Moral Puzzles

Four of them. All having to do with morality, hence at least something to do with the issues I have been discussing.

The Problem of Moral Luck

Two would-be assassins take shots at their intended victims. One hits and is guilty of murder. The other misses and is guilty of attempted murder — a crime, but a less serious one. Legal distinctions aside, most of us will see the successful murderer as morally tainted by his act, a taint that his failed colleague, by pure chance, escaped.

Why the difference? Being a bad shot is not a moral virtue.

For a second example of the same puzzle, consider two drunk drivers, one of whom hit and killed a child, one of whom barely missed doing so. Again, to both the law and individual moral feelings, the former is worse than the latter. Actual blood stains, potential blood does not, even if the difference is a matter of pure chance. Why?

For a third example, consider our feelings towards someone who was a Nazi concentration camp guard. Suppose you are convinced that most people in his society, offered the job, would have taken it. Does that make him less guilty? Does it mean that most of his contemporaries are, morally speaking, just as guilty, having escaped only through the good luck of not having the opportunity to commit his crime? Suppose you are convinced that most human beings, probably including yourself, if born and brought up in his society and offered the job, would have taken it. Does that mean we are all equally guilty? Nobody I know feels that way, and yet the argument looks convincing. Why should someone's moral status, praise or blame, depend on factors over which he had no control?

That is the puzzle that philosophers refer to as the problem of moral luck.

The assassin who missed might just be a bad shot, but he might also have lost his nerve at the last minute. The drunk driver who did not quite run down a child might have been a little less drunk, or a little more careful, than the one who did. Seen from this standpoint, the legal distinction is a consequence of our imperfect knowledge. It is a special case of the general issue of whether we should punish acts by their consequences, *ex post*, or by what we know of their causes, *ex ante*. Interested readers can find an extended discussion in a webbed chapter of my *Law's Order*.[1] The moral version of the puzzle is more difficult.

Part of the answer is that most of us believe in two quite different systems of morality. For one, what is essential is what happened inside someone's head. The man who tried to commit murder is bad, whether or not he killed anyone, the consequences for the outside world are accidents. As Adam Smith put it in *The Theory of Moral Sentiments*, his first book:

> "To the intention or affection of the heart, therefore, to the propriety or impropriety, to the beneficence or hurtfulness of the design, all praise or blame, all approbation or

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[1] http://www.daviddfriedman.com/Laws_Order_draft/laws_order_ch_7.htm

disapprobation, of any kind, which can justly be bestowed upon any action, must ultimately belong."

The other approach looks at morality as a system of accounts; the question is who owes what to whom. If your house has been wrecked, someone is going to have to pay for it. If I am the person responsible, however innocent my motive, I am the one who should pay. If your house has not been damaged no debt is owed, however much I wanted to wreck it or however hard I tried.

Think of the first approach as the God's eye view of the world. God knows enough to judge who is good and who is bad, who deserves Heaven, who Hell. And God does not have to worry about balancing accounts since, unlike humans, he does not face a budget constraint. If a house has been smashed but it is nobody's fault, God can put it back together again. Imagining ourselves in the position of God looking down at the world, we judge people by what they are, not by what they did.

The accounting approach makes more sense from the standpoint of a society of equals. My opinion of the state of your soul is worth no more than your opinion of the state of mine. A house has been destroyed and we can, with luck, figure out who did it. Since there is no god offering to do repairs, someone has to be stuck with the bill.

The distinction maps, imperfectly, to the difference between criminal law and tort law. Criminal guilt requires intent; an attempt that does no damage is still a crime. Tort liability does not require intent and an attempt that does no damage is not a tort. A tort case is a dispute between equals. A criminal case is a dispute between the defendant and the state. States are not gods but are, I think unfortunately, often viewed as having a moral status rather like one.

You can find a longer discussion of the puzzle and its history in an old law review article of mine.[2] I found particularly interesting Adam Smith's extended discussion, where he argues both that our moral intuition is wrong and that it being wrong is a good thing, evidence of divine benevolence, since human beings are not competent to fairly judge other human beings on the contents of their hearts.[3]

Robert Nozick described the distinction as between what I am entitled to and what I deserve. If we wager a dollar on the flip of the coin and I win the bet, I am entitled to the dollar. But I don't deserve the dollar — because I did not deserve to win the bet.

The principle of moral judgement based on desert, combined with the assumption that what you deserve can depend only on you, seem to imply a radically egalitarian conclusion. Differences in wealth or income due to accidents of birth cannot be deserved, since my being born to rich parents or you to poor ones was neither my doing nor yours. That applies to my genetic inheritance as well. That too was an accident so far as I was concerned, so could not affect what I deserve.

