

Ethical issues
disclosed by the
trolley problem
philosophy essay



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Outline and evaluate the ethical issues disclosed by the trolley problem and illustrate your answers with relevant examples drawn from English law.

Using a thought experiment (The Trolley Problem) I will analyse highly debated issues and examine the moral, ethical and legal implications of each. Though alike and often confused, there are distinctions between ethics and morals. Morals tend to vary between individuals while ethics is a “prescriptive code”. To aid me illustrate these differences and different approaches when dealing with such delicate ethical and moral dilemmas I will use the theories of prominent legal theorists Lord Patrick Devlin and Herbert Lionel Adolphus Hart. Both of whom dealt with moralism and paternalism. However I have chosen these two theorists as they represent totally different points of view of how we as individuals and as a society should tackle these problems; this is what I intend to elucidate throughout my essay.

As I mentioned I will now use the trolley problem developed by Philippa Foot to evaluate the problems facing ethical issues and the theories developed to attempt to create a solution to them. The trolley problem; a trolley is running out of control down a track however in the trolley’s direct path there are five people who have been tied to the track. Fortunately, it is possible to flip a switch and lead the trolley down a different track and avoid the group.

Unfortunately, there is a person tied to that track too. Should an individual flip the switch? For purpose of the thought experiment participants are told that there are no other alternatives e. g. stopping the trolley, freeing the people tied to the track etc. The only possible options are to ensure the trolley remains on the same track resulting in the trolley inevitably killing

five people tied to the track or flipping the switch and therefore be accountable for the death of the person tied to the alternative track. The options are; either not play apart in the death of five or prevent their deaths by flipping the switch and actively play apart in the death of one. This problem creates a moral dilemma as they raise ethical decisions which lead to outcomes which are never without negative implications. The results of the decisions made during these problems can never be seen as definitively just or wrong

Using the two possible actions for the participant disclosed by the trolley problem I will now explain the theories of Lord Patrick Devlin and H. L. A. Hart, I will then in turn relate these to the problem in hand. Firstly Hart as a Totalitarian believed that an individual has rights and therefore would not have found it acceptable to end an individual's life by flipping the switch to save the life's of five. Hart's theory would believe it morally wrong to willing kill one person to save five people; we have no right to interfere with the lives of others no matter what the consequences may be. The Totalitarian approach in a sociological sense and in context with the experiment would not focus on the possible outcomes as it deems it immoral to weigh up the pros and cons of an argument involving human life.

In contrast Devlin is a Utilitarian and would see the flip side to the argument. Instead of concentrating on the individual this approach will assess the potential effect of each decision; the choice resulting in the best outcome is the ethical way to choose. A participant following the ideas of this theory would choose the option which maximises and produces the best outcome for the group, described by Philippa Foot (1978) as " the greatest good for <https://assignbuster.com/ethical-issues-disclosed-by-the-trolley-problem-philosophy-essay/>

the greatest number of people". This principle is known as the "greatest happiness principle" again developed by Philippa Foot (1978). Using this principle in the trolley problem would therefore lead to the participant choosing to flip the switch. Although by doing so he/she would be actively participating in the killing of the individual on the second track, they would justify their actions; saving the life of five is greater than the life of one. Although it may seem ethically wrong to pick and choose who survives in such a manner the utilitarian approach has reasoning behind it's theory; "Utilitarianism is a suggested theoretical framework for morality, based on quantitative maximisation of some definition of "utility for society or humanity" (The Indological). This approach is often misinterpreted, it is not necessarily how it is stated with the decision always in favour of the "greatest number" although it may be the case for a large percentage of cases involving these dilemmas. In fact it is not always the greater number which prevails but actually the greatest happiness. For example if I had 100 bottles of water and there were 100 people who were not in urgent need of a drink but would simply like one for the sake of it, whereas on the other hand there were 50 people who desperately needed a drink then if following the utilitarian approach I would ensure the later would receive the refreshments. It would be misleading and uninformative to discuss the moral and ethical problems of these dilemmas without including the legal implications and the difference between moral and legal rules:

"If someone does something forbidden by moral rules or fails to do what they require, the fact that he did so unintentionally and in spite of every care is an excuse from moral blame; whereas a legal system or custom may have

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rules of strict 'liability' under which those who have broken the rules unintentionally and without 'fault' may be liable by punishment" (p168 +169 The Concept of Law)

Here H. L. A. Hart explains that an individual may be accountable by law if he unintentionally broke rules which are described in law as wrong however if he was to break rules which are seen in society as morally wrong there might be a backlash from disapproving people however it is unlikely he will be punished legally. To relate this idea to the trolley experiment; it may be viewed as morally wrong to not save the lives of five to ensure the life of one but it would be legally wrong and therefore punishable to deliberately kill one to save five.

The relationship linking law and morality is no means simple or straightforward. Legal rules and moral rules both have some likeness. According to Hart, they share a common habit of obedience within the society where they are applied. Moral and legal rules do differ: there are some legal rules that are not moral rules and vice versa. In some cases the moral and legal views overlap which create the dilemmas I have mentioned. These differences between law and morality are; law applies to everyone in a society whereas morals are more of a personal opinion and can apply to individual groups of people within a society.

