The Survival Lottery

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Let us suppose that organ transplant procedures have been perfected; in such circumstances if two dying patients could be saved by organ transplants then, if surgeons have the requisite organs in stock and no other needy patients, but nevertheless allow their patients to die, we would be inclined to say, and be justified in saying, that the patients died because the doctors refused to save them. But if there are no spare organs in stock and none otherwise available, the doctors have no choice, they cannot save their patients and so must let them die. In this case we would be disinclined to say that the doctors are in any sense the cause of their patients' deaths. But let us further suppose that the two dying patients, Y and Z, are not happy about being left to die. They might argue that it is not strictly true that there are no organs which could be used to save them. Y needs a new heart and Z new lungs. They point out that if just one healthy person were to be killed his organs could be removed and both of them be saved. We and the doctors would probably be alike in thinking that such a step, while technically possible, would be out of the question. We would not say that the doctors were killing their patients if they refused to prey upon the healthy to save the sick. And because this sort of surgical Robin Hoodery is out of the question we can tell Y and Z that they cannot be saved, and that when they die they will have died of natural causes and not of the neglect of their doctors. Y and Z do not however agree, they insist that if the doctors fail to kill a healthy man and use his organs to save them, then the doctors will be responsible for their deaths.

Many philosophers have for various reasons believed that we must not kill even if by doing so we could save life. They believe that there is a moral difference between killing and letting die. On this view, to kill A so that Y and Z might live is ruled out because we have a strict obligation not to kill but a duty of some lesser kind to save life. A. H. Clough's dictum 'Thou shalt not kill but need'st not strive officiously to keep alive' expresses bluntly this point of view. The dying Y and Z may be excused for not being much impressed by Clough's dictum. They agree that it is wrong to kill the innocent and are prepared to agree to an absolute prohibition against so doing. They do not agree, however, that A is more innocent than they are. Y and Z might go on to point out that the currently acknowledged right of the innocent not to be killed, even where their deaths might give life to others, is just a decision to prefer the lives of the fortunate to those of the unfortunate. A is innocent in the sense that he has done nothing to deserve death, but Y and Z are also innocent in this sense. Why should they be the

Discussion

ones to die simply because they are so unlucky as to have diseased organs? Why, they might argue, should their living or dying be left to chance when in so many other areas of human life we believe that we have an obligation to ensure the survival of the maximum number of lives possible?

Y and Z argue that if a doctor refuses to treat a patient, with the result that the patient dies, he has killed that patient as sure as shooting, and that, in exactly the same way, if the doctors refuse Y and Z the transplants that they need, then their refusal will kill Y and Z, again as sure as shooting. The doctors, and indeed the society which supports their inaction, cannot defend themselves by arguing that they are neither expected, nor required by law or convention, to kill so that lives may be saved (indeed, quite the reverse) since this is just an appeal to custom or authority. A man who does his own moral thinking must decide whether, in these circumstances, he ought to save two lives at the cost of one, or one life at the cost of two. The fact that so called 'third parties' have never before been brought into such calculations, have never before been thought of as being involved, is not an argument against their now becoming so. There are of course, good arguments against allowing doctors simply to haul passers-by off the streets whenever they have a couple of patients in need of new organs. And the harmful side-effects of such a practice in terms of terror and distress to the victims, the witnesses and society generally, would give us further reasons for dismissing the idea. Y and Z realize this and have a proposal, which they will shortly produce, which would largely meet objections to placing such power in the hands of doctors and eliminate at least some of the harmful side-effects.

