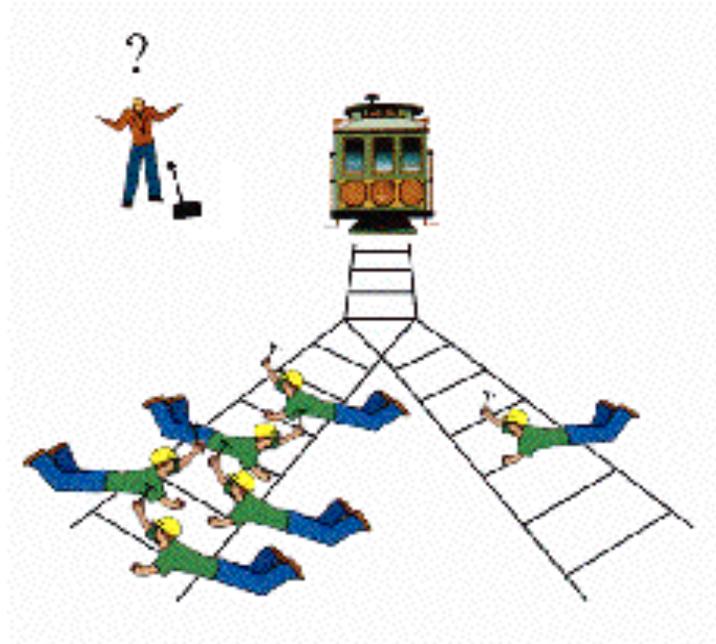


**BRANDEIS UNIVERSITY • SPRING 2013
PHIL 22B: PHILOSOPHY OF LAW
Professor Andreas Teuber**

“The Trolley Problem”



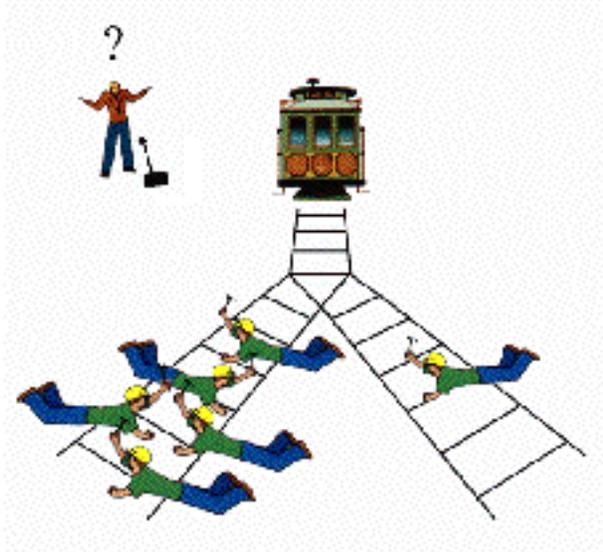
An Exercise in Moral Reasoning

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“The Trolley Problem”

I. The Problem



Imagine that a trolley is hurtling down the tracks. The hill is steep. It has lost its brakes. The driver of the trolley cannot stop its forward motion.

Imagine, too, now, that you are standing beside the tracks a bit further down the hill (the drawing could be better) and you see the trolley coming. You can also see that even further down from where you are standing are five workmen on the tracks and you realize immediately that the trolley will kill all five of the workmen were it to continue on its path. There is steep ravine covered with gravel on either side of the tracks where the men are working. If they try to scramble out of the way, they will only slide back onto to the tracks, into the path of the trolley and face certain death.

But suppose there is a side spur, off to the right and there is a lever in front of you that you can pull and that if you pull the lever you can switch the track and send the trolley off onto the side-spur and divert it from its path towards the workmen on the main track below. The lives of the five workmen will be spared. Unfortunately, you notice that further down the side-spur, the side-track, there is another workmen at work. There is a steep ravine on either side of the work area. If he were to try to scramble out of the way, he would only slide back onto the track and face certain death.

What should you do?

Pull the lever and send the trolley onto the side–spur, killing the one to save the five? Or let the trolley continue on its way and kill the five workmen?

What is your immediate intuitive response?

This is the trolley problem or, rather the first formulation of the trolley problem.

The “trolley problem” is believed to have been invented by an English philosopher by the name of Philippa Foot. She was born in 1920 and taught for many years at Oxford.



PHILIPPA FOOT

The trolley problem was further developed and made popular by another woman philosopher, Judith Jarvis Thomson, who teaches at M. I. T.

