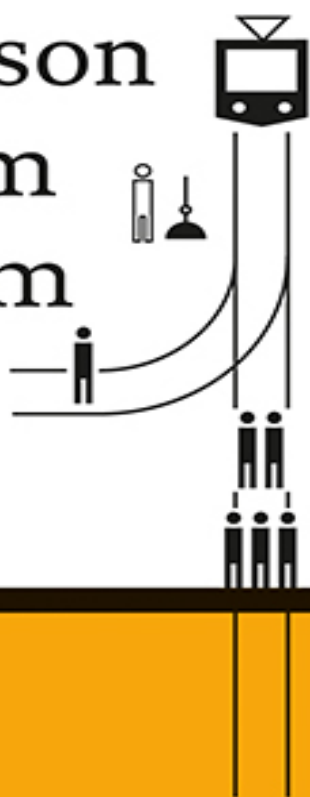


Judith Jarvis Thomson
The Trolley Problem
Das Trolley-Problem
Englisch / Deutsch



Reclam

Great Papers Philosophie

Judith Jarvis Thomson
The Trolley Problem
Das Trolley-Problem

Englisch / Deutsch

Übersetzt und herausgegeben von Adriano Mannino und
Nikil Mukerji

Reclam

2020 Philipp Reclam jun. Verlag GmbH, Siemensstraße 32,
71254 Ditzingen

Abdruck mit freundlicher Genehmigung der Yale Law
Journal Company. Erlaubnis erteilt durch Copyright
Cleareance Center, Inc.

Covergestaltung: Cornelia Feyll, Friedrich Forssman
Abbildungen im Nachwort: Iga Alberska
(www.igaalberska.com).

Gesamtherstellung: Philipp Reclam jun. Verlag GmbH,
Siemensstraße 32, 71254 Ditzingen

Made in Germany 2020

RECLAM ist eine eingetragene Marke der Philipp Reclam
jun. GmbH & Co. KG, Stuttgart

ISBN 978-3-15-961721-3

ISBN der Buchausgabe 978-3-15-019658-8

www.reclam.de

Inhalt

The Trolley Problem

Das Trolley-Problem

Zu dieser Ausgabe

Literaturhinweise

Nachwort: Das Trolley-Problem: Ein mehrgleisiger

Lösungsversuch

Zur Autorin

[5] The Trolley Problem

Das Trolley-Problem

[6] The Trolley Problem

Judith Jarvis Thomson[†]

I.

Some years ago, Philippa Foot drew attention to an extraordinarily interesting problem.¹ Suppose you are the driver of a trolley. The trolley rounds a bend, and there come into view ahead five track workmen, who have been repairing the track. The track goes through a bit of a valley at that point, and the sides are steep, so you must stop the trolley if you are to avoid running the five men down. You step on the brakes, but alas they don't work. Now you suddenly see a spur of track leading off to the right. You can turn the trolley onto it, and thus save the five men on the straight track [8] ahead. Unfortunately, Mrs. Foot has arranged that there is one track workman on that spur of track. He can no more get off the track in time than the five can, so you will kill him if you turn the trolley onto him. Is it morally permissible for you to turn the trolley?

Everybody to whom I have put this hypothetical case says, Yes, it is.² Some people say something stronger than that it is morally *permissible* for you to turn the trolley: They say that morally speaking, you *must* turn it – that morality requires you to do so. Others do not agree that morality [1396] requires you to turn the trolley, and even feel

a certain discomfort at the idea of turning it. But everybody says that it is true, at a minimum, that you *may* turn it – that it would not be morally wrong in you to do so.

Now consider a second hypothetical case. This time you are to imagine yourself to be a surgeon, a truly great surgeon. Among other things you do, you transplant organs, [10]and you are such a great surgeon that the organs you transplant always take. At the moment you have five patients who need organs. Two need one lung each, two need a kidney each, and the fifth needs a heart. If they do not get those organs today, they will all die; if you find organs for them today, you can transplant the organs and they will all live. But where to find the lungs, the kidneys, and the heart? The time is almost up when a report is brought to you that a young man who has just come into your clinic for his yearly check-up has exactly the right blood-type, and is in excellent health. Lo, you have a possible donor. All you need do is cut him up and distribute *his* parts among the five who need them. You ask, but he says, “Sorry. I deeply sympathize, but no.” Would it be morally permissible for you to operate anyway? Everybody to whom I have put this second hypothetical case says, No, it would not be morally permissible for you to proceed.