In the unlikely event of their feeling obliged to reply to the reproaches of Y and Z, the doctors might offer the following argument: they might maintain that a man is only responsible for the death of someone whose life he might have saved, if, in all the circumstances of the case, he ought to have saved the man by the means available. This is why a doctor might be a murderer if he simply refused or neglected to treat a patient who would die without treatment, but not if he could only save the patient by doing something he ought in no circumstances to do—kill the innocent. Y and Z readily agree that a man ought not to do what he ought not to do, but they point out that if the doctors, and for that matter society at large, ought on balance to kill one man if two can thereby be saved, then failure to do so will involve responsibility for the consequent deaths. The fact that Y's and Z's proposal involves killing the innocent cannot be a reason for refusing to consider their proposal, for this would just be a refusal to face the question at issue and so avoid having to make a decision as to what ought to be done in circumstances like these. It is Y's and Z's claim that failure to adopt their plan will also involve killing the innocent, rather more of the innocent than the proposed alternative.

To back up this last point, to remove the arbitrariness of permitting

doctors to select their donors from among the chance passers-by outside
hospitals, and the tremendous power this would place in doctors' hands, to
mitigate worries about side-effects and lastly to appease those who wonder
why poor old A should be singled out for sacrifice, Y and Z put forward the
following scheme: they propose that everyone be given a sort of lottery
number. Whenever doctors have two or more dying patients who could be
saved by transplants, and no suitable organs have come to hand through
'natural' deaths, they can ask a central computer to supply a suitable donor.
The computer will then pick the number of a suitable donor at random and
he will be killed so that the lives of two or more others may be saved. No
doubt if the scheme were ever to be implemented a suitable euphemism for
'killed' would be employed. Perhaps we would begin to talk about citizens
being called upon to 'give life' to others. With the refinement of transplant
procedures such a scheme could offer the chance of saving large numbers
of lives that are now lost. Indeed, even taking into account the loss of the
lives of donors, the numbers of untimely deaths each year might be
dramatically reduced, so much so that everyone's chance of living to a
ripe old age might be increased. If this were to be the consequence of the
adoption of such a scheme, and it might well be, it could not be dismissed
lightly. It might of course be objected that it is likely that more old people
will need transplants to prolong their lives than will the young, and so the
scheme would inevitably lead to a society dominated by the old. But if such
a society is thought objectionable, there is no reason to suppose that a
programme could not be designed for the computer that would ensure the
maintenance of whatever is considered to be an optimum age distribution
throughout the population.

Suppose that inter-planetary travel revealed a world of people like
ourselves, but who organized their society according to this scheme. No one
was considered to have an absolute right to life or freedom from inter-
ference, but everything was always done to ensure that as many people as
possible would enjoy long and happy lives. In such a world a man who
attempted to escape when his number was up or who resisted on the
grounds that no one had a right to take his life, might well be regarded as a
murderer. We might or might not prefer to live in such a world, but the
morality of its inhabitants would surely be one that we could respect. It
would not be obviously more barbaric or cruel or immoral than our
own.

Y and Z are willing to concede one exception to the universal application
of their scheme. They realize that it would be unfair to allow people who
have brought their misfortune on themselves to benefit from the lottery.
There would clearly be something unjust about killing the abstemious B
so that W (whose heavy smoking has given him lung cancer) and X (whose
drinking has destroyed his liver) should be preserved to over-indulge again.

What objections could be made to the lottery scheme? A first straw to

clutch at would be the desire for security. Under such a scheme we would never know when we would hear *them* knocking at the door. Every post might bring a sentence of death, every sound in the night might be the sound of boots on the stairs. But, as we have seen, the chances of actually being called upon to make the ultimate sacrifice might be slimmer than is the present risk of being killed on the roads, and most of us do not lie trembling a-bed, appalled at the prospect of being dispatched on the morrow. The truth is that lives might well be more secure under such a scheme.

If we respect individuality and see every human being as unique in his own way, we might want to reject a society in which it appeared that individuals were seen merely as interchangeable units in a structure, the value of which lies in its having as many healthy units as possible. But of course Y and Z would want to know why A's individuality was more worthy of respect than theirs.

Another plausible objection is the natural reluctance to play God with men's lives, the feeling that it is wrong to make any attempt to re-allot the life opportunities that fate has determined, that the deaths of Y and Z would be 'natural', whereas the death of anyone killed to save them would have been perpetrated by men. But if we are able to change things, then to elect not to do so is also to determine what will happen in the world.

