

Entrance examination of the HIGO program, Kumamoto University

Short Essay

Duration of examination 90 min

Attention

1. Please check to ensure all pages are present in the correct order. There are 10 pages (this cover sheet, 3 pages of question sheets and 6 pages of answer sheets).
2. There are two questions, I and II. Select either question to be answered.
3. Use the answer sheets of the selected question and write your applicant number at the top of each answer sheet.

I

According to a draft of an anti-terrorism law in Germany, a passenger airplane should be shot down if it could be assumed that the aircraft was being used against the lives of others and if downing of it was the only means of preventing this present danger. This is drafted after the attacks of 9/11 in mind.

Read the sentences below and answer the following questions:

Does the threat of mass suffering and death justify torture, pre-emptive strikes, invasion of privacy, rendition*, and other violations of fundamental rights? How are we to adjudicate such questions from a theoretical moral perspective?

These doubts are new expressions of old disputes. The object of dispute, although probably of broader scope, is often treated in relation to a family of legal and moral phenomena we shall call *extreme cases*. These are cases characterized by radically irregular circumstances, typically involving catastrophic consequences the avoiding of which requires severe measures. The leading examples all involve situations in which actions that are normally regarded illegal and immoral are necessary to prevent great harms, usually the death of many people. Extreme cases evoke a familiar dilemma. On the one hand, there are strong deontological** sentiments – sentiments that suggest that we ought not to torture or kill innocent individuals even if this is likely to save lives. The prohibitions on killing and torturing are grounded in the sacredness of life (or life's intrinsic*** value) that is used sometimes to justify the claim that the life of a person ought not to be sacrificed even for the sake of saving the lives of others. On the other hand, there is an equally powerful conviction that when the threat is grave, when consequences might be catastrophic, lives may have to be sacrificed and rights may have to be infringed upon. This intuition is often triggered by the invocation of extreme scenarios involving dirty bombs in urban centres and uncooperative terrorist prisoners. The case of the rogue**** plane brought before the German court triggers the same dilemma. The killing of innocent civilians by the state seems morally and constitutionally intolerable. Yet, at the same time, allowing a plane to crash into a densely populated area is clearly an unacceptable alternative.

Two positions reject the existence of the dilemma entirely, thereby indicating the outer limits of the debate; another traditional view represents an intermediate stance. The first rejects the deontological intuition and claims that consequences – and consequences alone – are to determine what ought to be done in all cases, extreme cases included. The other extreme is occupied by absolute deontology. This position rejects the intuition that deontological rules must sometimes be infringed to prevent catastrophic outcomes. According to the absolute deontologist one is never allowed to kill the innocent or to violate rights, *come what may*. A notable intermediate position between consequentialism and absolute deontology is threshold deontology. Threshold deontologists maintain that deontological constraints apply so long as the negative consequences remain under a certain threshold. Once the threshold is reached, consequentialist consideration should apply.

(From A.Harel & A Sharon, "Necessity knows no law": On extreme cases and uncodifiable necessity")

*rendition: the practice of sending foreign suspects to be questioned in another country where the laws about the treatment of prisoners are less strict

**deontology: an ethical position according to which an action is justified only by the rules which are independent of the consequences that action may bring about

***intrinsic: belonging to or part of the real nature

****rogue: behaving in a different way from other similar people or things, often causing damage

Question A: If you are a threshold deontologist, what should you say about the case of the plane which is hijacked by terrorists and will be used to kill people in a city?

(within 200 words)

Question B: In extreme cases, what, do you think, is the best position; consequentialism, absolute deontology, or threshold deontology? And state the reason for thinking so.

(within 300 words)

II

Today a free market economy seems to co-exist easily with an authoritarian state, such as China, Russia, Egypt Syria, etc. What is the relationship between market freedom and political freedom? Do market freedoms lead to more political freedom? You may refer to one or more specific country cases.