

When confronted with moral choices, guided by our common sense, we aim to do good and avoid harm. However, conflicts arise when our actions have both beneficial and harmful outcomes, raising the question: is it ever acceptable to cause harm for ‘morally good’ reasons? If so, under what conditions? Extreme Kantian ethicists would respond “No!”, as ends do not justify the means. In contrast, a strict Utilitarian would answer “Yes!”, if the action maximises pleasure. Many consider these responses too extreme, and Philippa Foot’s Trolley Problem (including her other examples) aims to test if our moral theories can better explain and reflect our intuitions. This essay will first discuss Foot’s arguments, before applying her theories to consider Thomson’s development of the problem, concluding that ultimately, we are morally allowed to either save ourselves, or turn the tram upon ourselves.

Foot (1967) first considers whether the ‘Doctrine of Double Effect’ (DDE) can resolve the conflict: we are permitted to cause harm only if it is foreseen and not desired. The DDE identifies that an action may have two effects: the one intended (‘direct intention’), and the one foreseen, but not intended (‘oblique intention’). To Aquinas, the doctrine’s originator, the direct intention is what matters. Aquinas recognises that when we kill in self-defence, our aim is to protect ourselves and not to kill our assailant. Similarly, abortion is permitted if the intention is to save the mother, merely foreseeing that the baby will not survive. Under the doctrine, our action is still morally acceptable, solving the conflict by identifying oblique and direct intentions. However, an example illustrates certain difficulties deciding whether an action is foreseen but not intended: to save the many people trapped inside a cave, the fat man blocking the cave’s exit must be blown up. Since the aim is to blast him away, it seems silly to argue that the fat man’s death is merely foreseen but not intended. Likewise, as it is an analytic truth that aborting a foetus is to kill it, it seems implausible to claim that the foetus’ death is merely foreseen.

Foot contrasts two scenarios to test our moral intuitions and whether they follow the DDE, introducing the ‘Trolley Problem’ (TP), which became central in 20th century ethics. In the first scenario, a judge must sentence an innocent individual to death to prevent rioters from exacting revenge on five members of the community. In the other, there is a bystander¹ controlling the track of a runaway tram in the TP. With the tram surely killing whoever it hits, he can (i) do nothing, allowing the track to hurtle towards five men or (ii) switch its path towards one man. Each case involves the exchange of one life for five. Our intuition would be for the bystander to turn the track to only kill the one, but we would find it outrageous if the judge convicted someone innocent to appease rioters. The DDE offers an explanation for our differing attitudes: in the judge’s case, we aim for the death of a man, but for the tram we foresee the man’s death but do not intend it. This distinction resolves why we can change the tram path but not execute the innocent man, despite the scenarios having the same outcome.

However, it is unclear why we should think like this. As rational beings, the doctrine expects us to always base our decisions on distinguishing between what is intended and foreseen, but we cannot do so in every scenario, because not every situation has uncertainty. In real life, the innocent man’s death is certain, as the judge must ensure it, whereas there is uncertainty whether the tram would kill the man (perhaps he lies between the tram wheels and the tram

¹ Foot presents the judge as the driver, but in the most commonly discussed version they are a bystander with a switch.

passes over him!); but if we suppose there is no uncertainty or not enough uncertainty to be relevant to us, the DDE cannot be applied. The DDE seems to encourage ignorance, absolving us of responsibility in specific cases, when a bad outcome is likely if we act but there is *enough* uncertainty to say that the negative result was unintended. It may help in specific cases, e.g., to save a mother, her premature baby must be delivered, and although chances of survival are slim, premature babies have been known to survive; this uncertainty allows the DDE to be applied. The doctrine helps decision-making in uncertain cases but is unhelpful in more serious scenarios like the judge's. Therefore, it appears that the doctrine cannot explain the whole moral picture, its application being affected by differences in certainty in real-life cases.

The DDE seems to rely on distinguishing what we do and what we allow to happen. However, sometimes the consequences matter, regardless of whether the intention is direct or oblique. The death of one's child by starving them or feeding them poison is considered murder regardless, because the consequences of either are identical, whereas, while allowing people to die of starvation in Africa is a terrible thing, it is very different from sending them poisoned food. This demonstrates that in our moral system, there is 'a distinction between what we owe people in the form of aid and what we owe them in the way of non-interference' (Foot 1967, 5), which the DDE cannot explain.

To rationalise our intuitions for the judge scenario and TP, Foot adopts a concept from jurisprudence instead. 'Positive duties' state that we should act for someone's benefit, e.g., the duty to provide aid, while 'negative duties' state that we should refrain from acting, e.g., the duty to not harm. In the TP, two negative duties are identified: the duty to not injure five men and the duty to not injure one. For most, the choice is clear, that when there are two similar duties, the individual should choose to injure the least number of people. However, for conflicts between positive and negative duties, such as with the judge, it is difficult choosing between duties: the duty to not cause injury, against the duty to bring aid. It is unclear whether we would have the same duty to provide aid as to refrain from causing harm. The difficulty weighing positive against negative duties versus positive-to-positive or negative-to-negative can explain our contrasting responses between the two cases. Foot finds that these duties play a more decisive role than the DDE in conflicts with two bad outcomes, providing a better explanation of our reactions to the two aforementioned cases.

