

Phil 108, February 21, 2008
When may we harm others? Thomson's solution to the Trolley Problem

The original puzzle:

Why is the agent,

in *Trolley*, permitted to turn the trolley onto the one, which will save the five

but,

in *Transplant*, not permitted to take the one's organs, which will save the five?

What is the difference between *Trolley* and *Transplant*?

Foot's answer:

- In *Transplant*, the choice is between a *doing* and an *allowing*: *killing* one and *letting* five *die*.
- Since doings are worse than allowings—since negative rights not to be *injured*, not to have harms *done* to you are stronger than positive rights to be *saved* from harms, not to have harms *allowed* to befall you—killing the one is wrong.
- In *Trolley*, the choice is between two doings: *killing* one and *killing* five.
- Here the fact that negative rights are stronger than positive rights is irrelevant. The agent will kill someone, and violate negative rights, no matter what he does. So killing the one is (at very least) not wrong.

An objection to Foot's answer:

- In *Bystander at the Switch*, the choice is between *killing* one and merely *letting* five *die*.
- So, as far as Foot's answer is concerned, it should be impermissible to turn the trolley, just as it is impermissible to take the organs in *Transplant*.
- But it is not impermissible to turn the trolley. It seems more or less equivalent to the original *Trolley* case.
- So (assuming that our intuitions do not mislead us) there must be some other morally relevant difference between *Bystander* and *Transplant*.

- In *Repentance*, the doctor intentionally caused the organ failure in the five, but now repents. So his choice is between *killing* five and *killing* one.
- So, as far as Foot's answer is concerned, it should be permissible to take the one's organs, just as it is permissible to turn the trolley in *Trolley*.
- But it is not permissible to take the one's organs. It seems more or less equivalent to the original *Transplant* case.

The new puzzle: What is the difference between *Bystander* and *Transplant*, and between *Repentance* and *Trolley*?

Objections to some attempted answers:

1. "Transplant uses the one *as a means* to save the five, whereas *Bystander* does not."

Objection: *Loop* uses the one as a means to saving the five, but this is still permissible. It seems more or less like *Bystander*.

2. "Transplant infringes a right, whereas *Bystander* does not."

Objection: One infringes a right in *Bystander* also.

- Suppose one turns the trolley toward the one when there were no others to save. Surely this would infringe a right.
- And even when there are others to save, and turning the trolley is permissible, one still *wrongs* the one. For example, one might be expected to apologize to his family.

The relevant differences between Transplant and Bystander:

- (1) The Bystander saves the five by making something that threatens them instead threaten one. He only *diverts* an existing threat; he does not *create* a new threat.
- (2) The Bystander does not do (1) by means which themselves constitute an infringement of any right of the one's.

Condition (1): only diverting an existing threat:

“The bystander who proceeds does not merely minimize the number of deaths which get caused: He minimizes the number of deaths which get caused by something that already threatens people, and that will cause deaths whatever the bystander does. The bystander who proceeds does not make something be a threat to people which would otherwise not be a threat to anyone; he makes be a threat to fewer what is already a threat to more.”

An illustration:

- Recall Foot's *Hospital*: There are five patients in a hospital whose lives could be saved by the manufacture of a certain gas, but that this will inevitably release lethal fumes into the room of another patient whom for some reason we are unable to move. Making the gas is impermissible.
- But now consider a case in which lethal fumes are being released by the heating system in the basement of a building next door to the hospital. The fumes are headed towards the room of five. We can deflect them towards the room of one. Deflecting the gas is permissible

Condition (2): not infringing the rights of the one

Why do we need this restriction?

- In *Fat Man(!)*, we push the fat man off of the footbridge in order to stop the trolley.
- We make what threatens the five (i.e., the trolley) threaten the one instead. But this still seems impermissible.
- *Explanation*: Pushing someone off a footbridge is an infringement of his rights. By contrast, turning the trolley in Bystander does not infringe the rights of the one.
- *Another explanation?* We don't *divert* a threat onto the fat man?

Objection: “What about wobbling the handrail? That doesn't infringe his rights.”

Reply: But wobbling isn't the *entire means* to saving the five. The entire means requires somehow knocking him off of the footbridge, which does infringe his rights.

Objection: “Isn't it permissible to steal a nailfile from the one, or to trespass his property, or to break a promise to him in order to turn the trolley?”

Reply: Maybe (2) should require that the infringed right be particularly stringent.

Question: “According to this theory, it is impermissible to kill the one in Repentance. (Why?) But suppose that a doctor faces a similar choice in the *present*. He must choose between poisoning the five or killing the one. Here it is permissible to kill the one. Why should the present tense matter so much?”

Reply: The present tense matters because the question for the agent at the time of acting is about the present: “Which of the alternatives here and now open to me may I choose?”

Question: What do you think Unger would say about these intuitions?

Reply: Take your own guess, based on what you have already read. (If you are interested, you can read what Unger says, by accessing the rest of his book online.)