Neither does the alleged moral difference between killing and letting die afford a respectable way of rejecting the claims of Y and Z. For if we really want to counter proponents of the lottery, if we really want to answer Y and Z and not just put them off, we cannot do so by saying that the lottery involves killing and object to it for that reason, because to do so would, as we have seen, just beg the question as to whether the failure to save as many people as possible might not also amount to killing.

To opt for the society which Y and Z propose would be then to adopt a society in which saintliness would be mandatory. Each of us would have to recognize a binding obligation to give up his own life for others when called upon to do so. In such a society anyone who reneged upon this duty would be a murderer. The most promising objection to such a society, and indeed to any principle which required us to kill A in order to save Y and Z, is, I suspect, that we are committed to the right of self-defence. If I can kill A to save Y and Z then he can kill me to save P and Q, and it is only if I am prepared to agree to this that I will opt for the lottery or be prepared to agree to a man's being killed if doing so would save the lives of more than one other man. Of course there is something paradoxical about basing objections to the lottery scheme on the right of self-defence since, *ex hypothesi*, each person would have a better chance of living to a ripe old age if the lottery scheme were to be implemented. None the less, the feeling that no man should be required to lay down his life for others makes many people shy away from such a scheme, even though it might be rational to accept it on

prudential grounds, and perhaps even mandatory on utilitarian grounds. Again, Y and Z would reply that the right of self-defence must extend to them as much as to anyone else; and while it is true that they can only live if another man is killed, they would claim that it is also true that if they are left to die, then someone who lives on does so over their dead bodies.

It might be argued that the institution of the survival lottery has not gone far to mitigate the harmful side-effects in terms of terror and distress to victims, witnesses and society generally, that would be occasioned by doctors simply snatching passers-by off the streets and disorganizing them for the benefit of the unfortunate. Donors would after all still have to be procured, and this process, however it was carried out, would still be likely to prove distressing to all concerned. The lottery scheme would eliminate the arbitrariness of leaving the life and death decisions to the doctors, and remove the possibility of such terrible power falling into the hands of any individuals, but the terror and distress would remain. The effect of having to apprehend presumably unwilling victims would give us pause. Perhaps only a long period of education or propaganda could remove our abhorrence. What this abhorrence reveals about the rights and wrongs of the situation is however more difficult to assess. We might be inclined to say that only monsters could ignore the promptings of conscience so far as to operate the lottery scheme. But the promptings of conscience are not necessarily the most reliable guide. In the present case Y and Z would argue that such promptings are mere squeamishness, an over-nice self-indulgence that costs lives. Death, Y and Z would remind us, is a distressing experience whenever and to whomever it occurs, so the less it occurs the better. Fewer victims and witnesses will be distressed as part of the side-effects of the lottery scheme than would suffer as part of the side-effects of not instituting it.

Lastly, a more limited objection might be made, not to the idea of killing to save lives, but to the involvement of 'third parties'. Why, so the objection goes, should we not give X's heart to Y or Y's lungs to X, the same number of lives being thereby preserved and no one else's life set at risk? Y's and Z's reply to this objection differs from their previous line of argument. To amend their plan so that the involvement of so called 'third parties' is ruled out would, Y and Z claim, violate their right to equal concern and respect with the rest of society. They argue that such a proposal would amount to treating the unfortunate who need new organs as a class within society whose lives are considered to be of less value than those of its more fortunate members. What possible justification could there be for singling out one group of people whom we would be justified in using as donors but not another? The idea in the mind of those who would propose such a step must be something like the following: since Y and Z cannot survive, since they are going to die in any event, there is no harm in putting their names into the lottery, for the chances of their dying cannot thereby be increased

and will in fact almost certainly be reduced. But this is just to ignore everything that Y and Z have been saying. For if their lottery scheme is adopted they are not going to die anyway—their chances of dying are no greater and no less than those of any other participant in the lottery whose number may come up. This ground for confining selection of donors to the unfortunate therefore disappears. Any other ground must discriminate against Y and Z as members of a class whose lives are less worthy of respect than those of the rest of society.

