

# Striking responsibilities

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## Author's abstract

*It is commonly held that National Health Service (NHS) workers are under a moral obligation not to go on strike, because doing so might well result in people's dying. Unless sainthood is demanded, however, this position is untenable: indeed, those most vociferously pursuing it are often those who bear the greatest responsibility, on their own grounds, for needless death and suffering.*

Not all the moral problems faced by medical workers in their capacity as such are problems of 'medical ethics': some are, simply, problems of morality *tout court*, but problems which arise in connection with, and because of, the nature of medical work. These, or at any rate some of these, are no less important than questions of medical ethics, and therefore deserve specific attention. In Britain today the most urgent question is arguably the set of moral problems associated with the need to take industrial action either in defence of one's job or in an attempt to maintain comparative living standards and working conditions. Indeed, the very possibility of specifically medical ethical questions arising is predicated on the provision of medical facilities, so that the question of what actions may, and what actions may not, be morally justified in pursuance of the goal of proper, or adequate, or justly distributed medical provision (itself, of course, morally controversial) is in an increasingly practical sense prior to, for example, the question of the propriety or otherwise of *in vitro* fertilisation.

## I

It is often argued that people such as hospital ancillary workers, nurses, ambulance drivers, and doctors who bear as part of their job a responsibility for the welfare, and indeed the lives, of those in their care, ought not to take strike action under any circumstances whatsoever. This, it is argued – or more frequently alleged – is because going on strike may result in someone's either suffering or dying where otherwise he

or she would either have suffered less or survived. I take it that readers are familiar with this stance. My intention is to suggest the outlines of an argument to show that such workers are not under any special obligation to refrain from going on strike, on the grounds that their circumstances as medical workers are not relevantly special. To put it rather crudely: either the arguments adduced by those adopting the above position apply to us all, and especially to those whose power over life and death is greatest (frequently, of course, just those politicians most given to such a position) or they do not apply at all. My strategy will be to construct a rationale to cover an extreme situation, and thereby to suggest what might be a suitable reply for strikers to give against those who upbraid them for going on strike, thus taking the moral steam out of the latter's case. That is to say, I think the central issue – a person's dying as a result of someone's being on strike – ought to be taken on rather than skirted. Imagine, then, a scenario where the victim of a road accident dies 'because no ambulance was available'. Now there are of course many problems lurking in the background about 'cause', 'contributory factors', and so on: but I concede all these in order to present a situation where those with medical knowledge unanimously agree that had there been an ambulance available to take this person to hospital say twenty minutes before it actually arrived, then, other things being equal, the person would have survived. Someone is dead because someone else did not do something s/he could have done had s/he chosen to do so, and s/he chose not to do so because s/he was on strike. Did the ambulance driver in question behave immorally?

## II

If the likelihood, or indeed the near certainty, of death arising as a result of striking constitutes a reason for not striking, then this must be so, broadly speaking, on one of two types of grounds: either because of some general truth which applies to situations such as that under consideration, whatever the particular circumstances of the individual case (a Kantian approach) or alternatively, because of the consequences which may reasonably be supposed to follow from the particular circumstances in question

## Key words

Strike action; responsibility; obligation; consequences; act of omission; act of death.

(an act-utilitarian view) or from those circumstances being taken as a moral model which holds good for similar sorts of case (rule-utilitarianism). On either of the two latter views, the case turns on some sort of moral comparison between the harm exemplified and brought about by the death of the person concerned, and the good exemplified and brought about by the results or likely results of the strike. The case against the ambulance driver's going on strike rests, therefore, on one of two views. Either human life is so special, so important, that there are no circumstances at all where it is possible to justify not doing everything possible to preserve it (and even if this were qualified by a special circumstances clause strikes such as commonly occur would not count as sufficiently special to warrant killing or letting die): alternatively the case may rest on the view that the ends of the strike in question (or, of course, of any strike whatever) do not justify the particular result of the means employed, namely someone's death.