It is now used as an exercise in many law schools as well as many introductory ethics courses around the country as well as in Great Britain and Australia.



JUDITH JARVIS THOMSON

Why did you respond in the way you did? What is your reason for, say, pulling the lever and sending the trolley onto the side-spur; killing the one to save the five? Or if you thought it would be wrong to pull the lever and let the five workmen die, what is your reason for believing that?

Not so long ago the BBC did a poll of more than fourteen thousand of its listeners and found that 77% per cent would pull the lever and turn the trolley. That is a fairly high percentage, no? It suggests a fairly high degree of consensus.

Where do you come out? in the majority or the minority?

What reason would you give for your choice? And what about the numbers? Do they count? Is it always better to sacrifice one to save five, to kill one to save five or is that too simple? Are there other values we ought to take into account besides the numbers?

What do you think?

And, then, after thinking for a bit, consider the following:

The Emergency Room Case

Imagine a homeless person enters an emergency room of a large city hospital. Imagine that after a quick check, the homeless person is judged to be “fit as a fiddle,” in excellent good health. Now imagine the hospital has five patients on the upper floors in need of a transplant: two in need of a kidney, two in need of a lung and one in need of a heart.

Imagine that the heart, lungs and kidneys of the homeless make a good match for each of the five. Say, too, that unless each of the five receive a transplant of the required organ, he or she will die straightaway. Their only hope for survival are the lungs, kidneys and heart of this homeless person. Why not harvest the organs from the homeless person and transplant his organs, thereby saving the lives of five for the price of one? Imagine you are the doctor on call in the emergency room at this moment. What should you do?

Again: what is your immediate, intuitive response?

Is it permissible to kill the homeless person, harvest his organs and save the five patients who are each in need of an organ transplant?

If not, what is the difference between the emergency room case and the trolley problem case (above)?

In both cases there is the opportunity to save five lives for the price of one.

What's the difference?

There are, of course, differences between the two cases. One takes place in a hospital; the other outside on some trolley tracks. One case, the trolley case, involves you in the role of a bystander in the other you in the role of a doctor in an emergency room.

But do these differences make a moral difference? Remember, the question is not "what would you do?" but "what should you do?"

What do you think is permissible?

Some people just like you and me think there is a morally significant difference between the two cases. One reason they think so is because they think in the emergency room case there is a complex institutional system in play. The decision to take the life of the homeless person is a decision that has to be made by someone drawn from the medical profession, a doctor, who very likely has taken the Hippocratic oath, someone who has sworn to "do no harm." In this case, of course, more lives would be saved than lost but to get to the saving, one life would have to be taken and doctors have sworn to do no harm.

Some people upon hearing the emergency case also express the concern that if it's decided to harvest the homeless person's organs for transplant, others in the community upon hearing of this practice may be reluctant to visit emergency rooms for fear of finding themselves in a similar position as our homeless person.

And over the long haul, this would not be good because people who are ill will be hesitant to check into emergency rooms for fear of losing their organs and their illness will go undetected and they will suffer and perhaps die from lack of treatment.

As a result of speculations such as these, Judith Jarvis Thomson came up with a variation of Phillipa Foot's "Emergency Room Case," a case that was like the it but without the social and institutional complications.

Judith Thomson suggested we imagine the following:

The Footbridge Case



Imagine that a trolley is hurtling down the tracks. The hill is steep. It has lost its brakes. The driver of the trolley cannot stop its forward motion.

Imagine, too, now, that you are standing on a footbridge over the tracks a bit further down the hill and you can see the trolley coming. You can also see, further down from where you are standing, five workmen on the tracks and you realize immediately that the trolley will kill all five of the workmen were it to continue on its path.

There is a steep ravine covered with gravel on either side of the tracks where the men are working. If they try to scramble out of the way, they will only slide back onto to the tracks, into the path of the trolley and face certain death.

But suppose there is a fairly large person who is also standing on the footbridge. He is standing on the far side, by the rail, enjoying the view. You realize that if you pushed this person, this fairly large person, over the rail, onto the tracks, the trolley would be stopped although this person will be killed, the five, the five workmen would be spared. What should you do? Push the fairly large person over the rail, killing him, killing the one to the save five or should you let the trolley continue on its way?

What is your immediate intuitive response?

What will you do? And why?

