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## *The Diane Pretty Case and the Occasional Impotence of Justification in Ethics*

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### ABSTRACT

Most discussions in ethics argue that a certain practice or act is morally justified, with any underlying theory taken as supporting a guide to general action by aiding discovery of the objectively and singularly right thing to do. I suggest that this oversimplifies the agent's own experience of the moral dilemma, and I take the recent English case of Diane Pretty's request for assisted suicide as an example. The law refused, despite the obvious sympathy many felt for her. This only appears paradoxical, I suggest, because too much is expected of the concept of justification, and because moral understanding of a particular case is too often reduced to the legalistic search for general justificatory reasons. The starting point should be, I conclude, a full awareness of the phrase "there but for the grace of God go I".

### KEYWORDS

Diane Pretty; Assisted Suicide; Moral Justification; Moral Dilemmas; Moral Understanding

### *Introduction*

In ethics there is a lot of talk about justification. Many even consider the provision of justification to be the main point of ethics. A consequentialist, for example, will attempt to justify an action A over an action B by recourse to the better consequences that followed from A than those that would have followed from B. Without justification – or at least justifiability – the argument goes, moral actions can be no more than a product of whim, prejudice or self-interest, as likely to get it right as wrong.

Justification is certainly important. But I want to argue that there exists a small class of morally charged situations where attempted moral justifications for one action over another become impotent. This notion of impotence has to be construed in a very particular way, and I shall have to work hard to avoid misconstruals of the following sort: "if justification is impotent, then it doesn't matter

whether I do A or B." I shall conclude that it is possible, in situations of this kind, to make a morally serious decision without being able to justify it.

To focus the discussion I will examine a well known recent legal case in the United Kingdom, that of Diane Pretty. Those who have discussed this case so far tend to use it in support of an argument for or against a policy of euthanasia. In addition, the Prettys themselves were arguing for a change to the present English prohibition. In this paper, however, I will not be arguing for a specific policy, since my interest will be very much on the individuals (Diane and her husband Brian) and their experience of the terrible situation.

### *1. The case*

Diane Pretty was in her early forties when she was diagnosed with motor neurone disease in November of 1999. Her condition then deteriorated rapidly,

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with the certain prospect of increasing paralysis affecting her whole body, loss of speech, and the need for tube feeding. By early 2001, she had decided that she no longer wanted to live, but by then was physically incapable of killing herself neatly, and did not want to face the slow, painful and undignified method of refusing to eat or drink. Her husband Brian offered to give her a sufficient quantity of barbiturates to kill her. Under section 2 §1 of the Suicide Act 1961 in English law, it is not a crime to commit suicide, but it is a crime to assist someone else's suicide. On July 27th, 2001, Mrs. Pretty's solicitor wrote to the Director of Public Prosecutions (DPP) asking for assurance that her husband would not be prosecuted for helping his wife to commit suicide. The DPP refused. She then appealed the decision several times, culminating with the House of Lords and then the European Court of Human Rights. Both courts rejected her appeal. On May 11th, 2002, Diane Pretty died from breathing complications, under sedation at a hospice.<sup>1</sup>

In some respects, this case adds nothing new to the longstanding debate surrounding physician-assisted suicide (PAS). Mrs. Pretty could well have asked a doctor to provide her with a lethal injection. Peter Singer's typically consequentialist response to the Pretty case<sup>2</sup> starts with the familiar rejection of the acts-omissions distinction. In English law, any competent patient can refuse any treatment, for any reason, even when such a refusal will certainly and knowingly result in the patient's death. Switching off a ventilator in response to such a patient's request is legal. The only difference with the case of Diane Pretty is that she was not dependent on any such machine to survive: the only 'treatment' she was in a position to refuse was nutrition and hydration. Singer argued that competently requesting that a ventilator be switched off is tantamount to requesting assistance with suicide. Whether a machine is switched off or a lethal drug administered, the certain consequences are known and freely chosen by the patient.

The responses to Singer are equally familiar. Perhaps the most popular runs: there *is* a

distinction between acts and omissions, between killing and letting die, for otherwise I would be morally responsible for any of the world's suffering that I could have averted through, for example, a donation to charity that I did not make. What both Singer and his opponent accept, however, is the importance – and possibility – of justifying their decision. I shall not enter this debate on either side, but shall be examining the role of this justification.