Here then is Mrs. Foot’s problem: *Why* is it that the trolley driver may turn his trolley, though the surgeon may not remove the young man’s lungs, kidneys, and heart?³ In both cases, one will die if the agent acts, but five will live [12]who would otherwise die – a net saving of four lives.

What difference in the other facts of these cases explains the moral difference between them? I fancy that the theorists of tort and criminal law will find this problem as interesting as the moral theorist does.

II.

Mrs. Foot's own solution to the problem she drew attention to is simple, straightforward, and very attractive. She would say: Look, the surgeon's choice is between operating, in which case he kills one, and not operating, in which case he lets five die; and killing is surely worse than letting die⁴ – indeed, so much worse that we can even say

(I) Killing one is worse than letting five die. [1397]

So the surgeon must refrain from operating. By contrast, the trolley driver's choice is between turning the trolley, in [14] which case he kills one, and not turning the trolley, in which case he does not *let five die*, he positively *kills* them. Now surely we can say

(II) Killing five is worse than killing one.

But then that is why the trolley driver may turn his trolley: He would be doing what is worse if he fails to turn it, since if he fails to turn it he kills five.

I do think that that is an attractive account of the matter. It seems to me that if the surgeon fails to operate, he does not kill his five patients who need parts; he merely lets them die. By contrast, if the driver fails to turn his trolley, he does not merely let the five track workmen die; he drives his trolley into them, and thereby kills them.

But there is good reason to think that this problem is not so easily solved as that.

Let us begin by looking at a case that is in some ways like Mrs. Foot's story of the trolley driver. I will call her case *Trolley Driver*; let us now consider a case I will call *Bystander at the Switch*. In that case you have been strolling by the trolley track, and you can see the situation at a glance: The driver saw the five on the track ahead, he stamped on the brakes, the brakes failed, so he fainted. What to do? Well, here is the switch, which you can throw, thereby turning [16] the trolley yourself. Of course you will kill one if you do. But I should think you may turn it all the same.⁵

Some people may feel a difference between these two cases. In the first place, the trolley driver is, after all, captain of the trolley. He is charged by the trolley company with responsibility for the safety of his passengers and anyone else who might be harmed by the trolley he drives. The bystander at the switch, on the other hand, is a private person who just happens to be there.

Second, the driver would be driving a trolley into the five if he does not turn it, and the bystander would not – the bystander will do the five no harm at all if he does not throw the switch.

I think it right to feel these differences between the cases.

Nevertheless, my own feeling is that an ordinary person, a mere bystander, may intervene in such a case. If you see

something, a trolley, a boulder, an avalanche, heading towards five, and you can deflect it onto [1398] one, it really does seem that – other things being equal – it would be permissible for you to *take* charge, *take* responsibility, and deflect the thing, whoever you may be. Of course you run a moral risk if you do, for it might be that, unbeknownst to [18] you, other things are not equal. It might be, that is, that there is some relevant difference between the five on the one hand, and the one on the other, which would make it morally preferable that the five be hit by the trolley than that the one be hit by it. That would be so if, for example, the five are not track workmen at all, but Mafia members in workmen's clothing, and they have tied the one workman to the right-hand track in the hope that you would turn the trolley onto him. I won't canvass all the many kinds of possibilities, for in fact the moral risk is the same whether you are the trolley driver, or a bystander at the switch.

Moreover, second, we might well wish to ask ourselves what exactly is the difference between what the driver would be doing if he failed to turn the trolley and what the bystander would be doing if he failed to throw the switch. As I said, the driver would be driving a trolley into the five; but what exactly would his driving the trolley into the five consist in? Why, just sitting there, doing nothing! If the driver does just sit there, doing nothing, then that will have been how come he drove his trolley into the five.

