

Do Ends Justify Means?

Arguments about how one ought to act, judged by both introspection and my observations of other people, fit into two broad categories. One may be loosely described as consequentialist: You should decide how to act according to what consequences your acts can be expected to produce. The other is based on the idea that there are things one is not entitled to do, whatever the consequences. Robert Nozick, in *Anarchy, State and Utopia*, put it in terms of side constraints. You are entitled to pursue your objectives, should pursue your objectives, but only subject to absolute limits on what you may do in pursuit of those objectives. Such arguments are sometimes put in terms of other people's rights, rights which you may not violate.

Looking more carefully at my moral intuitions and other people's behavior, I conclude that the division is not as sharp edged as Nozick's description makes it sound. There are side constraints — one is not free to do anything that achieves good consequences. The ends do not, in that sense, justify the means. But the side constraints are not absolute. You may, even should, do bad things to achieve good ends if the disproportion between rights based cost and consequentialist benefit is sufficiently large. The ends do justify the means if the ends are sufficiently good and the means insufficiently bad.

I raised the issue in the second edition of my first book, *The Machinery of Freedom*. I raised it again in my novel *Salamander*. Prince Kieron is a major secondary character, brother and heir of the king and the royal official in charge of dealing with magery. One of his subordinates, Fieras, in the process of doing what the Prince wants him to do, uses illegal magery on Ellen, who is both a student and herself a very accomplished mage. She defeats his attempt, in the process providing to several of the magisters, professors in the kingdom's only college of magery, clear evidence of what he was doing. She then accuses him to his boss, whose job includes arranging for the punishment of people who break the laws that restrict the use of magic. After agreeing to prosecute Fieras, the Prince says:

"I apologize. ... and I concede the justice of your point. The King is not above the law. Nonetheless, I will not promise never to violate bounds or law myself, nor will I promise to instruct my servants never to do so. Law-breaking is a bad thing, whether by the King's servants or anyone else, but there are worse things, some of which it is my responsibility to deal with. I will promise not to violate bounds or law save in the most extreme circumstances, and to do my best to see that my servants will not, so that incidents such as the two you have described do not occur again. If my people are charged, as Fieras was, I will do my best to see that they get an honest trial. I am sorry, but that is the most I can offer."

Later in the book, Prince Kieron tricks Ellen and Coelus, a magister who is in love with her, into his power and threatens Ellen in order to force Coelus to complete an important piece of magical research — for details you will have to read the book.

The prince is not a villain. He is, on the whole, an admirable individual, doing his best to serve his brother the king and the kingdom his brother rules. He believes, reasonably although perhaps not correctly, that if he cannot get Coelus to do what he wants the likely consequence is that someone else will complete the research and use the result to kill the king and seize the throne. If his view

of the situation is correct he is in the situation described in the asteroid example of the previous chapter, although the disproportion between cost and benefit is not quite so extreme.

As evidence of my view of him, he ends up marrying Ellen's friend Mari, the intelligent, beautiful, and high status woman he has been courting. In the sequel, I went to a good deal of trouble to avoid killing him, despite the suspicion that doing so would strengthen the plot. One of my weaknesses as a writer is that I am a wimp, reluctant to kill off characters I like.

I cannot prove that any particular moral beliefs are correct; I doubt that anyone can. All I can report is the content of my moral intuitions, what seems right to me and what I can deduce about what seems right to other people from what they say and do. On that basis, I do not think that either the pure consequentialist or the hard-line rights based view can be correct. Consequences are not all that matters but they are part of what matters. Rights are not absolute constraints but neither are they mere rules of thumb to be discarded whenever there is good reason to think that doing so will produce somewhat improved results.

I have put the argument in the terms of constraints as rights, since that is the form in which it usually appears in the libertarian context, but the same issue arises in other contexts as well. One example is the Latin text *fiat justitia, ruat caelum*, “let justice be done, though the heavens fall.” As best I can tell, it is usually invoked by people who want their view of justice to prevail and are confident that it will not, in fact, bring down the sky. That fits my more general observation that people who argue for absolute constraints mostly believe that, by a convenient coincidence, obeying them will have good, not bad, consequences.