The same is true for other accidents of birth. I did not deserve to be born to loving parents who brought me up to be a generous, honest, productive individual, nor did you deserve to be born to the opposite sorts of parents who brought you up to be the opposite sort of person. The man who ended up a guard in a Nazi concentration camp did not deserve to be born in Germany in 1920, nor did I deserve not to be, so his guilt is in large part, perhaps entirely, undeserved.

[2] Part 6 of the article webbed at http://www.daviddfriedman.com/Academic/Payne/Payne.html
[3] Adam Smith, The Theory of Moral Sentiments, Part 2 Section III Chapter 3.

The conclusion is more radically egalitarian than most egalitarians would like, since it applies not only to the difference between rich people and poor people but to the difference between good people and bad people. Strip off everything a person is not himself responsible for — genes, wealth, upbringing, both nature and nurture — and it is hard to see what is left on which differences in desert could be based.

One possible response to this disturbing conclusion is that we may all deserve the same outcome, but giving us what we deserve costs more than it is worth. In a society where outcomes do not depend on what you do there is no incentive to be honest, productive, or helpful; the result is equal poverty and misery. This may well be true, but I do not think it gets us to where I, and I suspect many of you, want to end up. The implication of that argument is that inequality is always unjust, that every difference in outcome must justify itself as producing enough benefit in increased size of the pie to justify its cost in a less just division.

Another possibility is to reject the concept of desert in favor of entitlement, or at least to argue that entitlement ought to be given some moral weight. The heir does not deserve his inheritance but it was given voluntarily by someone who legitimately earned it, so he is entitled to get it. While I have a good deal of sympathy with that position, I think it more interesting to try to deal with the egalitarian conclusion of the argument from moral desert on its own terms.

What, if anything, is wrong with it?

Part of the answer is that if every factor on which desert might be based, every characteristic of the individual, is due to some external cause for which that individual deserves neither credit nor blame, then we are all equally undeserving. If we all deserve nothing, any distribution of outcomes is equally just. If I don't deserve to be the particular person I am, don't deserve to be born in the country and century I was, I also don't deserve to be a human being rather than a rock — and a rock has no claim to a per capita share of the national income.

The other part of the answer, the part I find most convincing, is that our moral judgements are predicated of people as they are, not as they might have been. If you say "Adolf Hitler was a bad person who deserved to have bad things happen to him," your statement is about Hitler, not about the fertilized egg that would eventually become Hitler. If desert is applied to an actual human being it is the characteristics of that human being that determine it, not the characteristics of the potential person, stripped of all accidental characteristics, that became that actual person. If I am hard working, honest and generous, the fertilized egg that became me, or the potential person that in some sense became that egg, did not deserve to have turned out that way. But I, having turned out that way, deserve to have good things happen to me.

I have discussed the question at such length for two different reasons. The first is that I find moral luck to be an interesting puzzle and paradox, only parts of which I can adequately explain away. The second is that, while I doubt there are many people who would be willing to accept the full blown radical egalitarianism it might seem to imply, the basic argument is one element in the widespread view that equality of outcome is a good thing.

It is also an important element in views of criminal punishment. If criminals are not morally responsible for being the sort of people who commit crimes then, arguably, punishing them for those crimes is unjust. If you believe punishment is unjust, you are likely to persuade yourself that it is also unnecessary, that crime ought to be dealt with by educating or reeducating people rather

than by punishing them. Few would carry the argument all the way, but I think it has a significant influence on what many people want to believe.

Thoughts on the Trolley Problem

A familiar philosophical conundrum goes as follows:

You are standing by a trolley track which goes down a hill, next to a fork in the track controlled by a switch. You observe, uphill from you, a trolley that has come loose and is rolling down the track. The switch is currently set to send the trolley down the right branch of the fork. Four people are sitting on the right branch, unaware of the approaching trolley, too far for you to get a warning to them.

One person is sitting on the left branch. Should you pull the switch to divert the trolley to the left branch?

The obvious consequentialist answer is that, assuming you know nothing about the people and value human life, you should, since it means one random person killed instead of four. Yet to many people that seems the wrong answer, possibly because they feel responsible for the results of what they do but not of what they do not do.

In another version of the problem, you are standing on a balcony overlooking the trolley track, which this time has no fork but has four people whom the trolley, if not stopped, will kill. Standing next to you is a very overweight stranger. A quick mental calculation leads you to the conclusion that if you push him off the balcony onto the track below, his mass will be sufficient to stop the trolley. Again you can save four lives at the cost of one. I suspect fewer people would approve of doing so than in the previous case.