I do not mean to make much of that fact about what the driver's driving his trolley into the five would consist in, for

it seems to me to be right to say that if he does not turn the trolley, he does drive his trolley into them, and does thereby kill them. (Though this does seem to me to be right, it is not easy to say exactly what makes it so.) By [20] contrast, if the bystander does not throw the switch, he drives no trolley into anybody, and he kills nobody.

But as I said, my own feeling is that the bystander *may* intervene. Perhaps it will seem to some even less clear that morality requires him to turn the trolley than that morality requires the driver to turn the trolley; perhaps some will feel even more discomfort at the idea of the bystander's turning the trolley than at the idea of the driver's turning the trolley. All the same, I shall take it that he *may*.

If he *may*, there is serious trouble for Mrs. Foot's thesis (I). It is plain that if the bystander throws the switch, he causes the trolley to hit the one, and thus he kills the one. It is equally plain that if the bystander does not throw the switch, he does not cause the trolley to hit the five, he does not kill the five, he merely fails to save them - he lets them die. His choice therefore is between throwing the switch, in which case he kills one, and not throwing the switch, in which case he lets five die. If thesis (I) were [1399] true, it would follow that the bystander may not throw the switch, and that I am taking to be false.

[22] III.

I have been arguing that

(I) Killing one is worse than letting five die

is false, and a fortiori that it cannot be appealed to explain why the surgeon may not operate in the case I shall call *Transplant*.

I think it pays to take note of something interesting which comes out when we pay close attention to

(II) Killing five is worse than killing one.

For let us ask ourselves how we would feel about *Transplant* if we made a certain addition to it. In telling you that story, I did not tell you why the surgeon's patients are in need of parts. Let us imagine that the history of their ailments is as follows. The surgeon was badly overworked last fall – some of his assistants in the clinic were out sick, and the surgeon had to take over their duties dispensing drugs. While feeling particularly tired one day, he became careless, and made the terrible mistake of dispensing chemical X to five of the day's patients. Now chemical X works differently in different people. In some it causes lung [24] failure, in others kidney failure, in others heart failure. So these five patients who now need parts need them because of the surgeon's carelessness. Indeed, if he does

not get them the parts they need, so that they die, he will have killed them. Does that make a moral difference? That is, does the fact that he will have killed the five if he does nothing make it permissible for him to cut the young man up and distribute his parts to the five who need them?

We could imagine it to have been worse. Suppose what had happened was this: The surgeon was badly overextended last fall, he had known he was named a beneficiary in his five patients' wills, and it swept over him one day to give them chemical X to kill them. Now he repents, and would save them if he could. If he does not save them, he will positively have murdered them. Does *that* fact make it permissible for him to cut the young man up and distribute his parts to the five who need them?

I should think plainly not. The surgeon must not operate on the young man. If he can find no other way of saving his five patients, he will *now* have to let them die – despite the fact that if he now lets them die, he will have killed them.
[1400]

We tend to forget that some killings themselves include lettings die, and do include them where the act by which the agent kills takes time to cause death – time in which the agent can intervene but does not.

[26] In face of these possibilities, the question arises what we should think of thesis (II), since it *looks* as if it tells us that the surgeon ought to operate, and thus that he may permissibly do so, since if he operates he kills only one instead of five.

There are two ways in which we can go here. First, we can say: (II) does tell us that the surgeon ought to operate, and that shows it is false. Second, we can say: (II) does not tell us that the surgeon ought to operate, and it is true.

For my own part, I prefer the second. If Alfred kills five and Bert kills only one, then questions of motive apart, and other things being equal, what Alfred did *is* worse than what Bert did. If the surgeon does not operate, so that he kills five, then it will later be true that he did something worse than he would have done if he had operated, killing only one – especially if his killing of the five was murder, committed out of a desire for money, and his killing of the one would have been, though misguided and wrongful, nevertheless a well-intentioned effort to save five lives. Taking this line would, of course, require saying that assessments of which acts are worse than which other acts do not by themselves settle the question what it is permissible for an agent to do.

