

## *Forthcoming in Analysis*

### Permission to Cheat

*The trouble began when Professor Deadlock announced to his class on Cheating: “You will have a formidable final examination. You are permitted to cheat.”*

*Seizing the opportunity to apply what they had learned, the students declared a cheating competition. Outspoken participants (future lawyers, politicians, and captains of industry) bragged about their ruses. But to their chagrin, an ethics student prevailed.*

*The second surprise was that Dean Louis Renault, acting on a report in the student newspaper, charged the students with cheating. At Student Court the seminar participants protested:*

Student Spokesman: We had permission to cheat!

Dean Renault: Being given permission to do something wrong does not entitle you to do it.

Business student: According to one of the authors we studied, there is no cheating when “deliberate rule breakage is condoned by the accepted strategic rules of that particular game.” (Quinn 1975,

81 fn.). For instance, basketball players openly foul an adversary so that the referee will stop play and prevent two points from being scored.

Physical Education student: Careful there, the basketball player does get penalized. Furthermore, another author we studied, Warren Fraleigh (1995, 185) *does* count tactical fouls as cheating.

Dean Renault: The basketball player is penalized for grabbing his opponent or some other specific infraction. What did Professor Deadlock specifically permit?

Professor Deadlock: I permitted cheating itself, nothing more, nothing less.

Politics student: So you approved of our cheating.

Professor Deadlock: Toleration is compatible with disapproval. Liberals from John Stuart Mill to John Rawls emphasize this when he requires a strong justification for any restriction on liberty.

Dean Renault: Were you employing the honor system?

Professor Deadlock: No, I did not intend to punish any cheaters who came to my attention. I resemble a pacifist who disapproves of violence but forswears resistance.

Logic Student: One of the books Professor Deadlock assigned, John Searle's Expression and Meaning, classifies permission as a directive. So Searle would agree that we were directed to cheat.

Professor Deadlock: Searle concedes that permission is an odd speech act. With typical directives (prohibitions, orders, requests, pleas), the speaker wants to get something done or prevent something from being done. With permissions, the speaker *refrains* from ordering or forbidding. A mother can consistently tell her son 'You are permitted to smoke but I am against smoking'. Her permission "consists in removing antecedently existing restrictions on his doing it, and is therefore the illocutionary negation of a directive with a negative propositional content, its logical form is  $\sim!(\sim p)$ ." (Searle 1979, 22) In other words, 'I permit you to do x' is equivalent to 'I do not forbid you from doing x'.

Logic student: But you also assigned authors who criticize Searle. For instance, Christopher New objects that Searle overlooks abstentions: A superior can consistently respond to his subordinate's proposal with "I do not order you not (forbid you) to do it, and I do not give you permission to do it. I need more time to consider it." (1988, 214).

Anthropology student: But this does not matter because your permission was active. The natural way to understand ‘You are permitted to cheat’ is as an invitation to cheat.

Professor Deadlock: The natural way can still be mistaken . . .  
[*Students chant: “Hemlock for Deadlock, Hemlock for Deadlock, . . .”*]

Dean Renault: Silence! . . . Professor, you are permitted to speak.

Professor Deadlock: Thank you, as I was saying . . .

Dean Renault: Why are you speaking?

Professor Deadlock: You invited me to speak.

Dean Renault: All I said was “You are permitted to speak.” On your theory, this was not an invitation to speak [*Appreciative laughter from the students.*]

Anthropology student: The natural interpretation is likely to be the correct because our hunter-gatherer ancestors evolved to detect cheaters. However bad we may be at deduction and probability, we are adept at detecting cheaters.

Neuroscientist student: Yes, a large portion of the brain is recruited to monitoring reciprocity and promise keeping. Professor

Deadlock is as guilty of cheating as we are because he encouraged us!

Law student: Hush! We wish to prove our innocence, not Professor Deadlock's guilt. Your countercharge implies that both Professor Deadlock and the students did something wrong. But we did nothing wrong.

Politics student: Yes, let us calculate. Suppose we persuaded Dean Renault that if we did something wrong, then Professor Deadlock is culpable for permitting it. How does that help us? He could punish us all.

Theology student: Amen! We should concede that Professor Deadlock is not a moral alchemist; he cannot turn infractions into permissible acts. All we need to claim is that Professor Deadlock had authority over what counts as cheating on his own test. After all, Professor Deadlock grants he said, "You are permitted to cheat". This licensed all normally banned actions. Ironically, by permitting cheating, Professor Deadlock made cheating impossible!