That is why I like to put the argument using hypotheticals where they don't.

So far my examples of situations where the end justifies the means have been either hypothetical or fictional. Here are two real world cases of people acting on that belief, both of which, I think, show why doing so is usually a mistake.¹

Implications of Academic Dishonesty

There was a flap some years ago over the appearance online of a video of Jonathan Gruber telling the truth about the Obamacare bill:²

This bill was written in a tortured way to make sure CBO did not score the mandate as taxes. If [Congressional Budget Office] scored the mandate as taxes, the bill dies. Okay, so it's written to do that. In terms of risk-rated subsidies, if you had a law which said that healthy people are going to pay in — you made explicit that healthy people pay in and sick people get money — it would not have passed... Lack of transparency is a huge political advantage. And basically, call it the stupidity of the American voter, or whatever, but basically that was really, really critical for the thing to pass. And it's the second-best argument. Look, I wish Mark was right that we could make it all transparent, but I'd rather have this law than not.

What he is saying, pretty clearly, is that he wishes one could both be honest and get good legislation passed but approves of dishonesty if necessary to get the job done.

¹ For an interesting fictional example, see *The Fly on the Wall* by Tony Hillerman.

² https://www.youtube.com/watch?time_continue=15&v=G790p0LcgbI&feature=emb_logo

My guess is that his view is shared not only by most politicians but by most academics involved in the political system, although I expect many would be unwilling to say so, especially on camera. Part of the reason I believe that is an experience almost fifty years ago.

I was spending a summer in Washington as a congressional intern. My congressman lent me for four days a week to the Joint Economic Committee. They lent me to the Project on State and Local Finance of George Washington University, aka the Project on State and Local Finance of the Joint Economic Committee, aka the Project on State and Local Finance of the Governors' Conference.³ The Project was producing a fact book, a volume to provide the ordinary voter with information on state and local finance.

I discovered a fact. It was a demographic fact about people already born. It was a fact about future financial requirements for the largest expenditure in state and local budgets. The people running the project refused to include the fact in their factbook, not because they thought it was not true or not important but because it pointed in the wrong direction, would make voters less willing to support increases in state and local revenues.

The fact itself is one you can easily check. The date was about 1967. For the previous fifteen or so years, as the baby boom came into the school system, the ratio of students to taxpayers had been going up; that meant that, in order to keep per pupil spending from falling, taxes for schools had had to increase. For the next decade or two, as the baby boom came out of the schools and into the labor force, the ratio of students to taxpayers would be going down. That meant that per pupil spending could be kept at its current level while taxes for schools went down. Schooling was and is the largest expenditure of state and local governments — about forty percent of the total, as of 1967.

I had assumed that professional academics, people I liked and respected, were committed to honesty in their professional work. I think of the discovery that they were not as my loss of innocence.

My gut reaction is to disapprove both of what the people I worked with then did — pretending to inform people while deliberately misinforming them — and what Gruber describes and approves of, but I cannot prove that my reaction is justified. Gruber's position is that he is willing to sacrifice one value for another that he thinks more important, and I cannot show that he is wrong. I can, however, point out a danger in the approach. Once academics accept the principle that dishonesty is justified if done for the greater good, their work cannot be trusted on any subject with regard to which they have an incentive to misrepresent it.⁴ I give one example in Chapter **XXX** [[one of my previous posts](#)].

Another example, and one where the case in favor of academic dishonesty is, I think, stronger, is the case of Nuclear Winter:

"According to Sagan and his coworkers, even a limited 5,000 megaton nuclear exchange would cause a global temperature drop of more than 35 degrees Centigrade, and this change would last for three months. The greatest volcanic eruptions that we know of changed world temperatures somewhere between .5 and 2 degrees Centigrade. Ice ages changed global

³ The project was run by Selma Mushkin, an economist who had worked mostly in health economics. I no longer remember the names of any of the other people associated with it.

