

# Speluncean explorers case essay sample

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1. What is the context/background in which this incident occurred? How does it affect the decision-making?

This case is a hypothetical legal case, which revolves around the four surviving Speluncean explorers who were charged with the murder of their fifth team member, Roger Whetmore. These explorers set themselves for the exploration of a remotely located limestone cave. The explorers had been trapped in the cave since 32 days due to an occurrence of a landslide.

During the course, after 10 days, the team gets in touch with the medical team through wireless communication. They explain the team about their medical condition and whether they could survive the situation without any food for the remaining days.

On receiving a negative response, Whetmore on behalf of his team further confirms with the physician if they could survive 10 days longer if they consumed the flesh of one of their members. The physician reluctantly agrees to this. Taking this further, in order to survive the circumstance, the team decides to select and eat the flesh of one of the members by using a method involving a pair of dice. On the 23rd day, the dice throw went against Whetmore and he was put to death and eaten by the rest of the party. After the rescue, the four survivors were indicted for the murder of Whetmore. In the case, the prosecutor asked the jury for a special verdict i. e. that the court determine guilt or innocence.

2. In the decision making situation, how can a balance be brought about between the necessity for a decision and the rights of some people on whose

behalf such decisions are being taken? Can a decision be made for another? When and how?

As seen in the case according to the demands of the situation a decision had to be taken or else it would have led to the death of everyone present there after ten days. It was also Whetmore who first proposed the use of some method of casting lots, calling the attention of the defendants to a pair of dice he happened to have with him. Before the dice were cast, however, Whetmore declared that he withdrew from the arrangement, as he had decided on reflection to wait for another week. The others charged him with a breach of faith and proceeded to cast the dice. When it came Whitmore's turn, the dice were cast for him by one of the defendants, and he was asked to declare any objections he might have to the fairness of the throw.

He stated that he had no such objections. The throw went against him, and he was then put to death and eaten by his companions. Hence from the above situation we come to know that in a situation where the decision has to be taken on an urgent basis as it is a case of life and death, then definitely the decision can be taken on the behalf of others. But in a situation where there is no scarcity of time and where consensus of each and everyone is important then there is definitely no need of anyone else to take decision on someone else's behalf. In case of any differences in opinion of the group members, they should continue to discuss and reach on a common consensus.

3. Can a killing in self-defense be excused? Why? Does the plea of 'self-defense' apply to the given situation? By the same logic does one have the right to suicide-singly or collectively?

Yes, killing in self defense can be excused. Because it's an instinct. At such times life seems more important than the law. So, saving one's own life becomes much more important than the law itself. No, the plea of self defense can not be applied to the given situation. Because according the law one can exercise the right of self defense when he/she is going to be harmed by another person. Here Roger Whetmore never attacked any of the surviving members so they had no right to kill him but having said so, the decision of choosing the person was taken collectively and Roger Whetmore, himself had asked the doctors about the possibility of surviving for another few more days and he was the one who had suggested the way of choosing a person by throwing the dice. Yes, one has right to take one's own life singly by committing suicide . But one has no right to suicide collectively. Because, each and everyone has his or her right to lead and live the life the way he or she wants. No one else can force to end it the way he/she does not want. In such cases, taking others life will be termed as murder.

Decision-making is affected by the following factors:

1. Absence of a substantial evidence of the entire decision making process of killing Whetmore.
2. Whether done for Self defense or not
3. Whether decision to kill Whetmore was consensual

4. Do jurisdictional issues affect societal decision making? Man by nature is a fearing creature. He always finds ways to remain safe and trouble free. In this context we say that law helps a person to remain assured that there is some institution which will keep him safe and protected. It is the fear of being punished by law that inhibits a person from committing a crime. He is afraid of driving rash because he will be fined; a newspaper doesn't defame a person because of fear of lawsuit against them. A girl can travel freely because she is assured that there is law which provides for her safety. In this way we can say that jurisdictional issues affect societal decision making.

But there are certain situations when man forgets the fear of law and performs certain actions against law out of his reflexes and instincts. There are three kinds of instincts, viz. 1. The instinct of survival

a. Emotions and attributes such as fear, courage and hope are used for the one's survival. If a person were to be in a situation where his life is in jeopardy, he can use fear to escape the imminent danger or use courage to fight his way out of the predicament. Any potential harm to existence leads to neglect of laws and regulation. 2. The instinct of procreation

a. Sexual desire, parenthood, and the kindness for family are some of the manifestations of the instinct of procreation. The instinct of procreation is focused more on the survival and the continuation of one's kind (humanity) as opposed to oneself. 3. The instinct of worship

a. The instinct of worship manifests itself as a reverence for something or someone that is regarded as higher than oneself. The object of veneration

can be God or many gods, objects, people and even ideas and beliefs. Jurisdiction gives a benefit to the offender when such situation occurs.