One possible explanation of the refusal to take the action that minimizes the number killed starts with the problem of decentralized coordination in a complicated world. No individual can hope to know all of the consequences of every choice he makes. A reasonable strategy is to separate out some subset of consequences that you do understand and can choose among and base decisions on that. A possible subset is "consequences of my actions." You adopt a policy of rejecting actions that cause bad consequences. You have pushed out of your calculation what will happen if you do not act, since in most cases you do not, perhaps cannot, know. The trolley problem is in that respect artificial, atypical, and so (arguably) leads your decision mechanism to reach the wrong answer. A different way of putting it is that your decision mechanism, like conventional legal rules, has a drastically simplified concept of causation in which action is responsible as a cause, inaction is not. My failure to spend everything not needed for my own survival on saving the lives of poor people in Africa or Asia does not feel to me like murder and is not treated as murder by the law.

I now add a third version. This is just like the second, except that you do not think you can stop the trolley by throwing only the stranger onto the track. Your calculation implies, however, that the two of you together would be sufficient. You grab him and jump.

The question is not whether you should do it — most of us are reluctant to claim that we are obliged to sacrifice our lives for strangers. The question is, if you do do it, how will third parties regard your action. I suspect that many more people will approve of it this time than in the previous case, even though you are now sacrificing more for the same benefit. If so, why?

The answer may be that, when judging other people's actions, we do not entirely trust them. When you take an act that injures someone for purportedly benevolent motives, we suspect the motives may be self-interested and the claim dishonest, that the overweight person whose life you have just sacrificed may be someone you dislike or whose existence is inconvenient to you. By being willing to sacrifice your own life as well as his, you provide a convincing rebuttal to such suspicions.

All of which in part comes from thinking about my response to the novel *Red Alert*, on which the movie *Doctor Strangelove* was based. In both versions of the story, a high ranking air force officer sets off a nuclear attack on the Soviet Union. In the movie, he is crazy. In the book, he is a sympathetic character. He has good reason to regard the idea of Soviet conquest with horror, having observed atrocities committed by Soviet troops in Germany at the end of WWII. He has concluded, for all we know correctly, that a unilateral nuclear attack by the U.S. will succeed — will destroy enough of the Soviet military so that the counterattack will not do an enormous amount of damage to the U.S. He has also concluded that the balance of power is changing, that in the near future the U.S. will not be able to succeed in such an attack and that in the further future the USSR will triumph.

Under those circumstances, his choice is not obviously wrong. It is the consequentialist choice in the trolley problem — with the number of lives at stake considerably expanded.

What makes him a sympathetic character, in the book but not the movie, is that his plot requires him to commit suicide in order to make sure he cannot be forced to give up the information that would let his superiors recall the bombers he has sent off. The fact that he is willing to pay with his own life as well as that of others makes his act seem more excusable, perhaps even right.

As in my final trolley example.

My arguments so far take it for granted that there really is something wrong with, among other things, killing people, that morality is real. Some people, including many philosophers, argue that that belief is mistaken.

Pascal's Wager Revised: In Defense of Moral Realism

Blaise Pascal famously argued that as long as there was any probability that God existed a rational gambler should worship him, since the cost if he did exist and you failed to worship him was enormously greater than the cost if it went the other way around. A variety of objections can be made to this, most obviously that a just God would reject a worshiper who worshiped on that basis. I have a variant on the argument that I find more persuasive.

The issue is not God but morality. Most human beings have a strong intuition that some acts are good and some bad, that one ought not to steal, murder, lie, bully, torture, and the like. Details of what is covered and how it is defined vary a good deal, but the underlying idea that right and wrong are real and one should do right and not wrong is common to most of us.

There are two categories of explanation for this intuition. One is that it is a perception, that right and wrong are real and that our perception of what is right and what wrong is at least roughly correct. The other is that morality is a mistake. We have been brainwashed by our culture, or perhaps our genes, into feeling the way we do, but there is really no good reason why one ought to feed the hungry or ought not to torture small children.

Suppose you are uncertain which of the two explanations is correct. I argue that you ought to act as if the first is. If morality is real and you act as if it were not, you will do bad things, and the assumption that morality is real means that you ought not to do bad things. If morality is an illusion and you act as if it were not you may miss the opportunity to commit a few pleasurable wrongs, but since morality correlates tolerably well, although not perfectly, with rational self interest, the cost is unlikely to be large.

This version avoids the problems with Pascal's. No god is required for the argument, merely right and wrong, good and evil, as most human beings intuit them. And, by the morality most of us hold, the fact that you are refraining from evil because of a probabilistic calculation does not negate the value of doing so — you still have not stolen, killed, or whatever. One of the odd features of our intuitions of right and wrong is that they are not entirely, perhaps not chiefly, judgements about people but judgements about acts, about what I did not why I did it.

