy course notes, section 5.3)

The defendant was obviously faced with an appalling situation. I say "situation" deliberately: the defence lawyers have tried to claim that he faced an impossible moral dilemma, but he emphatically did not. There was no genuine moral dilemma here, as a clear moral answer was instantly evident: he was not allowed to kill that student. The obligation to not kill is absolutely binding.

A genuine moral dilemma can *only* exist if there are only 2 available answers which are in direct logical and practical opposition: a person ought to do A and at the same time ought to do B, but cannot do both, and neither of these obligations overrides the other in moral strength. (Oxford Introduction to Philosophy course, Tutor's Weekly Bulletin 9)

In this case, the defendant was morally obligated to **not** kill, even though he also felt he ought to act to save lives. Even if multiple lives can be saved at the cost of one life, it is still morally forbidden. "The one thing [one] is never permitted to do is violate the moral law, even if others are doing so, even for a really good cause." (Crash Course in Philosophy, Kant & Categorical Imperatives, at 6.16 minutes)

Therefore, what the defendant actually faced was a moral conflict, and not a genuine moral dilemma. He was torn emotionally between his feeling that he ought to save life,

and his moral obligation not to take a life. The defendant committed the error of allowing his feelings to enter into the situation – reason alone provides us with the moral course of action, i.e. what is true and just. Kant shows us that "human understanding is the source of the general laws of nature that structure all our experience; and that human reason gives itself the moral law, which is our basis for belief in God, freedom, and immortality". (Stanford Encyclopedia of Philosophy, Immanuel Kant, Introduction)

However, I am minded to take into account these extraordinary circumstances in Oxford, where the defendant was handed this poisoned chalice by the real villains, the mob of townsmen and their leader. True justice must show mercy, and here follow my reasons for applying the lightest possible punishment. As we have heard from numerous witnesses, the defendant is clearly an honest man of excellent moral character, who wrestled with the weight of this burden. He knows he has made a grave, impermissible choice, but that was under wicked coercion. He chose to save 19 lives by killing an innocent man, at the severe cost of eternal guilt and shame for the rest of his life.

There must still be a punishment, nonetheless. In our normative ethical framework, justice must be seen to apply to everyone in order for our moral code of conduct to be accepted by all in our society. There can be no deviations from these universal rules of conduct, our agreed absolute moral principles. (Oxford Introduction to Philosophy course notes, section 5.3)

Nicholas' appeal against the sentence

I recognise that I have been given the lightest possible punishment by the judge, but I would still argue that any punishment is unjust. I am going to set out the reasons for my appeal.

I know full well that it is impermissible to take life. I weighed up the competing moral obligations I faced: this was not an impulse or a decision taken in the grip of passion, despite the pressure I was put under by the town mob. I reasoned clearly and coolly that my ultimate moral duty was to save lives. I was able to save the lives of as many as 19 young men, at the tragic cost of one life, and of my peace of mind.

The value of 19 saved lives outweighed the value to me of staying true to the moral obligation of not committing murder. Instead of being held within the straitjacket of deontological ethics, I was freed by consequentialist ethics to find the best moral answer. John Stuart Mill's consequentialist system has "as the foundation of morals, Utility, or the Greatest Happiness Principle, [which] holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness". (Guttenplan, p123, l 12-15) This can be neatly summarised as "We should act always so as

to produce the greatest good for the greatest number". (Crash Course in Philosophy, Utilitarianism, at 3.41 minutes)

Clearly, my action resulted in great pain for a few people in particular – the student I killed, his family, and me with my tortured conscience. And it also resulted in the greatest happiness for 19 saved students, their families and friends, and for the community of Oxford and our country. How much more tragic this event would have been, had I not acted for what is **good**, rather than for what is *right*.

My decision achieved a great deal of good, both for now – just see the rejoicing families of those 19 students, and the sheer relief in the town that a massacre was averted - but also for the future of our society. This famous trial has opened up debate about what is the most ethical way to conduct our actions, what should take priority: a tightly-drawn code of right and wrong, with no room for context and judgment, versus a flexible system to judge what will provide the greatest good for the greatest number.

The categorical imperative under the deontological code demanded that I **not** act, that I stand idly by and witness 20 young men being slaughtered. I simply could not square this with my emotional and intellectual reaction - it would seem cowardly and against all I stood for as a responsible and intelligent man with a strong moral character. Virtue ethics thus played its part in my decision-making. "Virtue ethics does not provide guidance on how we should act, as there are no clear principles for guiding action other than 'act as a virtuous person would act given the situation'." (Internet Encyclopedia of Philosophy, Virtue Ethics, Introduction) I believe that any virtuous person would concur that saving 19 lives was the overriding answer here.

Thus, I took a life in the full weight of knowledge that I was doing a wrong thing, but it seemed the **best** moral action, and I would do it again if needs be. According to philosophical reasoning, if a moral dilemma has a clear moral answer, then the dilemma ceases to exist. I would argue vociferously that I was caught in a terrible moral conflict, and even though the system of consequentialist ethics provided me with a clear answer that works rationally and morally, I am still left to bear the awful burden emotionally.

In debating the existence of genuine moral dilemmas, philosophers acknowledge that even when the correct moral action has been taken, to do action A, there is an emotional cost because the moral rationale for doing action B still exists. We are therefore left with a sense of moral failure because we have not done what we ought to have done. This is called the "moral remainder", a strong emotion of regret. (Oxford Introduction to Philosophy, Unit 5, tutor post in the 'Mill on moral dilemmas' forum)

As a thinking and feeling human being, I suffer daily with the torments of guilt and regret. This moral remainder is surely punishment enough – I therefore plead that I not be sentenced to any more.

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