As far as I can tell from the schematic description of the case in the media and in the legal judgments, the Prettys seemed to face at least the following four options:

- 1) The Prettys ask the DPP for immunity from prosecution, knowing that such a thing would never be granted.<sup>3</sup> The Prettys appeal the decision in a real attempt to change the law. Perhaps they see their efforts as part of a longer term strategy, that will yield fruit only after further efforts by others in the future.
- 2) Brian provides his wife with a lethal dose and kills her. He awaits his fate at the hands of the law. There is a real possibility, of which he is fully aware, that he will be charged with murder and sentenced to prison.<sup>4</sup>
- 3) Brian kills Diane, but, perhaps with the assistance of a clinician, contrives for his act to look like an accident or like a natural consequence of the disease.<sup>5</sup>
- 4) The couple accept the illegality of assisted suicide, accept her physical inability to commit suicide, and accept her slow decline. She undergoes increasing palliative treatment and waits for death.

The Prettys chose option one, followed by option four for the last two weeks of Diane's life. I want to ask the question: why didn't they choose option two? And I will consider another possible world in which the Prettys<sub>2</sub> would indeed choose option two, and I want to speculate about the sort of thoughts and feelings that go through their mind – the content of their moral experience – while surveying the same options as the Prettys<sub>1</sub> but choosing the second.



In the traditional framework, both the Prettys<sub>1</sub> and the Prettys<sub>2</sub> would be involved in the *same* search for the morally right or best course of action, and the same search for the best justificatory reasons to support such an action. The assumption is that moral reality – both actions and reasons – is singular and determinate, ‘out there’ to be discovered. Some people might not discover the reasons on their own, but their attention can be drawn to them; once they perceive the reasons for themselves, they will be rationally persuaded by their intrinsic force and relevance (or rather, by the greater force and relevance of these reasons over other reasons supporting the contrary action). As such, we the readers and we the legislators are also involved in the same search for actions and reasons, and our respective searches should converge upon the singular moral reality.

But does this model really accommodate the actual moral experience of the Prettys (in either world)? I suggest not, for the deceptively simple reason that it is the Prettys themselves who have to make the decision and to live with its consequences. This gives them a radically different perspective<sup>6</sup> on the action than we readers or we legislators can ever adopt (at least in this situation; we may of course have to adopt the agential perspective in our own lives later on). In addition, I have been speaking about both Prettys, Diane and Brian, as if they could speak with one voice; but of course they are two people, two agencies, and Brian Pretty will have to make his own decision about whether to heed his wife’s request. As before, the decision will not be made until he makes it, and it is he who will have to live with the consequences – to him – of his decision.

The traditional conception of moral experience errs, I suggest, in taking the agent as a mere datum and the agential perspective as morally on the same footing as the spectatorial perspective. Certainly there is an added psychological importance in Brian’s knowledge that he may be locked up if he chooses option two, but such knowledge is not considered morally relevant to the decision that is to be made, the rightness of which is

determined entirely by the impersonally described situation. My view draws its inspiration from Peter Winch, and it is to his original example that I now turn.<sup>7</sup>

## 2. *Justification?*

In the film *Violent Saturday*, a group of gangsters invades a strict pacifist community. At one point a gangster menaces a girl member, and one of the community elders grabs a pitchfork and stabs the gangster in the back, killing him. Such a scene, although harrowing to all involved, would not seem to present too insoluble a moral or legal problem so long as the threat to the girl was serious and credible, so long as the response was proportionate, and so long as the elder had no ulterior motive in killing him, all of which I shall assume. What is interesting in this example is the elder’s strict pacifism, his solemn pledge never to commit any act of violence. While many of us would see his act as justified, as right, I want to ask whether he sees it – and whether he can see it – as justified.

I suggest not. In discussion afterwards, the elder will say that he “had to” or “was forced to” do it, perhaps that he “could not have forgiven himself” if he had let the girl die, but what he had to do was still, within his pacifist perspective on the world, a morally wrong act. Indeed, not only did the elder not consider his action right or justified, but he did not attempt to reorganize his principles or maxims by recourse to a higher rule to override or exempt him from his principle of non-violence. He did not say to himself: “henceforth I will be a pacifist unless I find myself in situation X.” As Winch says, “the whole point of this principle, in the context of the religious life of the community, would be lost if it were thought of as subject to qualification in this way.”<sup>8</sup> And yet it is tempting to insist that what is going on is that the elder must have seen the action as right or best in some way (or: ‘all things considered’) or that he was somehow pursuing his conception of the good – for otherwise he surely wouldn’t have done it;



and that the objective rightness or wrongness was thereafter not up to him, but determined by the impersonal description of the situation. Now I accept the demand that the action has to be conceived of by the agent as objectively required in some sense (the elder says “I had to do it”) without invoking notions of pathological compulsion or overwhelming passion, but I deny the assumed entailment of moral rightness. The problem remains, then, of how anyone can conceive of something being wrong and yet feel he has to do it.

