

13.3 Rights and Wrongs (b) (p. 332)

The Moral Brain

HERE'S A LITTLE QUIZ about morality I want you to take. I'm going to tell two little stories, asking you, in each case for your reaction.

STORY 1: Marleen and her friend are taking a tour of a chemical plant. When Marleen goes over to the coffee machine to pour some coffee, Marleen's friend asks for some sugar in hers. The white powder by the coffee is just regular sugar. Because the substance is in a container marked "toxic," Marleen thinks that it is toxic. Marleen puts the substance in her friend's coffee. But it's sugar, and her friend is just fine.

GIVE YOUR REACTION on a scale of 1 to 7:

Putting the powder in was:

Forbidden 1 2 3 4 5 6 7 Permissible

STORY 2: Darleen and her friend are taking a tour of a chemical plant. When Darleen goes over to the coffee machine to pour some coffee, Darleen's friend asks for some sugar in hers. The white powder by the coffee is just regular sugar. Because the substance is in a container marked "sugar," Darleen thinks that it is just regular harmless sugar. Darleen puts the substance in her friend's coffee. It's sugar, and her friend is just fine.

GIVE YOUR REACTION on a scale of 1 to 7:

Putting the powder in was:

Forbidden 1 2 3 4 5 6 7 Permissible

Okay, now let's talk about reactions. Although some people might think that Darleen, in STORY 2, is not doing her friend much of a favour (because sugar is a bit harmful to the teeth and the waistline), probably nobody would think that her act is anywhere near the Forbidden end of the scale. But lots of people would have a different reaction to STORY 1: Marleen's trying to kill her "friend." It's likely that you rated putting the powder in significantly further along the line toward Forbidden in STORY 1.

The two stories are alike with regard to consequences, which are insignificant morally in both cases. They differ only in the agent's intention. This sort of reaction, which considers intentions when making moral evaluations, is common. It's sometimes thought that somebody

who looks only to consequences is morally deficient, or morally undeveloped. Take a look at this statement:

According to a basic tenet of criminal law, “the act does not make the person guilty unless the mind is also guilty.”¹ Like legal doctrine, mature moral judgment depends on the ability to reason about mental states. By contrast, young children’s failure to reason fully and flexibly about mental states and, in particular, to integrate mental state information for moral judgment leads them to focus instead on the action’s consequences.

It’s clearly implied that there’s something missing when all you consider are consequences. This statement comes not from a philosopher, but rather from a team of brain-scientists, indeed. The statement begins an article² in which they report that (temporary, painless, and harmless) magnetic disruption of the function of a small area of the brain significantly decreases the difference in reaction between STORY 1 and STORY 2; it appears, then, that the functioning of this brain area is necessary for what they consider to be mature moral thinking.

The media were quick to react to the publication of this article, announcing the discovery of the moral area of the brain. This claim goes far beyond the careful conclusions of the experimenters, however, and is questionable from several points of view.

For our purposes, we’ll concentrate on only one aspect of this interesting study: the implication (which does not follow from anything the brain-scientists discovered) that what happened in STORY 1 really is worse than what happened in STORY 2. Both stories have the same outcome: nobody is (significantly) harmed in either. The difference is that Marleen is evil—certainly not the kind of friend you’d want. But that wouldn’t make any difference if Marleen’s intentions never happened to result in any harm, either because (as in this case) her attempts were foiled by circumstances, or because she never had an opportunity to attempt murder again, or because she just calmed down and her murderous inclinations just went away. In that case, there doesn’t seem to be any evaluative difference we can see between STORY 1 and STORY 2. The difference we see between the stories is not in what actually happened, but rather in what might well happen in the future, given Marleen’s intention.

But maybe if you agree with this, then your brain has failed to develop the moral “maturity” that normal adults have. Or maybe repetitive transcranial magnetic stimulation is disrupting the right temporoparietal junction in your brain. (Impeding the function of the junction!) Have you checked your head recently for a large electronic brain-influencing device?

¹ See the section called “How to Assault a Police Officer by Doing Nothing” in Chapter XIV (p. 352), for more consideration of intentions in the law.

² Liane Young et al., “Disruption of the right temporoparietal junction with transcranial magnetic stimulation reduces the role of beliefs in moral judgments.” *Proceedings of the National Academy of Sciences* 107.15 (April 13, 2010): 6753–58.

Opening Pandora's Box

PANDORA, ACCORDING TO ANCIENT Greek mythology, was created by Zeus. She was the most beautiful woman ever created, but also foolish. She opened a jar (or box) in which all the evils that plague humanity had been imprisoned: Old Age, Labour, Sickness, Insanity, Vice, Passion, Spite, and so on. They flew out in a cloud, stung Pandora all over her body, and then proceeded to attack the rest of the human race. However, Hope, who had also been imprisoned in the jar, discouraged afflicted-humanity from mass suicide.

“Pandora” has been taken (perhaps ironically) as the title of a Halifax, Nova Scotia, feminist newspaper around which a controversy concerning rights raged a few years ago. A man wrote to this newspaper to argue with an article it had previously published. The newspaper refused to publish his letter on the grounds that its policy is to publish only contributions by women. The man complained about this sexual discrimination to the Nova Scotia Human Rights Commission, claiming sexual discrimination against him.

Pandora's lawyer argued that the newspaper is justified in its “women only” policy because it offers a place for women to air their views unafraid of being slammed by men. This is necessary given the male dominance of public debate throughout history. The opposition in this case agrees that the systematic exclusion of women in the past was a bad thing; it argues, however, that this was bad because everyone has the right to free public speech. Denial of this right to women in the past was wrong, but so is its denial to men in the current instance.

There are two main reasons that some feminists think that the notion of rights is not a suitable foundation for morally right action:

(1) Granting everyone the right to something means nothing when one group is oppressed by another with the result that the oppressed group is unable to take advantage of the benefits conferred by that right. Thus the principles of fairness that are behind rights-based ethics, and that underlie Lockian liberal social theory, aren't the ones that should be used to determine public policy. Fairness allows for continuing oppression of groups like women. It is unfair, they agree, that a women's newspaper should be allowed to practise sexual discrimination, while a general or man's newspaper should not. But given the current structure of society, fairness, they argue, is a bad thing.

(2) Previous inequalities cannot be remedied by current equal treatment. What is needed is preferential treatment for the formerly oppressed group, to make up for centuries of mistreatment.

Similar arguments are showing up frequently in public debate. You can find the same sorts of consideration, for example, being raised in debates about preferential hiring and about the right to read pornographic literature.

But the philosophical feminists who argue against a morality based on rights do not advocate thinking in terms of maximizing the sum-total of good as an alternative. They might agree that sexual discrimination by *Pandora* (or denial of fair treatment in certain cases of hiring, or denial of the right to read what you want) might not lead to the greatest total satisfaction in society. They argue that neither rights-morality nor morality based on happiness-maximization is able to cope with the kind of systematic oppression they find in today's society. They seek a third kind of theory for moral thought.

The Nova Scotia Human Rights Commission ruled that *Pandora* may refuse to print something on the grounds that it was written by a man. But they probably wouldn't allow a men's magazine to discriminate against women. The difference is that women are a "designated group" who have been discriminated against in the past. This is why they're allowed to practise compensatory discrimination now.

SOME QUESTIONS TO THINK ABOUT: Do you think that the Human Rights Commission's decision was the right one? Note that it seems to indicate that women have the right not to be discriminated against, but men don't. Is this fair? Perhaps you think it is. If not, do you think that it's unfair but (under the circumstances) a good thing?

"The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread."—Anatole France