Very much like the distinction between entitlement and desert.

Atheism and Morality

"If there is no God, the labels "good" and "evil" are merely opinions. They are substitutes for "I like it" and "I don't like it." They are not objective realities."

(Dennis Prager in *National Review Online*[4])

The argument is wrong twice over. The existence of a god does not solve the problem of justifying right and wrong and there are solutions that do not require a god.

The existence of a god does not solve the problem because we need some reason to conclude that the god is good, that his will defines what we ought to do. The existence of a very powerful, perhaps all powerful, being who created us and the universe does not, by itself, imply anything at all about right or wrong. He could be a devil. He could, like gods in many religions, be no more morally perfect than humans. He could be a moral nihilist with no views at all on good and evil and a wicked sense of humor. To get from a god to God in something like the Christian sense you need some further basis for moral beliefs, some way of deciding that the god is good. The fact that He tells you so is not sufficient.

That problem must be solved before you can accept a god as a source of moral judgement, so if it is soluble, it must be soluble without a god. One solution, the one that strikes me as the least unsatisfactory, is to posit the existence of moral truths analogous to physical truths, perceived by a moral sense analogous to physical sight or hearing. That describes the world as almost everyone actually perceives it — there are not many people who do not see torturing small children for fun as wicked. And that view of moral reality can be confirmed in the same way we confirm our view of physical reality, by subjecting it to consistency tests. If there is a moral universe out there, there ought to be a reasonably good correlation across people in their fundamental moral perceptions. It is arguable that there is, providing we think of moral perceptions at a sufficiently fundamental level.

The reason the claim of moral consistency across people and cultures seems wrong is that we are used to talking about moral beliefs in terms of general moral principles, about which people quite

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[4] https://www.nationalreview.com/2013/10/response-richard-dawkins-dennis-prager/

often disagree. But people also quite often disagree about questions of physical reality viewed at that level: what the sources are of global warming and what its consequences will be, whether Obama's deficit spending did or did not reduce the unemployment level over what it would otherwise have been, the effects of a minimum wage law. If we consider moral perceptions at a more fundamental level, evaluations of fully described situations with all factual disagreements resolved, they look a lot more consistent. Executing witches seemed right to King James, wrong to us — but then, he believed in witchcraft and we do not, a disagreement about facts not about morality.

For a more thorough defense of this approach to moral philosophy, referred to as "intuitionism," I recommend Michael Huemer's book on the subject.[5] I was first persuaded of its plausibility when, as an undergraduate, I got into an argument with Isaiah Berlin and lost it. His essential point was not that the evidence for moral reality was stronger than I thought but that the evidence for physical reality was weaker. If we applied the same standards to testing morality reality, rough consistency at the most basic level of perception, whether there is or is not a tiger sitting on the dining room table, the case for it does not look that much worse.

Prager writes:

> "If there is no God, the labels 'good' and 'evil' are merely opinions. They are substitutes for 'I like it' and 'I don't like it.' They are not objective realities.

> "Every atheist philosopher I have debated has acknowledged this."

I do not acknowledge it and I am an atheist.

A View of the Subject from Two Religions

A commenter to my blog pointed out that the Torah itself clearly implies that moral knowledge exists independently of God's commands:

... perhaps the clearest example comes from the story of Abraham arguing with God over Sodom and Gemorrah. After God announces that he will destroy the city, Abraham asks if he will really destroy the city if there are 50 righteous people in the city. Abraham then says to God "חָלִלָה לְּךָ" / "chalilah l'cha" / "shame on you" to do this thing. Abraham then asks "Shall not the judge of all the earth do justly?"

Now if justice or righteousness were derived solely from divine commands, then Abraham's question would be completely foolish. God would of course be acting justly because anything that God does is definitionally just. Abraham's impudence -- saying "shame on you" to God -- would not only be foolish and disrespectful, but completely incoherent.

The only way this makes sense is if normative ideas of justice exists independently of divine commands or actions. Given that, Abraham can hold God responsible for apparently acting unjustly.

In medieval Islamic philosophy, whether moral knowledge exists independently of God was one of the points on which two major schools, Ash'ari and Mu'tazili, disagreed. The Mu'tazili position

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[5] Michael Huemer, *Ethical Intuitionism*

was that it was knowable by reason, the Ash'ari position that it was not. I believe I first came up with the line of argument offered above when thinking about that dispute.

Unfortunately, the Ash'ari won.