And this is what I suggest the Prettys<sub>2</sub> would be doing in deciding for option two. Certainly Brian<sub>2</sub> might decide to kill his wife and face the consequences as an act of conscientious objection, i.e. he would consider himself justified and the law wrong. But the more interesting case, for my purposes, is when he kills his wife in the clear-eyed understanding that his action was wrong and unjustifiable. According to the traditional conception, this would be incoherent.

Another temptation would be to say that the elder was not a pacifist after all, and that his action *revealed* that had never been one. Surely no one can say for certain until he’s lying on his deathbed that his deepest convictions will survive all fortuitous adversity. Orwell’s *1984* is enough to deprive most sensitive readers of any faux heroism about how loyal to their cause or their loved ones they would remain under sustained and ingenious torture. But such gruesome hypothetical possibilities go too far in denying the possibility of any serious declarations of moral necessity.<sup>9</sup> The problem, as I see it, is that such principles as the elder’s are incorrectly thought of solely as truth-valued – and therefore falsifiable – predictions of future behaviour. In addition, they are incorrectly thought of as mere declarations of good intentions (“as far as circumstances permit, I will not...”). The problem arises from uncritically adopting the dichotomy underlying most contemporary discussions of moral rightness. According to this dichotomy, the elder’s killing of the gangster must be either (i) a case of deliberate action made on the basis of generalizable reasons – reasons that could

then be assembled into a new principle that could accommodate both the old pacifist principle and the new exception; or (ii) a case when deliberate rational action is suspended, and the conscious mind circumvented.

In answer to these assumptions, I can only describe what might have transpired after the killing. The elder, if questioned by the police, say, could explicate his actions with reference to intelligible reasons (referring to “the innocence of the girl whose life was threatened,” the importance of “protecting the defenceless” – Winch). If the police then say “I thought you chaps were committed pacifists,” the elder could only repeat that he could not stand by without intervening. The important point is that he would not even try to justify his actions. There is no more he could say. He is a pacifist, and he did something deeply wrong, but he had to do it. There is no credible room for a tidy account of justification, or of one set of reasons overriding another, given the elder’s own deep involvement with the case. For he is not a mere datum in a problem where we seek the best outcome, as in chess. It is his problem, and it will not be solved – or rather, it will not be dealt with, for he does not conceive of it as a solution – until he deals with it. Here is Bernard Williams:

Even where the impartial question ‘What is to be done?’ is asked, it will not have collected a complete answer until the question becomes a practical question for an agent or agents. Unless it does that, the question will not have been answered in terms of what is to be *done*, but, less specifically, in terms of what should come about.<sup>10</sup>

Seeing the elder as a datum and seeing his situation as an impersonal chess problem also begs an atemporal view of the proceedings. From such a view, a strict universal principle uttered at  $t_1$  can be placed alongside its infraction at  $t_2$  and the conclusion reached that the latter falsified the former. Whereas within his perspective, viewing the present at  $t_1$  and viewing the present and the past at  $t_2$ , the elder considers what he did to be wrong, but that he had to do it – to him it will



probably be mysterious, certainly disheartening, but very clear. And if anything he will be an even more determined pacifist than before.

### 3. *Moral experience*

One big difference between the pacifist elder and the Prettys is that the latter had a lot more time to choose what to do. The elder had to make up his mind in a few seconds, and this lends support to his own description of the action as in a relevant way unchosen, as something he ‘had’ to do. However, if he had been genuinely forced, e.g. by being hypnotized or drugged, he could have offered this as an excuse and thereby avoided responsibility. By spelling out the wider temporal associations of agency, we can see that the elder, as it were, makes the action a choice by taking full responsibility for it afterwards. He makes no effort to evade the police, to defend himself in court, to demand that justice be done – he is ready to take the consequences. From the elder’s point of view, the consequences might not even be deserved or undeserved, but simply foreseeable consequences, and he is prepared to bear them.

