

good  
factic

yes

1. Before we're able to answer the question concerning Victor's guilt or innocence, it is important to outline some key facts from the case. The first of these is that Victor's act was premeditated. He has "on more than one occasion seriously thought of killing [Esmerelda]." He "carefully prepared" his intended instrument of death, the voodoo doll. Both of these show that he considered the action before it was carried out. The second key fact is that he believed his actions would result in Esmerelda's death. He "retains deep beliefs in the power of voodoo magic." His long-standing relationship with the black arts and his apparent confidence that the deed was successful (Victor never checked to see whether Esmerelda had died) are evidence that he fully believed he

was killing his wife. The third fact of the case is that Victor knew his act was unlawful and wrong. He expressed "remorse and disgust" at his actions, and turned himself in to the police.

After the fact, at least

Thanks

When faced with the question "Is Victor guilty of attempted murder?", it is important to distinguish between legal guilt and moral culpability. I will address both in response to the question.

perhaps, but this suggests there was something further left undone - part (b) it's better than (c)

Is Victor guilty of attempted murder as defined by law? I assert that he is. Model Penal Code 5.01 (c) informs us that an attempt is made if, were the circumstances as the actor believes them to be, the act would constitute a step toward the commission of the crime. Obviously, the key passage here is "were the

circumstances as the actor believes them to be." In this case, the actor (Victor) sincerely believed that voodoo magic was an effective ~~means~~ means by which the practitioner could kill his or her victim.

The second half of ~~the~~ ~~Model~~ ~~Penal~~ ~~Code~~ ~~5.01(c)~~ ~~can~~ ~~be~~ ~~restated~~ and applied to the relevant charge as follows: "... the act would lead to the commission of murder."

And so, we must ask whether the following is true: "If voodoo magic was an effective means by which the practitioner could kill his victim, ~~why~~ would Victor's actions have resulted in ~~assisted~~ the commission of murder?" The answer, of course, is yes.

Barring two additional considerations, then, Victor is legally guilty of attempted murder. The first of these is whether Victor was a rational actor. This is a

fair question, seeing as most of us would consider beliefs in magic to be irrational. However, courts have held that when attempting to determine a defendant's reasonableness, this "most of us" standard (the objective standard of reasonableness) is inferior to the subjective standard, in which we must examine the action and surrounding circumstances from the defendant's point of view. In Victor's case, he showed all the signs of rational behavior. He believed in the effectiveness of a means, ~~and~~ planned a course of action, and carried out ~~that~~ that plan, despite knowing it was unlawful and wrong. The fact that voodoo magic happens to be an ineffective means does not make Victor an irrational actor.

The second consideration is whether Victor qualifies for acquittal based on

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the notions of justification or excuse. Is there any evidence that Victor believed that killing his wife was a moral imperative, or that he was defending himself or another from serious harm, or that Victor somehow killed Esmerelda by accident? No, there is only evidence to support the claim that Victor killed his wife out of malice. Therefore, he qualifies for neither acquittal based on justification, nor excuse, and is legally guilty of attempted murder.

The next question, then, is whether Victor is morally ~~culpable~~ ~~of~~ guilty of attempted murder. This can be answered by posing a series of direct questions. (a) Did Victor attempt to kill another? Yes. (b) Did he understand the consequences? Yes. (c) Was he of sound mind? Yes. (d) Were

his actions intended to prevent some greater evil? No.

moral, or  
legal?

Barring one additional consideration, then, Victor is morally responsible for attempted murder. Kadish discusses the notion of "impossible attempt," which, if it holds, might clear Victor of moral guilt. The Impossibility Doctrine states, ~~that~~ "if an action cannot possibly result in its intended consequence, then that action does not constitute an attempt." ~~Because~~ Because Victor's actions couldn't possibly cause Esmerelda's death, then by the Impossibility Doctrine he did not attempt murder. However, consider the Case of the Empty Gun, in which Smith points the gun at Jones and fires, with full intent to cause death, but the gun is empty. It seems that the impossibility of success is exactly what makes Smith

Ex

(If there's anything left to consider re Victor, it'd be whether & how much we ought to punish him, & how much weight his remorse should carry.)

an attempter of murder, rather than a murderer. Much like voodoo magic, the empty gun is an ineffective means. This has no bearing on the morality of the attempt.

Thus, Victor is guilty in every sense of attempting to murder his wife Esmerelda.

Excellent — clear, orderly, & very thorough. Generally accurate,

② Utilitarian theory of punishment is <sup>with</sup> <sup>small</sup> <sup>faults</sup> focused on outcomes. Its moral imperative is the maximization of utility (often defined as happiness). Therefore, punishments are administered in such a way as to bring about the greatest amount of happiness for the greatest number of people. Like any theory, however, certain problems arise when it is put into practice.

The first of these is that under a utilitarian system of punishment,