*The students followed the combined counsel of law, politics, and theology. Their spokesman even complimented Professor Deadlock*

*on orchestrating such a memorable field trip to student court.*

*Professor Deadlock, however, was intransigent:*

Professor Deadlock: `You are permitted to cheat' does not license anything besides cheating. My students now allege that this remark made it impossible for them to cheat. If this were so, the students only received permission to do something that is rendered impossible by the very act of permitting it. No *actual* act can be licensed by a permission to do the impossible.

*The students huddled in response to this metaphysical obstacle.*

*They decided to once again revise their defense.*

Student spokesman: We retract our claim that no one can act upon the permission `You are permitted to cheat'. Our new position is that, in the context of test taking, `cheating' refers to activities such as copying, consulting classmates, and referring to textbooks. Therefore, Professor Deadlock's remark `You are permitted to cheat' was equivalent to him saying `You are permitted to copy, consult classmates, refer to textbooks, and so on'.

Professor Deadlock: Equivalence is a symmetrical relation. If the two statements are equivalent, then the students cheated.

Politics student: What Professor Deadlock *meant* to say was that the students were permitted to “cheat” i. e. to engage in activities that are normally or formerly banned. Scare quotes turn a normative term into a descriptive term.

Literature student: Yes, the quotation marks are needed to consistently interpret a shift in standards. Captain Queeg in Herman Wouk’s The Caine Mutiny declares: "Aboard my ship, excellent performance is standard. Standard performance is sub-standard. Sub-standard performance is not allowed." Queeg is not committed to the contradiction that standard performance is sub-standard. Captain Queeg means “standard” performance is sub-standard. The quotation marks are critical.

Professor Deadlock: No, I said what I meant and I meant what I said: the students are permitted to *cheat*. No scare quotes were intended, so none exist.

Law student: True, it sounds like you were speaking plain English. But “You are permitted to cheat” only has meaning in the

context of a possible infraction. The cheater never just cheats. He cheats by virtue of doing something else at a more basic level.

Linguistics student: Yes, `cheating' is parasitic on lower level infractions. Saying `Cheating is permitted' is an incomplete statement.

Professor Deadlock: But then prohibitions of cheating, such as rule 8 of Bernard Gert's system, are equally incomplete.

Ethics student: [*Finally looking up from his habitual game of solitaire.*] The incompleteness may generalize. Gert writes "cheating provides in miniature the nature of immoral action" because the cheater seeks an advantage over others in a voluntarily undertaken activity by breaking public rules to which all other rational, impartial participants would demand conformity (2005, 132). To get immorality, just "remove any reference to a voluntary activity, and include all rational persons in the class of people to whom the public rules apply".

Linguistics Student: Are you suggesting `Why be moral?' lacks a substantive answer?

Ethics student: Given the analogy between cheating and immorality, 'immoral' is parasitic on lower level infractions. One cannot be immoral in the way one can lie.

Logic student: But 'You are (morally) forbidden to be immoral' is a tautology. So 'You are (morally) permitted to be immoral' should be contradictory rather than meaningless.

Business student: You do not need to be morally perfect. A little immorality is permissible.

Logic student: Well, not *morally* permissible.

Business student: So morality requires me to morally perfect?

Ethics student: Yes, morality requires you to always do what is right and to never do what is wrong (McGinn 1992, 33).

Anthropology student: I would not wish such perfectionism on my worst enemy!

Business student: I would!

Politics student: Perhaps our worst enemies do seek to be perfect. They are corrupted by moral ambition.

Linguistics student: I should try to correctly spell *each* word I write but I should not try to correctly spell *all* the words I ever write

(Clark 1993, 55). What is individually feasible need not be collectively feasible.

Physical education student: The requirement still stands even if one ought not try to meet it.

Theology student: We have been underestimating the standard of moral perfection. Someone who acts above and beyond the call of duty is better than someone who merely does their duty. So doing what you are obliged to do is not enough for moral perfection (Conee 1994, 816).

Physical education student: Major League Baseball defines a 'perfect game' as a victory in which a single pitcher prevents the opposition from reaching first base over nine innings. The pitching in some perfect games is better than others but the pitchers equally meet the quota: no runs, no hits, no walks, and no hit batsmen.

Ethics student: Yes, perfection is the absence of a designated set of imperfections. Moral perfection is the absence of immoralities.

Dean Renault: We will never settle this debate.

Logic student: Resolvable or not, the intelligibility of the debate is evidence that 'You are (morally) permitted to be immoral'

is not meaningless. By Gert's analogy, it shows 'You are permitted to cheat' is meaningful.

