

# Two Moral Paradoxes

PHIL2511 Paradoxes

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# Admin

Required reading: Sainsbury, Chapter 2, Section 2.1-2.2

Optional reading: Smilansky, 'The Paradox of Non-Punishment' and 'Fortunate Misfortune'

Required reading for next seminar: Sainsbury, Chapter 2, Section 2.4; Chapter 3, Sections 3.1-3.2

Essay 1 due: Thursday March 7, 5pm (Hand in to Philosophy Office)

Useful article on writing philosophy papers:  
<http://www.jimpryor.net/teaching/guidelines/writing.html>

# Moral Paradox 1: Crime Reduction

Def: Carjacking is the stealing of a car when it is in use by the forceful eviction of the driver

Question: Suppose all instances of carjacking could be eliminated by prescribing an extraordinarily severe penalty such as the death penalty. Would it be right to introduce such a penalty?

# The options

(Right) A type of crime has been eliminated. There are no bad side-effects: no carjackers are executed (which might indeed be unjust), for there are no carjackers

(Wrong) A type of crime has been associated with a punishment of unjust severity. This makes for an unjust society. Even if injustice is a means to a good end (crime reduction), it is still unjust, and should be condemned.

Both options are apparently reasonable. But they conflict, so we have a paradox.

# Response 1: Carjackers can't be totally eliminated by having the death penalty

Many crimes are committed on impulse, under the influence of drugs, or under the false belief they will go unpunished. Such crimes will still occur with the death penalty.

# Reply

Suppose we are in a possible world where the introduction of the death penalty would eliminate carjacking since at this world there are no drugs and no impulsive people, and where the police are so good at their job that everybody believes that if they commit a crime they will be caught.

The paradox reinstated: In such a world, would it be right to introduce the death penalty for carjacking? Both the conflicting answers (Right) and (Wrong) seem compelling.

# Response 2: Unreliability

We cannot make reliable moral judgements about unfamiliar situations.

Hence our judgements concerning both (Right) and (Wrong) are unreliable.

# Reply

We do make reliable moral judgements about unfamiliar situations, such as those portrayed by fairy stories and science fiction.

We expect people to be able to make reliable moral judgements about unfamiliar situations, such as about the treatment of prisoners in war. One can't simply avoid responsibility for such judgments because the concern unfamiliar situations.



# Argument 1 against (Wrong)

The introduced law would be unjust since it prescribes an unfair penalty for carjacking. As a result, it would be wrong to introduce it.

Smilansky's reply: Since no one gets punished, there is no injustice

# Argument 2 against (Wrong)

The introduction of the law would produce a great amount of fear.

Smilansky's reply: If people knew the justice system provides an environment in which the innocent will not be harmed, then they not commit carjacking, remain innocent, and feel secure.

# Argument 3 against (Wrong)

The threat of over-punishment undermines the ability of people to make free decisions.

Smilansky's reply 1: If this argument worked it would also apply to the levels of punishment we actually have (which is absurd).

Smilansky's reply 2: "I don't see one could plausibly argue that society owes the potential criminal an option to be punished less severely ... just so that this person may more easily decide to commit a crime" (p. 55)

# Argument 4 against (Wrong)

In order for the law to work as a deterrent to carjackers, an intention to do wrong (kill people for carjacking) must be formed among the police and the judiciary. But the forming of such an intention is wrong.

Smilansky's reply: 'I doubt if a hypothetical intention can be so morally wrong, when it will not be actualised.' (p. 57)

# Sainsbury vs. Smilansky

Sainsbury endorses (Wrong) and rejects (Right)

Smilansky endorses (Right) and rejects (Wrong).

## Paradox 2: Mixed Blessing (or the Fortunate Misfortune)

This paradox concerns cases where a person experiences great hardship early in life. But this hardship results in great success in latter life.

Question leading to paradox: What the original hardship a misfortune? Alternatively, was the original hardship all things considered a bad thing?

# The case of Abigail (Smilansky, p 12)

- Abigail was born with a combination of unfortunate defects: a serious breathing difficulty, and little-known muscle disease that made it difficult for her to use her legs.
- Fortunately, the local doctor recommended early on that she learn how to swim and continue swimming in an intensive way
- Abigail lived in a poor village far away from a swimming pool and from the sea. However, a charity in the closest city heard of her case and the doctor's advice, and made some minimal arrangements that enabled her to travel to a swimming pool

# The case of Abigail (cont)

- With her parents' active encouragement, Abigail learned to swim and swam persistently
- After a number of years her breathing and her ability to use her legs became normal.
- In the process, swimming became central to Abigail's identity, she put even more effort into it, and found it increasingly fulfilling.
- In time, she became an excellent swimmer, pioneered a slightly different movement of the legs for the breaststroke (which was better suited to her original difficulties), and became for many years the world backstroke champion in women's swimming.



# The case of Abraham (Smilansky, p. 12-13)

- Abraham grew up in very poor surroundings
- Despite being very talented, he had to leave school at an early age in order to help support his family, and he never completed his high school education.
- These difficulties made Abraham ambitious, and they steeled his character to an unusual degree.
- After years of hardship, he managed to open his own small business selling used tools.
- With almost superhuman hard work and painstaking attention, he built his business into a worldwide empire. Today he is one of the wealthiest people in the country, and enjoys his wealth.

# Qualification

- Let us assume that Abigail's and Abraham's lives are better all things considered given the original hardships, not just that they are wealthier or more famous
- Let us suppose Abigail and Abraham would both agree with this

# The Paradox

(M) The original hardships are misfortunes

(F) The original hardships are not misfortunes

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Contradiction!

While (M) and (F) conflict, powerful arguments can be give for both!

# Argument for (M)

- The original hardships involved a lot of misery
- Abigail and Abraham would insist that, since their childhood hardship was so substantial, and since their success has required such great effort on their part to overcome it, this hardship must be considered a misfortune
- They would thus object to, and are likely to even resent, any insinuation that their hardship has not in fact been a misfortune (Smilansky, p 15)

# Argument for (F)

- It was only due to the original hardships that Abigail and Abraham's life turned out so successful
- So their lives were better given the hardship than if the hardship hadn't happened
- So the hardship wasn't a misfortune

# An additional argument for (F): the case of Zelda (Smilansky, p. 16)

- Zelda's original "good fortune" (her doting parents, the wealth she was born into and all that it has bought for her) has "spoiled" her, diluted her ambition, her work habits, and her ability to persevere.
- She gets discouraged easily, and lacks the strength of character to do much with her life.
- It is not that she is utterly miserable, but she simply has not managed to amount to much.
- She also lacks any of the deeper joys and feeling of achievement that Abraham and Abigail have.
- Unfortunate Zelda. It is she who is the true victim of misfortune, not Abigail and Abraham!!

# An additional argument for (M)

- Surely it was right at the time to call the hardships misfortunate
- But if they aren't misfortunes due to later events, then the original assertions they were misfortunes are false

# Sainsbury vs. Smilansky

Sainsbury endorses (M) and rejects (F)

Smilansky endorses (F) and rejects (M).