So now the question for the Prettys in both worlds becomes: is Brian Pretty prepared to risk going to prison to alleviate the suffering and preserve the dignity of his wife? And is Diane Pretty prepared to ask her husband to take that risk? But even this way of formulating Brian’s question is misleading, because his wife then becomes no more than a datum. After all, his wife is not just some ‘rational mind’ or some ‘locus of utility’, as the dominant Kantian and utilitarian conceptions respectively conceive – it is his wife, a unique person in the world, with whom he has an utterly unique relationship of more than two decades. So Brian is not asking whether he is willing to risk prison for the right thing, but whether he is willing to risk prison “to end my wife’s suffering.” Even this is misleading, however, since it contains the general concept ‘wife’, which suggests that certain objective rights and responsibilities flow to persons on the basis of their being somebody’s

wife. But Brian is not really interested in other people’s wives, or of their rights and responsibilities: he is interested in *Diane*, this person here and now, her suffering and dignity. The goal driving his deliberations is not rightness or justification or rights or responsibilities, but Diane and his particular conception of what she deserves and what he owes her.<sup>11</sup>

Seen from the outside, Brian<sub>2</sub>’s decision to kill his wife and risk prison could be an expression of his love for her. (He might kill her for other, less admirable motives, of course, but I shall ignore these.) He loved her enough to risk prison; the benefit to her was enough for him to risk the cost to himself. Viewed like this, it no longer makes much sense for an observer to advise Brian to do one thing or the other. All he can do is wait to see what he does do, where Brian’s deliberations lead him. This is because Brian will have to carry the can in a way that the observer will not (unless he is a close relative or friend who will be in a position to share Brian’s grief).

Importantly, although Brian<sub>2</sub>’s action expresses his love, this does not mean that the concept of love enters his experience of the decision: his thoughts are about Diane, her suffering and dignity, and the likely consequence of the prison sentence. It is only the observer who can interpret Brian<sub>2</sub>’s gesture as an expression of his love. Here again the traditional conception of moral deliberation errs in taking the agential perspective on par with the spectatorial. Very often I can make the translation from the third person to the first person quite legitimately; if I see you in a shop, looking at the word ‘discount’ above a pair of jeans, I can attribute the following explanatory reason for your subsequent purchase: he bought the jeans because he liked them and they were on sale. And this could be the very reason that you would give, in the first person, for performing the action. But not all third-person reasons are so translatable, a point well made by Phillips:

Is not the form of the imperative “you ought to heed these considerations if you care or if you are inter-



ested”? This is not so. To think otherwise is to confuse the conditions under which a man has reasons for paying attention to moral considerations with his paying attention. He will not have such reasons unless he cares, but the fact that he cares is not his reason for caring. If, hurrying to the cinema, I stop to help the victim of an epileptic fit, while it is true that, in the absence of considerations of personal advantage, I should not have stopped unless I cared, it does not follow that my reason for helping him is because I care. The reason is to be found in the suffering of the epileptic.<sup>12</sup>

Any observer can reach for underlying notions of interpersonal sympathy and say that Phillips helped the epileptic *because* he cared. But this underdescribes the phenomenology of acting out of concern, for it is not the reason that Phillips would give in this case; it could be the reason, of course, but this would reveal an entirely different meaning to his actions. For example, it would suggest he was trying to impress someone who thought he was heartless. So the reasons that Phillips gives to support a judgement also reveal the full meaning of that judgement. To put it the other way around, his care for the epileptic is revealed in his ability to help him for certain kinds of reasons.

It is the agent's reasons (i.e. the reasons he gives), therefore, once known, that make the agent's choice intelligible from the point of view of the agent. Reasons should not be thought of as 'out there', generated by the situation, ready to be discovered by the moral enquirer seeking to justify his action. Instead, a reason expresses the agent's perspective. That an agent should know his reason for action is part of what we mean by the term 'reason for action', for our interest in reasons is precisely an interest in the agent's own account. To ask how someone knows his actions or intentions is like asking him if he knows what he is thinking – and the answer is not about special access to what he is thinking (for if 'special', this implies relative to someone else's access, which is nonsense) – but rather that he says what he is

thinking; the sincere statement is sufficient to establish that he was thinking such-and-such (absent good reasons to disbelieve him). The reason thus fulfils its function not by reporting something that occurred but by making the action intelligible. This attribution of an intention or reason goes together with understanding the action of another person as voluntary, and as such it characterizes our relation to other human beings.