Now I have outlined the ethical issues disclosed by the trolley experiment I can now put the two theorists' theories into everyday context by using more tangible examples; I will be using the dispute of the wearing of religious symbols in French state schools and an example of conjoined twins. Both of

which include moral and ethical problems, in addition to this I will outline the affect they had on Law. These examples lead to legal battles and debates in a legal sense to reach very difficult decisions, similarly to the trolley problem a perfect outcome for both parties is almost possible; one party will always feel aggrieved whatever the outcome.

In 2004 the French Government brought in new legislation banning all pupils from wearing ostentatious religious symbols. It is believed that the French president did so in attempt to safe guard the nation's Christian roots. This new law came into power not long after the l'affaire du voile (the veil affair), where three girls of the Islamic faith were excluded from a school in France for wearing headscarf's. As a result of the ban Muslim women can no longer wear their Hijab in schools, a Hijab is a religious practice and is a piece of clothing worn over the head. This caused uproar among the Islamic community in France and the rest of the World and has recently attracted attention from American President Barrack Obama who said that Western countries should avoid " dictating what clothes a Muslim woman should wear", (The French Observer) Muslims have a right to feel aggrieved as their commitment to their faith is being shattered by not being able to fulfilling religious practices. Do the French Government or in fact anyone have the right to prevent such a practice? They have used a utilitarian approach by trying to create the greater happiness of the greater good by banning the Hijab. The totalitarian would argue that the individual in this case the female Muslims have the right to carry out their religious practice. I personally feel the ban is discriminative against a minority of people rather than an act to reduce secularism in the French state school system. The education minister

has is in no doubt the ban will remain in forced “ There is no question today of excluding. It is a question of convincing,” (BBC News).

Secondly I will use an example of conjoined twins, a battle of Religion Vs Medicine. A couple from Malta came to the Manchester for a complicated delivery of their Siamese twin daughters who were unfortunately joined at the abdomen. These are very difficult deliveries and their parents felt their daughters had the greatest chance of survival if the delivery was performed in the UK. Adrian Bianchi, the paediatric surgeon at St. Mary’s Hospital believed felt it was necessary that the twins; Jodie and Mary were surgically separated. The pseudonyms were given to them by court to protect their identities during legal proceedings. The reason being; Mary had a much undeveloped brain for a child this far into pregnancy and was also considerably weaker; she would not have been able to survive without Jodie. Therefore the doctors wanted to use surgery so Jodie the much stronger child had a chance to survive. However the twin’s parents were Roman Catholics and refused to allow the surgery to go ahead and did not give their consent on the grounds it was morally wrong to play God and end a human beings life to enhance the chances of another.

Without consent of the couple the doctors had no other alternative than to go to court and challenge for the right to surgically remove the twins. They used a counter argument to that of the parents; arguing that it was morally right to try and save the life of one of the twins than lose both. This was one of the very first cases of its kinds, the judge acknowledged the courts duty to “ put the welfare of each child paramount,” (Lord Justice Ward, The Maltese

Conjoined Twins) but, nevertheless, decided that Jodie’s right to life and <https://assignbuster.com/ethical-issues-disclosed-by-the-trolley-problem-philosophy-essay/>

chance of living greatly outweighed Mary's. In his leading judgment in the Court of Appeal, Lord Justice Ward reasoned "no other way of dealing with it than by choosing the lesser of the two evils and so finding the least detrimental alternative." (Lord Justice Ward) therefore her verdict ruled in favour of the Hospital. Passing from Family Law considerations to that of Criminal Law, Lord Justice Ward held: "Following the model direction given in the House of Lords in the Woollin case about the scope of intention, one should conclude that separation would involve murderous intent on the part of the doctors in respect of Mary." (Lord Justice Ward). Here he is stating that the doctrine of double effect had no application to the case regardless of the Archbishop's attempts to impose this belief. It is worth noting that the only judge to disagree with this view was Lord Justice Robert Walker. Despite his deviation with the majority the surgery was performed on the 17th November 2001. Mary died shortly after the surgery although to the medical staff's delight Jodie survived and returned home with her parents, however everyone involved knew it would be extremely difficult for her to survive and she died relatively soon after.

Was it ethical for the Hospital staff to go against the parents religious views? There can never be a right or wrong answer however I favour the argument of the Hospital; if scientific advances allow us as human beings to give a child life in a situation where the life of the other would ultimately end that of both. Therefore I think it is in fact ethical to "play god" by choosing who has the best chance of survival. The judge used a Utilitarian approach to reach the conclusion deciding the greatest happiness of greater good prevailed. By supporting this theory for the twin's case I do not believe it correct for every

case of law vs. ethics; each of these problems requires intense examining and an open mind. I consider the medic staffs was right to involve law, law plays a huge part in what is morally right and wrong, moral limits of law are not so rigid and these kind of problems will test the theories of ethicists and philosophers of law to what are the moral limits of law.

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