Yet I find a similar criticism between Foot's theory and the DDE. Unlike with the DDE, where difficulties differentiating between direct and oblique intentions can arise, Foot believes that her identified duties are clear in each scenario. However, one action can be described in both positive or negative terms: in the TP, we can describe our duty as a *positive* one, to bring aid to the five in danger of dying (by switching track), or negative one, to avoid causing them harm (which Foot refers to). Unless Foot can explain why the problem cannot be viewed either way, her distinction will not fully help us decide what to do.

In Judith Jarvis Thomson's version of the Trolley Problem (2008), the bystander has a third choice: to turn the tram to kill himself (iii). Applying Foot's duties, (i) would be dismissed, resulting in two negative duties of equal moral value, where one man is killed, be it the bystander (iii) or single man (ii). Her answer would suggest that the decision afterwards is personal preference, between (ii) and (iii). Thomson disagrees – it is deplorable that the decision between killing ourselves or someone else should be mere personal choice. We

absolutely cannot choose (ii), because it violates our duty to not sacrifice others in our place. We can only choose (iii), because we have no right to kill another if we can kill ourselves instead, or (i), because we are morally permitted to *not* act if the only alternative is to kill ourselves. I insist we *cannot* choose (i), for we would thereby be *choosing* to let the five die by our inaction. Thomson's solution appeals to the negative duty of non-selfishness, but given the highlighted potential problems distinguishing positive and negative duties, I will consider how else we might resolve the problem.

It may seem obvious that we cannot choose (ii) (as Thomson says), so we must choose (iii); our bodily autonomy means we can only do what we like with our own body but not those of others'. As the tram's controller, we should respect this responsibility and carry out the good deed (of saving the most lives) at our own expense (our lives); the deed of saving the five has no moral value if one takes someone else's life in preference to one's own.

However, according to the DDE, if the intention is to protect oneself, one is *not* morally blameworthy when killing in self-defence, allowing one to choose (ii) instead of (iii). For the self-defence argument, we can compare Robert Nozick's illustration (1974, 34) with Thomson's scenario: if you are down a well and an innocent man is thrown down, you can either die breaking his fall (ensuring his survival), or, use a ray gun vaporising him before he lands, saving yourself. Although he is innocent, our intuition says that we *can* vaporise the oncoming man in self-defence, even if the man himself is blameless. Can we treat Thomson's scenario in the same way?

Even though the concept is the same – one innocent life versus yours, we may still accept vaporising the man yet condemn (ii), because vaporising removes the threat. I would argue that the self-defence rationale cannot be applied for Thomson's case, due to a difference between redirecting a threat and avoiding it. If a crazed murderer attacked you, it may be admissible to kill them in self-defence, but redirecting the murderer towards another victim could *not* be considered self-defence. Redirecting the threat would surely make you the cause of that negative outcome: the bystander in the TP cannot claim self-defence in the DDE to exonerate himself for the victim's death, because he uses his control of the tram to redirect it away from himself to another.

Nevertheless, choosing (ii) is still acceptable. It is *not* by personal preference (as Foot suggests), but the observation of another duty: recognising our autonomy identifies a distinctive duty to ourselves. How else would we be able to protect ourselves, if not to choose (ii)? Out of necessity we should be able to choose ourselves over others, as this particular duty is different from our duty to others.

I would argue that we have an autonomous duty to optimise our lives by avoiding harm to ourselves. Therefore, a conflict arises between this duty to ourselves, and the recognition of others' autonomy. We cannot always disregard the latter, but when our unique relationship to ourselves is at *risk*, our duty to preserve ourselves becomes stronger and more distinctive, outweighing all other duties. This duty explains why there is no moral obligation to choose (iii) over (ii). Our autonomous duty could be overridden to choose (iii) in extraordinary circumstances, e.g., having motivations very different from others, such as the desire to die. Nonetheless, the argument would still stand that, with respect to our bodily autonomy, choosing (ii) is morally allowed, as well as (iii).

In closing, choosing (ii) is *not* reprehensible, as Thomson thinks, but a realisation of our duty to *ourselves*. The DDE does not allow us to treat Thomson's TP as a simple case of self-defence, and the subjective distinctions of Foot's duties struggle to answer it. Our duty to ourselves to preserve our lives, arising from our autonomy, supersedes all other duties. Therefore, also allowing for any exceptional circumstances, we are morally allowed to choose either (ii) or (iii), with no further moral requirements.

Bibliography

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