Law student: There are practical advantages to characterizing 'You are permitted to cheat' as meaningful. We did copy, consult classmates, and refer to textbooks. A meaningless "permission" would not exonerate us.

Theology student: Meaningless utterances can *nullify* rules. When Professor Deadlock said, "You are permitted to cheat" he voided the university code against cheating. In Brothers Karamazov Fyodor Dostoevsky writes, "If God does not exist, everything is permitted." But God would not have to die in order for everything to be permitted. All God would need to do is to declare, "Everything is permitted".

Literature student: Actually, Dostoevsky never wrote 'If God does not exist, everything is permitted'. This is one of most quoted non-existent passages in all of literature.

Theology student: Well, it still expresses the main contention of Dostoevsky's brooding character Ivan Karamazov – and of French existentialists such as Jean Paul Sartre.

Logic student: I agree. But if God does not exist, then it is not the case that there is anything that He permits. The slogan of the divine command theorist (and his odd bedfellow the existentialist) should be 'If God does not exist, then nothing is forbidden or permitted'.

Ethics student: We could just switch to Sextus Empiricus's analogy with purgatives. Sextus's skeptical remarks were not intended to persuade us to believe skepticism. Instead, Sextus' remarks were to be ultimately expelled along with everything else.

Professor Deadlock: I welcome this flurry of erudition. Nevertheless, the analogy does not hold. Cheating would be wrong even if God permitted cheating. To harken back to Plato's Euthyphro: God forbids cheating because cheating is wrong, cheating is not made wrong by God forbidding it.

Theology student: According to the divine command theory of morality, some acts are made obligatory by virtue of God's command. On this theory, if God commands cheating, then cheating would actually be a duty.

Professor Deadlock: This just shows a defect with the divine command theory. If God orders us to cheat then the theory implies

that cheating is permissible. But as you earlier noted, if cheating is permissible, then it is impossible to cheat. So God would be requiring the impossible.

Politics student: What is so bad about commanding the impossible?

Logic student: Jaakko Hintikka condemns impossible commands as immoral: Anything that can be done only if the world is destroyed is immoral. Doing the impossible entails the destruction of the world. Therefore, doing the impossible is immoral. It is immoral to command what is immoral. So it is immoral to command the impossible. By Hintikka's reasoning, most logic instructors are immoral because most of them have, at some time, inadvertently ordered students to prove theorems that are not even true.

Dean Renault: How does all this speculation bear on the matter at hand?

Anthropology student: I think all the confusion shows that there really was no cheating. We tried to cheat but it was impossible given Professor Deadlock's statement "You are permitted to cheat".

Professor Deadlock: Attempted cheating is cheating.

Ethics student: A nervous student might sweat the notes off his hand and so fail to cheat. Immanuel Kant would agree that the student could still be punished for his intention to cheat.

Professor Deadlock: Intentions may fail to mature into attempts.

Law student: A test-taker who uses voodoo would not even be guilty of attempted cheating. He is innocent for much the same reason as sticking pins in a doll to kill your enemy is not attempted murder. Culpable attempts must be *reasonable*.

Anthropology student: `Reasonable' varies with culture. Egyptologists have unearthed court records of courtiers attempting to murder the pharaoh with "voodoo" dolls and curse tablets. They were convicted and sentenced to death.

Business student: The confusion may be over what we were trying to achieve. Michael Sean Quinn defines a cheater as "someone who knows the rules of the game, purports to follow them, but *covertly* and deliberately breaks them (usually for his own advantage)." (1975, 76) Since we were openly cheating, we could not really have been cheating.

Professor Deadlock: This defense is contradictory: If you openly do X, then you did X. In any case, cheating can be open. When someone brazenly cuts in line, everyone in the queue sees the violation. They may acquiesce to some flagrant cutting because they prefer their compromised position in the queue to there being no queue or to there being a confrontation with the cutter.

Politics student: Stuart Green defines cheating in a way that does not require deception: “X must (1) violate a fair and fairly enforced rule, (2) with the intent to obtain an advantage over a party with whom she is in a cooperative, rule-bound relationship.” (2006, 57) Since Professor Deadlock said, “You are permitted to cheat” there was no enforcement of rules against copying, consulting textbooks, and so forth.

Dean Renault: No enforcement? I remind you that you are on trial!

Politics student: But unexpectedly! Green’s definition should be amended so that the cheater violates a rule that *he believes* will be fairly enforced. Whether it is actually enforced is irrelevant.