But it might be said that we ought to by-pass (II), for perhaps what Mrs. Foot would have offered us as an explanation of why the driver may turn the trolley in *Trolley Driver* is not (II) itself, but something more complex, such as

[28] (II') If a person is faced with a choice between doing something *here and now* to five, by the doing of which he will kill them, and doing something else *here and now* to one, by the doing of which he will kill only the one, then

(other things being equal) he ought to choose the second alternative rather than the first.

We may presumably take (II') to tell us that the driver ought to, and hence permissibly may, turn the trolley in *Trolley Driver*, for we may presumably view the driver as confronted with a choice between here and now driving his trolley into five, and here and now driving his trolley into one. And at the same time, (II') tells us nothing at all about what the surgeon ought to do in *Transplant*, for he is not confronted with such a choice. If the surgeon operates, he does do something by the doing of which he will kill only one; but if the surgeon does not operate, he does not do something by the doing of which he kills five; he merely fails to do [1401] something by the doing of which he would make it be the case that he has not killed five.

I have no objection to this shift in attention from (II) to (II'). But we should not overlook an interesting question that lurks here. As it might be put: *Why* should the present tense matter so much? Why should a person prefer killing one to killing five if the alternatives are wholly in front of him, but not (or anyway, not in every case) where one of them is partly behind him? I shall come back to this question briefly later.

[30] Meanwhile, however, even if (II') can be appealed to in order to explain why the trolley driver may turn his trolley, that would leave it entirely open why the bystander at the switch may turn *his* trolley. For he does not drive a

trolley into each of five if he refrains from turning the trolley; he merely lets the trolley drive into each of them.

So I suggest we set *Trolley Driver* aside for the time being. What I shall be concerned with is a first cousin of Mrs. Foot's problem, viz.: Why is it that the bystander may turn his trolley, though the surgeon may not remove the young man's lungs, kidneys, and heart? Since *I* find it particularly puzzling that the bystander may turn his trolley, I am inclined to call this The Trolley Problem. Those who find it particularly puzzling that the surgeon may not operate are cordially invited to call it The Transplant Problem instead.

IV.

It should be clear, I think, that “kill” and “let die” are too blunt to be useful tools for the solving of this problem. We ought to be looking within killings and savings for the ways in which the agents would be carrying them out.

It would be no surprise, I think, if a Kantian idea occurred to us at this point. Kant said: “Act so that you treat humanity, whether in your own person or in that of another, [32] always as an end and never as a means only.” It is striking, after all, that the surgeon who proceeds in *Transplant* treats the young man he cuts up “as a means only”: He literally uses the young man’s body to save his five, and does so without the young man’s consent. And perhaps we may say that the agent in *Bystander at the Switch* does not use his victim to save his five, or (more generally) treat his victim as a means only, and that that is why he (unlike the surgeon) may proceed.

But what exactly is it to treat a person as a means only, or to use a person? And why exactly is it wrong to do this? These questions do not have obvious answers.⁶ [1402]

Suppose an agent is confronted with a choice between doing nothing, in which case five die, or engaging in a certain course of action, in which case the five live, but one dies. Then perhaps we can say: If the agent chooses to engage in the course of action, then he uses the one to save the five only if, had the one gone out of existence just

before the agent started, the agent would have been unable to save the five. That is true of the surgeon in *Transplant*. He needs the young man if he is to save his five; if the young [34] man goes wholly out of existence just before the surgeon starts to operate, then the surgeon cannot save his five. By contrast, the agent in *Bystander at the Switch* does not need the one track workman on the right-hand track if he is to save his five; if the one track workman goes wholly out of existence before the bystander starts to turn the trolley, then the bystander *can* all the same save his five. So here anyway is a striking difference between the cases.

It does seem to me right to think that solving this problem requires attending to the means by which the agent would be saving his five if he proceeded. But I am inclined to think that this is an overly simple way of taking account of the agent's means.

One reason for thinking so⁷ comes out as follows. You have been thinking of the tracks in *Bystander at the Switch* as not merely diverging, but continuing to diverge, as in the following picture: pick up figure 1