⁴ One example from my blog: <http://davidfriedman.blogspot.com/2014/03/acts-vs-words-case-of-nordhaus.html>
Turn this into a reference to a chapter of the book if that ends up workable.

temperatures by 10 degrees. Here we have an estimated change three times greater than any ice age. One might expect it to be the subject of some dispute.

But Sagan and his coworkers were prepared, for nuclear winter was from the outset the subject of a well-orchestrated media campaign. The first announcement of nuclear winter appeared in an article by Sagan in the Sunday supplement, *Parade*. The very next day, a highly-publicized, high-profile conference on the long-term consequences of nuclear war was held in Washington, chaired by Carl Sagan and Paul Ehrlich, the most famous and media-savvy scientists of their generation. Sagan appeared on the Johnny Carson show 40 times. Ehrlich was on 25 times. Following the conference, there were press conferences, meetings with congressmen, and so on. The formal papers in *Science* came months later.

This is not the way science is done, it is the way products are sold."

(From a [speech](#) by Michael Crichton deploring the victory of politics over science in the form of "consensus science.")

I formed my own opinion on that particular issue many years ago, after reading a scientific article by the authors of one of the articles that fed into the nuclear winter calculations. It conceded that their earlier article contained, as critics had pointed out, a serious error, serious enough so that correcting it reduced the predicted duration of global winter from years to weeks. But they explained that they had now discovered another error in the opposite direction and correcting it brought the duration back to years.

My guess is that they were telling the truth about their analysis. They may even have been correct in their conclusion. But the degree of uncertainty implied by that article was strikingly inconsistent with the confidence with which the nuclear winter conclusion was being trumpeted, largely by people who wanted other people to believe it because they thought that belief would reduce the risk of nuclear war.

For a more recent real world case, this one having to do with the Covid pandemic that is ongoing as I write these words, consider the following statement from the editor's blog of *Science* on their decision to publish an article implying that herd immunity would come sooner than early estimates had implied:

"we were concerned that forces that want to downplay the severity of the pandemic as well as the need for social distancing would seize on the results to suggest that the situation was less urgent. We decided that the benefit of providing the model to the scientific community was worthwhile."⁵

That implies that the editors believe that part of their job is filtering the scientific literature in order to bias the public perception in the direction they approve of, although in this case they decided not to.

Consider the relevance for the current climate controversy. No single academic knows enough to base his conclusion solely on his own work and expertise; each of them is relying on information produced by many others. The economists estimating the net effect on humans of AGW rely on the work of climate scientists predicting the effects on temperature of increased CO₂, the work of other climate scientists predicting the effect of increased temperature on rainfall, hurricanes, and

⁵ <https://blogs.sciencemag.org/editors-blog/2020/06/23/modeling-herd-immunity/>

other relevant variables, the work of agronomists estimating the effect of changes in CO2 concentration, length of growing season, temperature, on agricultural production, the work of statisticians confirming the models of the climate scientists on the basis of their analysis of paleoclimate data, and many others.

What happens if each of those experts feels entitled, even obligated, to lie just a little, to omit facts that point in the wrong direction, to shade his conclusions to strengthen the support they provide for what he believes, what all of them believe, is the right conclusion? Each of them then interprets the work of all the others as providing more support for that conclusion than it really does. The result might be that they end up biasing in support of the wrong conclusion, the conclusion which each of them believes is right on the basis of the lies of all the others.

That is one of the reasons I am not greatly impressed by the supposed scientific consensus in favor of Catastrophic Anthropogenic Global Warming. For more details, see Chapter **XXX**.

There is a quote usually attributed to Bismarck but apparently due to Saxe:

“Laws, like sausages, cease to inspire respect in proportion as we know how they are made.”

It applies to other things as well, including the output of academics.