This account includes a strong link to moral responsibility. If I declare "I have chosen and these are my reasons. If it goes wrong, you can blame me," I am present in (or stand behind) my words and boldly face the consequences, both predicted and unpredicted. You then have to decide whether my position is one you can respect and whether, to use Cavell's words, we can share a single moral world.<sup>13</sup>

If we take the search for justificatory reasons as the guiding paradigm for moral deliberation and argument, there will be no difference between the first-person search and the third-person one. In addition, there will be no difference between praising oneself for doing the right thing and praising someone else for doing the right thing. But once again, I want to suggest this does not do justice to the complexity of real moral experience in cases like that of the Prettys, for it cannot allow the possibility that I as an observer might understand their action without condoning it.

Imagine a devout Catholic, committed to the sanctity of life and against euthanasia in all its forms. How would he respond to Brian<sub>2</sub>, claiming that he 'had' to kill his wife? One response might be unqualified condemnation, of course. But a more interesting response would involve some degree of sympathetic imagination, of putting oneself in Brian<sub>2</sub>'s shoes. It is tempting to see condemning and condoning as mutually exclusive and exhaustive, but that is too simplistic. Imaginative sympathy, after all, is what is normally required by a theatre audience and admired in a novelist. Macbeth is certainly a murderous tyrant; but if that is all there is to him, then the play would have little to offer beyond the cartoon villainy of a fairy tale.





The mistake in the traditional conception of morality is to think that ‘understanding’ a morally charged action directly entails ‘understanding the justification’ of the said action, which is itself taken to imply accepting the justificatory reasons, i.e. condoning. Instead, the sort of moral response I have in mind can be better expressed by a phrase which is not quoted nearly enough in contemporary moral philosophy: “there but for the grace of God go I.”

In claiming to understand the awfulness of Brian<sub>2</sub>’s situation, what is the devout Catholic claiming? Not that he would himself kill his own wife in the same situation; instead, he recognizes that there might be certain situations that are so morally complex and obscure that it is hard to predict how one would respond to the dictates of morality which presently guide and restrict one’s actions in ordinary life. To put it in cost-benefit terms again: in the Catholic’s ordinary life, it does not cost him very much to condemn euthanasia.

At the same time, there is an important sense in which Brian<sub>2</sub> might not care about the Catholic’s opinion; for Brian<sub>2</sub> already condemns the action himself. That is precisely what makes the situation so suffocating for him. This makes ethical enquiry very different from other enquiries of ordinary life. If I am lost and do not know my way to Piccadilly Circus, I will be very interested in someone who tells me that this street is not the right way; I will be ready to defer to his greater knowledge of London, or at least to his possession of a reliable-looking map.<sup>14</sup>

### *Conclusion*

In this final section I want to examine two further concepts that relate to Brian<sub>2</sub>’s predicament. He kills Diane, and promptly reports it to the police. I want to assume he felt certain about his decision; and at the same time that he felt great anguish. This might seem perplexing at first, since anguish is normally associated with uncertainty: to cite a trivial example, my anguish might derive from my uncertainty about what would be appropriate to wear at the gala dinner tonight.

According to the traditional conception of moral choice, a moral theory can be invoked to provide a right answer to moral quandaries and hard cases, and thereby to engender a certainty that eliminates as much as possible the distinctive moral anguish that typically accompanies such quandaries, both before and after choice. Consequentialists like Peter Singer, for example, can account for some degree of post-choice anguish in the uncertainty over whether the predictions on which the choice was based come to pass. Nevertheless, even if they do not, consequentialist theory can cover itself by speaking of ‘reasonable probabilities’ and ‘available evidence’, which still allow for one option to be rationally preferable, even if the associated claim remains fallible.