#### 5. Do we need a leader for taking decisions?

A decision is taken under consensus or when a person has relatively higher say in the decision process. The latter case in itself an example of leader taking decision. In the previous case it's very difficult to arrive at any decision as reaching a consensus is very difficult in certain cases like in criminal cases. No party is ready to recede and there is a need of third person to take decision on the basis of predefined and set laws. The person is a judge who takes decision. We can say that a judge is a leader because he is the person who presides over court and has got special power and rights to take decision. So in every controversial situation we generally need a leader to take decision and take a stand.

#### 6. Do a leader's opinions/values affect the decision? Is It a good thing or not?

Yes, a Leader's opinions and values affect the decisions. As a Leader one comes across many types of situations as described below where his decisions can have a major influence:

1. In certain cases where the members or authorities are themselves divided in their opinion regarding what course of action needs to be taken in the context and what seems to be just and fair. In "The Case of the Speluncean Explorers", it was seen that the views and opinions of the judges were divided on the matter regarding the case when some judges perceived the murder as an act of self-defence and others wanted to label it as

murder. Leadership lies in balancing the legal and moral aspects of the matter and taking a practical decision which has a long term benefit for society. Hence, The opinions and values has a major impact on these decisions. 2. In many cases where the law has already been established and the times demand for a change in law or the cause of justice is best served, when the law needs to be changed, it is often the turn of the Leader to lead the way forward.

As has been argued and illustrated by the judges about the meaning of certain laws and their explicit definition, the ball is often passed to the leader's court to take a call on the issue. As it can be seen in Indian History, Emperor Akbar took many laws to promote secularism and overturned many laws which promoted discrimination against non-Muslim citizens like the tax levied from Hindus to visit pilgrimage sites. In recent times, it was also seen that the noted legal leadership and contribution of Fali S. Nariman was instrumental in bringing changes in the law. 3. There are many other scenarios where a Leader's role and his opinions/values are of immense importance while taking decisions regarding clemency, decisions in times of war, decisions related to public demand and quick decisions in times of crisis.

There are both good and bad impacts of the decisions taken by Leaders which are based on their opinions/values.

The good impact was seen when a Leader like Sardar Vallabhai Patel took decisions soon after India became independent to unite different states of India. In the " State of Uttar Pradesh v. Raj Narain" it was a strong example

of leadership from the judiciary, when it took action against the then current Prime Minister for violations and irregularities in her election conduct.

The bad impact was seen when as Telecom Minister, A. Raja caused a great loss to the country's exchequer by taking decisions regarding auction of Telecom licenses which was based on his own self-interests and personal motives, the fall out of which was large scale corruption, bribery and irregularities. In Judiciary, it is often the case that Supreme Court and High Court Judges grant favours to politicians in their decisions taken in court because of their own benefits and gains.

7. Can we view this as a simple judicial decision making issue or a moral one? The implications of the issue have a wider impact and hence cannot be labeled as a simple judicial making issue. It is certainly a moral one.

It is clearly mentioned in the case by Keen as follows: " Hard cases may even have a certain moral value by bringing home to the people their own responsibilities toward the law that is ultimately their creation, and by reminding them that there is no principle of personal grace that can relieve the mistakes of their representatives."

There is an unique incident associated with this case when four man murder another one for their own survival at the cost of one of their fellow mates life. Hence the case needs to be judged from both the legal and moral perspectives. It should also be taken care that the decision can huge repercussions on the future to the society as a whole.



Looking from one side of the moralist's perspective, it can be clearly perceived that a decision favoring the murderers may lead to a belief in people committing those acts in future which can lead to negative moral consequences. Looking from another dimension, it can also be concluded that the act was for survival. Now having an observation from another direction leads us to a viewpoint that the murder was carried for a selfish motive for one's own survival at the expense of life of a fellow being.

Judging the issue from a human rights perspective further adds to the confusion as we challenge the very notion of the victim's reluctance to the decision and his consequent killing. Considering public opinion brings us to an interesting contradiction as Public opinion at present is based more on sympathy and practicality rather than the long term moral impact from the purist's point of view.

Hence, Due to the different reasons, perceptions and consequences explained above, we can conclude that issue is a moral one.

8. Does one's value system play any role in shaping the final decision?

Decision making is a mental process of selecting the best perceived alternative among several alternatives. It is a perspective oriented process and not a technique oriented process. The situation, in which a decision has to be taken, may be interpreted by every individual differently. The understanding of the situation, alternatives of solutions and the consequences and prognosis differ from person to person. A value system is a set of consistent personal and cultural values and measures used for the purpose of integrity and fairness. It is said to be consistent when the values

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are not contradicting in nature and its exceptions are abstract in nature & not situational. Also, they must be consistently applied. Value system plays a vital role in taking the final decision.

The moral values imbibed in a person during his/her upbringing do influence the thought process. In the real world, most of the decisions are taken in an informal manner. The pros and cons are certainly weighed but not in a structured manner. Hence, personal values, beliefs and perceptions overpower the facts and logic. When decision making techniques such as simple prioritization, satisfying, elimination of alternatives, use of prayers, tarot cards, astrology are used, the chosen alternative will differ from individual to individual. In scenarios where techniques like flipism (flipping a coin, cutting a deck of card or any other random method) are used, the decision is independent of the value system of the decision maker.