Lying for a Good Cause — The Principle Generalized

Some years ago, while waiting in the dentist's office, I took a look at a *Time* magazine and was mildly irritated by its attempt to defend Obamacare. The author described a deliberate lie about people being able to keep their insurance if they wanted to as the administration being insufficiently clear — I do not have the magazine with me so cannot offer an exact quote. And he echoed the Administration talking point that represented all existing policies that did not cover everything the ACA requires, including contraception, as worthless junk that people only bought because they were desperate for insurance. That left me wondering about the author of that particular piece of partisan puffery disguised as news commentary. My guess is that, dosed with truth serum or in a sufficiently private conversation with a trusted friend, he would admit that the Administration's claim was a deliberate lie but justify it on the grounds that it was necessary in order to get a good law passed — Gruber's position.

It occurred to me to wonder if the author of the *Time* piece or others with similar views would accept the same argument applied to a previous instance and a different President. Would they have agreed that, while the facts it was based on might be mistaken, the moral reasoning was correct.

Imagine that you are President Bush and that you believe the following:

- 1. Saddam Hussein is a murderous tyrant whose people would be far better off without him.*
- 2. If he is overthrown by the U.S., his government can be replaced by a reasonably free and democratic one which will serve as a model to convert other dictatorships in the region into free and democratic societies.*
- 3. Points 1 and 2 will not be sufficient to persuade the American people to support an invasion of Iraq. They would, however, support such an invasion if they believed that Hussein was producing weapons of mass destruction.*

4. *While it is possible that Hussein is producing weapons of mass destruction, there is little evidence of it.*

Would you be justified in pretending to have good evidence of WMD's in order to get sufficient public support to make possible a U.S. invasion of Iraq?

The logic is the same as in the case of Obamacare — lying to the public in order to make possible policies you consider highly desirable.

In both cases, the argument hinges on factual beliefs. Point 2 above turned out to be strikingly false. Obamacare will, I think, turn out to have been a mistake. But the question I am asking is not whether the beliefs were correct but whether the moral argument is. If Bush believed points 1 to 4, was he justified, in terms of those beliefs, in lying to the American people? If Obama believed that the ACA would greatly improve American health care, was he?

And, perhaps most interesting, would people who answered "yes" to the second question be willing to give the same answer to the first, or vice versa?

Subjectively Right, Objectively Wrong

Continuing with the same theme, what are the moral implications of an act that is subjectively justified, within the actor's rights given what he reasonably believes the facts to be, but objectively wrong? Suppose, for example, I correctly believe someone is trying to kill me. You, a stranger, take some entirely innocent act which I reasonably interpret as the beginning of an assassination attempt. I attack you, injure you, and then discover my mistake. What ought to happen to me?

The answer that fits my intuition — I think I could justify it in terms of the economic analysis of law, but that is not the approach I'm interested in at the moment — is that I am guilty of a tort but not a crime. I have injured you and so owe you compensation but did not intend to violate your rights and so do not deserve punishment.

Now, to make the question more interesting, replace me by the government. You are arrested for a murder you did not commit, convicted on convincing evidence, and jailed awaiting execution. The only way in which you can save your life is by escaping, killing a guard in the process; you do so. A month later—after you would have been executed if you had not escaped—someone else confesses to the murder, providing absolutely convincing evidence of your innocence. What now is your status? Are you a murderer because you killed a guard? Are you innocent on grounds of self defense, with perhaps a claim against the government for false imprisonment? The government and the guard were subjectively innocent, since they reasonably believed you were a murderer and so deserved to be executed (I am not interested, at the moment, in whether capital punishment itself is morally justified, it just makes the example simpler). But they were objectively guilty, since in fact you were not a murderer; they were attempting to kill you when you did not deserve to be killed. You are both subjectively and objectively innocent of killing someone without justification, since they were in fact trying to kill you and you had no other way of defending yourself — unless their subjective innocence makes their actions morally correct.

My intuition is that you are innocent, the government and its agents liable to you for damages but not deserving of punishment. If you do not agree, can you suggest a different approach to such situations, preferably one that applies to both private and state actors?