Literature student: Balzac wrote, “Love is a game in which one always cheats.” Under the modified definition, Balzac could be right.

As long as each player thinks the *others* are playing fairly, the violations could be universal.

Politics student: Actually, they could all realize that everybody is cheating as long each cheater thought the others did not realize everyone is cheating.

Logic student: Why stop there? I say the cheater need only think that there is a lack of common knowledge about the lack of enforcement.

Business student: Domineering cheaters bulldoze through these refinements. Consider the swaggering boss who openly cheats at golf (Gert 2005, 130-131). He subordinates his employees by forcing them to acquiesce to his infractions.

Ethics Student: My personal objection to Green's definition is that he requires a victim. When I cheat at solitaire, I do not cheat anyone.

Physical Education Student: You cheat yourself.

Business student: A nice trick!

Logic Student: The enigma of self-cheating can be avoided by modeling 'cheat' on 'shake'. When I shake you to keep you awake, I shake someone. When I shudder, I do not shake anyone – even

myself. `Cheat', like `shake', has both a transitive and an intransitive reading.

Ethics student: Yes, I cheat at solitaire when I deliberately violate one of the practice-defining rules. There is nothing immoral with this type of norm violation. I may cheat at solitaire without an excuse or justification. Whenever I am tempted to cheat others, I therefore divert the impulse into solitaire.

Physical Education student: But then how did you win the cheating competition?

Ethics student: I studied.

Physical education student: Unfair! The competition was restricted to getting the highest score by cheating. Cheating at cheating is cheating!

*[Bemused Silence]*

Politics student: Was the ethics student even participating in the cheating competition? John Rawls' analysis of "practice-defining rules" implies that cheaters are only ostensibly playing (1955, 26). Alf Ross makes this explicit: "The rules of chess, since they define the game, cannot, strictly speaking, be violated. A player may of course cheat by making an irregular move. But in that case what is

going on is not, strictly speaking, chess. Cheating in chess requires passing off, undetected, an action as chess that is not really so.”

(1968, 54)

Literature student: This conflicts with the point made by Balzac about love: cheaters play the game – and often win! (Quinn 1976, 78)

Logic student: The conflict seems to resolve inevitably in favor of Balzac. If the ethics student was not cheating at the cheating game, then he was cheating. If he was cheating, he was cheating. Either way, he was cheating.

Anthropology student: Everything is relative. The ethics student cheated with respect to the rules of the cheating competition but not with respect to the school’s rules. . . . What should we do with this flimflammer?

Law student: Emulate him. I hereby retract my earlier admission that I copied from another student. I confess that I cheated in the same way as the ethics student.

Remaining students in chorus: We retract and confess too!

Dean Renault: I am shocked! Shocked, I tell you! Sophocles said, “I would prefer even to fail with honor than to win by

cheating”. But instead of competing fairly in the cheating contest, you have all cheated. Shame on you all!

But as noted by the anthropology student, the university code against cheating is restricted to infractions against the rules of the academy. The matter is out of my jurisdiction. Case dismissed!

\*The interlocutors have received many whispers of assistance. The most discernible voices have been Larry Crocker, Julia Driver, and Walter Sinnott-Armstrong.

#### References

- Clark, Michael 1993. On Wanting to Be Morally Perfect. Analysis 53/1: 54-56.
- Conee, Earl 1994. The Nature and the Impossibility of Moral Perfection. Philosophy and Phenomenological Research 54/4: 815-825.
- Fraleigh, Warren 1995. Why the Good Foul is Not Good. in William J. Morgan and Klaus V. Meier eds. Philosophic Inquiry in Sport 2<sup>nd</sup> edn. Champaign, IL: Human Kinetics Publishers, Inc.: 185-187.
- Gert, Bernard 2005. Morality. New York: Oxford University Press.

Green, Stuart 2006. Lying, cheating, and stealing: a moral theory of white-collar crime. Oxford: New York: Oxford University Press.

McGinn, Colin 1992. Must I Be Morally Perfect? Analysis 52/1: 32-34.

New, Christopher 1988. Permissions and Illocutionary Act Taxonomy. Analysis 48/4: 209-216.

Quinn, Michael Sean 1975. Practice Defining Rules Ethics 86: 76-86.

Rawls, John 1955. Two Concepts of Rules Philosophical Review 64: 3-32.

Ross, Alf 1968. Directives and Norms. New York: Humanities Press.

Searle, John 1979. Expression and Meaning. Cambridge: Cambridge University Press.