If I am forced to choose a lesser evil, but the justification lies in the situation, then my choice in principle ought to be acceptable to both perpetrator and victim, provided I strive for a sufficiently third-person, ‘objective’ account of what ought to be done. Notoriously, however, the victim is often unpersuaded by the attempted justification. To see this let me consider a famous example that is often discussed in the philosophical literature on moral dilemmas.<sup>15</sup>

Agamemnon, in the version of the story by Aeschylus, has been becalmed with his army at sea on the way to attack Troy. The gods demand the sacrifice of his daughter, Iphigenia, before the wind resumes. Otherwise, Agamemnon, his daughter, and the entire army and crew will all perish of slow starvation. Once he learns of what is required, Agamemnon does not really stop to deliberate, nor does he really hesitate; instead, he pauses to appreciate the enormity of the crime he is about to commit, a crime that he knows can never be expiated. For he is certain in his mind that he has to sacrifice his daughter, and he is certain that he will be cursed for the rest of his days because of it. Importantly, he never doubts his choice, even after the horrible spectacle of her bleeding to death on the deck. Bernard Williams describes it movingly:



One peculiarity of [extreme cases of moral conflict] is that the notion of ‘acting for the best’ may very well lose its content. Agamemnon at Aulis may have said ‘May it be well’, but he is neither convinced nor convincing. The agonies that a man will experience after acting in full consciousness of such a situation are not to be traced to a persistent doubt that he may not have chosen the better thing; but, for instance, to a clear conviction that he has not done the better thing because there was no better thing to be done. [...] Rational men no doubt pointed out to Agamemnon his responsibilities as a commander, the many people involved, the considerations of honour, and so forth. If he accepted all this, and acted accordingly, it would seem a glib moralist who said, as some sort of criticism, that he must be irrational to lie awake at night, having killed his daughter. And he lies awake, not because of a doubt, but because of a certainty.<sup>16</sup>

Several further comments on this situation are worth making by way of conclusion. First of all, Agamemnon is famously unable to justify his act to his wife, Clytemnestra, who vows murderous retribution – but without being depicted as either ignorant of the full relevant facts of Agamemnon’s predicament, or somehow psychologically overwhelmed by maternal instinct. Clytemnestra hoped that Agamemnon’s priorities would be different

then they were revealed to be, and it is surely plausible to imagine all attempted justifications on Agamemnon’s part failing to reassure her, let alone persuade her. And Agamemnon himself knows that his act cannot be justified – and yet he had to do it.

Second, Agamemnon does not say “it is well” but “*may* it be well,” which seems to be more of a hope than a fact-statement. Although he is certain of what he must do, I understand this line to represent a near-complete abnegation of ever discovering some morally right or best or maximally justifiable course of action, and a humble acceptance of the perdition that must now follow. The ‘may’ refers to a hope that he will be judged with pity, or at least some measure of sympathetic understanding, in posterity.<sup>17</sup>

Of course the Agamemnon example differs markedly from the example of the Prettys in one crucial respect: Diane was a competent adult who explicitly asked to be killed, and her request was based on the suffering and indignity of her plight, a suffering and indignity that is readily intelligible. Iphigenia made no such request, and was not suffering in any similar way. However, the two examples resemble one another in that I imagine Brian<sub>2</sub> having the same sort of reaction to killing his wife as Agamemnon did to killing his daughter.

### Notes

<sup>1</sup> The text of the judgement of the European Court of Human Rights in the case *Pretty v. the United Kingdom* is available at <http://www.echr.coe.int/Eng/Press/2002/apr/Prettyjudepress.htm>.

<sup>2</sup> Peter Singer, “Ms B and Diane Pretty: a commentary,” *The Journal of Medical Ethics*, 28 (2002): 234-235.

<sup>3</sup> In the words of the DPP, he could not “grant immunities that condone, require, or purport to authorise or permit the future commission of any criminal offence, no matter how exceptional the circumstances.”

<sup>4</sup> In practice, however, the charge and sentence would probably not have been anywhere near as severe, if he had been prosecuted at all. See Kenneth Boyd, “Editorial: Mrs. Pretty and Ms. B.,” *Journal of Medical Ethics* 28, no. 4 (2002): 211. In fact, the ECHR’s own judgement recognized this: between 1981 and 1992 in 22 cases in which ‘mercy killing’ was an issue, there was only one conviction for murder, with a sentence for life imprisonment, while lesser offences were substituted in the others and most resulted in probation or suspended sentences.

<sup>5</sup> For the sake of simplicity I shall not consider this option further. I assume that the Prettys did not want to be underhanded in their approach, for this would make the act look shameful; and to them it was anything but shameful. I shall also avoid discussions of the doctrine of double effect, according to which a clinician might be able to justify alleviating Diane’s suffering in the full knowledge of both parties that such palliation would almost certainly accelerate her death.