It might more plausibly be argued that the dying who cannot themselves be saved by transplants, or by any other means at all, should be the priority selection group for the computer programme. But how far off must death be for a man to be classified as 'dying'? Those so classified might argue that their last few days or weeks of life are as valuable to them (if not more valuable) than the possibly longer span remaining to others. The problem of narrowing down the class of possible donors without discriminating unfairly against some sub-class of society is, I suspect, insoluble.

Such is the case for the survival lottery. Utilitarians ought to be in favour of it, and absolutists cannot object to it on the ground that it involves killing the innocent, for it is Y's and Z's case that any alternative must also involve killing the innocent. If the absolutist wishes to maintain his objection he must point to some morally relevant difference between positive and negative killing. This challenge opens the door to a large topic with a whole library of literature, but Y and Z are dying and do not have time to explore it exhaustively. In their own case the most likely candidate for some feature which might make this moral difference is the malevolent intent of Y and Z themselves. An absolutist might well argue that while no one intends the deaths of Y and Z, no one necessarily wishes them dead, or aims at their demise for any reason, they do mean to kill A (or have him killed). But Y and Z can reply that the death of A is no part of their plan, they merely wish to use a couple of his organs, and if he cannot live without them... *tant pis*! None would be more delighted than Y and Z if artificial organs would do as well, and so render the lottery scheme otiose.

One form of absolutist argument perhaps remains. This involves taking an Orwellian stand on some principle of common decency. The argument would then be that even to enter into the sort of 'macabre' calculations that Y and Z propose displays a blunted sensibility, a corrupted and vitiated mind. Forms of this argument have recently been advanced by Noam Chomsky (*American Power and the New Mandarins*) and Stuart Hampshire (*Morality and Pessimism*). The indefatigable Y and Z would of course deny that their calculations are in any sense 'macabre', and would present them as the most humane course available in the circumstances. Moreover they would claim that the Orwellian stand on decency is the product of a closed mind, and not susceptible to rational argument. Any reasoned defence of such a principle must appeal to notions like respect for human life, as

Hampshire's argument in fact does, and these Y and Z could make conformable to their own position.

Can Y and Z be answered? Perhaps only by relying on moral intuition, on the insistence that we do feel there is something wrong with the survival lottery and our confidence that this feeling is prompted by some morally relevant difference between our bringing about the death of A and our bringing about the deaths of Y and Z. Whether we could retain this confidence in our intuitions if we were to be confronted by a society in which the survival lottery operated, was accepted by all, and was seen to save many lives that would otherwise have been lost, it would be interesting to know.

There would of course be great practical difficulties in the way of implementing the lottery. In so many cases it would be agonizingly difficult to decide whether or not a person had brought his misfortune on himself. There are numerous ways in which a person may contribute to his predicament, and the task of deciding how far, or how decisively, a person is himself responsible for his fate would be formidable. And in those cases where we can be confident that a person is innocent of responsibility for his predicament, can we acquire this confidence in time to save him? The lottery scheme would be a powerful weapon in the hands of someone willing and able to misuse it. Could we ever feel certain that the lottery was safe from unscrupulous computer programmers? Perhaps we should be thankful that such practical difficulties make the survival lottery an unlikely consequence of the perfection of transplants. Or perhaps we should be appalled.

It may be that we would want to tell Y and Z that the difficulties and dangers of their scheme would be too great a price to pay for its benefits. It is as well to be clear, however, that there is also a high, perhaps an even higher, price to be paid for the rejection of the scheme. That price is the lives of Y and Z and many like them, and we delude ourselves if we suppose that the reason why we reject their plan is that we accept the sixth commandment.[1]

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