<sup>6</sup> The metaphor of a ‘perspective’ in the sense I am using it is Peter Winch’s.

<sup>7</sup> Peter Winch, “Moral integrity,” in *Ethics and Action* (London: Routledge and Kegan Paul, 1972).

<sup>8</sup> Winch, “Moral Integrity,” 186.

<sup>9</sup> One response to the 1984 objection would be to soften the argument and speak only of the impossibility of accepting certain carrots. While I am not confident about my ability to resist torture, I am much more confident of my ability to resist working for a cigarette company, i.e. no matter what they offered me. However, this may shift from carrot to stick if it is the only sufficiently well paid job I can get.

<sup>10</sup> Bernard Williams, “Formal and substantial individualism,” in *Making Sense of Humanity* (Cambridge: Cambridge University Press, 1995), 124.

<sup>11</sup> This might seem to bring me into the ‘moral particularist’ camp of Jonathan Dancy or the ‘anti-theoretical’ camp of Bernard Williams. See Jonathan Dancy, *Moral Reasons* (Oxford: Blackwell, 1993); Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge: Harvard University Press, 1985). Dancy is suspicious of general rules and principles and reasons in ethics, because all of them will only gain their full meaning within the particular situation. Thus, for example, ‘that you lent me the book’ is normally taken as a good reason for me to return it to you. However, if I then learn that you had stolen the book from the library, your giving it to me ceases to be a reason at all. As such, most kinds of generality are irrelevant to ethics. My position differs from Dancy’s in an important respect. Dancy is still a moral *realist*: he believes that the rightness of a particular act is singularly generated by the (impersonally described) situation, and is still ‘out there’ to be discovered by whichever potential agent stumbles along. He does not recognize – as I do – the important difference between the agential and the spectatorial perspective. Williams’s position is more difficult and more resistant to labelling, but I suspect he has similar realist leanings as Dancy.

<sup>12</sup> Dewi Phillips, *Interventions in Ethics* (Basingstoke: Macmillan, 1992), 133.

<sup>13</sup> In contrast, compare this to the corrupt notion of responsibility in the notion of ‘covering one’s arse’ so typical of hierarchical bureaucracies. In seeking to justify one’s every move by reference to explicit regulation or instruction, one is *shifting* responsibility to the formulators of the regulation or instruction.

<sup>14</sup> One anonymous reviewer criticized me for not making clear what my position on the Prettys’ situation was, whether I would recommend Brian to kill Diane or not. I hope this paragraph makes it clear that I am not trying to argue in favour of my understanding of what should be done – that’s precisely my point.

<sup>15</sup> See, for example, Andrew Mason, ed., *Moral Dilemmas and Moral Theory* (New York: Oxford University Press, 1996). I have not considered more of this literature for the same reason that I have not considered the ‘moral particularist’ literature (see above): most of it shares the very realist assumptions that I am seeking to challenge.

<sup>16</sup> Bernard Williams, “Ethical consistency,” in *Problems of the Self* (Cambridge: Cambridge University Press, 1973), 173.

<sup>17</sup> Martha Nussbaum offers an excellent and subtle discussion of the Agamemnon example in her *Fragility of Goodness* (Cambridge: Cambridge University Press, 1986), 32 *ff.* I do not have the space to engage Nussbaum properly here, but will mention two of her points. First, she accuses Agamemnon of not seeing the full individuality of Iphigenia, not only of her as *his daughter*, but as *Iphigenia*, i.e. the particular person whom he has already guided through childhood and whose trust and devotion he has received (cf. my point about Diane Pretty’s individuality). This culpable blindness in effect makes the decision easier for him. A second, related accusation is of failing to show enough of the right kind of remorse, that is, remorse that reveals the agent’s full awareness of the crime committed and of the victim’s identity. My response to both these accusations would be to suggest that Agamemnon cannot afford to see Iphigenia for what she is, either before or after her slaughter; for such a full awareness would necessarily drive him to madness and suicide. Yes, his blindness could be a cognitive defect, but this would be less interesting dramatically: just another soldier gritting his teeth through the collateral damage. More interesting would be the self-deceptive coping strategies that Agamemnon must adopt if he is to preserve enough coherence in his world to go on at all. Later in the trilogy, I suggest he becomes so burdened with the growing awareness of what he has done that he welcomes Clytemnestra’s threat to his life.