On the first view, we are all guilty. For if nothing can justify any omission – let alone commission – which leads to the death of a human being, then of course Prime Ministers, MPs, civil servants, and you and I are in just the same moral position as the ambulance driver in the present case. As a result of government policy, for example, at least one fewer kidney machine is in service than it would be possible to have provided; one person died of cancer last week who need not have died had resources been differently allocated; and one more person in the Horn of Africa has died of starvation than would have died had I sent £20 to War on Want. If *nothing* can justify any omission, then just one avoidable death is morally culpable. No wonder that this is not a view seriously espoused by anyone but the occasional saint – and certainly it is not a moral stance seriously and consistently espousable by politicians or television interviewers, whatever the illegitimate use they like to make of its emotive qualities.

On the second view, that which, broadly, looks to the consequences of the omission or commission in question, the situation is far more complicated, since the business of weighing up consequences – always supposing it is possible reasonably to identify them – is, as utilitarians of whatever hue, know very well, notoriously difficult. I ignore, or, if you prefer, concede, the concrete problems associated with attempting to forecast consequences, adopting a coherent means of weighing them up against each other – whether in terms of pain and pleasure, happiness and unhappiness, or some other set of criteria – measuring their extent, and so on. For my point is simply that if it is argued that an ambulance driver ought not to take, or continue with, strike action because someone has died or might or will die as a result, on the grounds that the actual or likely achievements of the strike are morally outweighed by such a result, then these theoretical (but not the less important for that) difficulties must in consistency be taken on board by the critic as well as by the ambulance driver if the case

is to be pursued, and a person's death is not immediately taken as being of necessarily overriding importance (as above). Whatever these difficulties, they apply as much to the case of those who argue that in this instance the ends do not justify the means as to that of the striking ambulance driver. And if this is granted, as in consistency it must be, then the striker's case comes to this. If a person's death as a result of strike action is an evil which outweighs the good arising from such action, then other deaths arising from others' omissions – or commissions – fall under the same judgement by just the same token. This is not, of course, a blanket justification for any number of deaths for the sake of any results, or even of itself a justification of the death of any particular person in such and such an instance. It is merely an insistence that the specific circumstances be set out, and that considerations which are held by the striker's critic to apply to them be tested by applying them to other, but relevantly similar, circumstances: and the point here is that if one looks at actual examples, one can always find cases of decisions about the allocation of resources (tax cuts; diplomatic dinners; higher pay for the highly paid; my own meal in a restaurant) which (a) could have been decided differently, and (b) decided differently in such a way as to have prevented an avoidable death. Thus there are easily accessible cases which are open to the same moral analysis as that given by the critic against the striking ambulance driver. (This is of course an empirical claim, not a logical one – but it happens to be true.) Think, for instance, of our general agreement that the number of people killed annually by road traffic is worth the benefits resulting from the mobility made possible: few would argue that the number of deaths ought not to be reduced, but not at any cost. After all, it would be possible to reduce road casualties to zero (by banning road traffic): but presumably we, or most of us, agree that the resulting harm would outweigh this moral benefit. Once again, however, the ambulance driver can, and should, point out that what applies to the case of death brought about as a result of going on strike applies to us all.

But, the response may be made, surely it does not. Surely ambulance drivers, nurses, doctors, and indeed many others (water workers, power workers, firefighters, the police) have a *special* responsibility. This is of course the nub of the issue: for those who criticise strikers on the grounds adumbrated insist, or would probably insist if pushed, that the circumstances surrounding the case at issue are different from, for instance, the road deaths example because they involve, in some way or another, a special responsibility. This alleged responsibility comes in two closely connected guises: proximity and contractual obligation.

What I mean by 'proximity' here is this. If you or I see an accident, we have a moral obligation to do what we can to help, simply inasmuch as we are there. (I realise the whole story is more complicated than this – but I think 'being there' covers the gist.) The story of

the Good Samaritan provides a standard reference. Now, ambulance drivers, nurses, ancillary workers, etc, it may be argued, have just this obligation to help, because, as in the story of the Good Samaritan, they are there. All my talk of ministerial responsibility, or yours or mine, is at best entirely artificial simply because ministers are in Whitehall, you are at home, and so on: it is ambulance drivers who are driving ambulances, nurses who are on casualty wards, ancillaries who are in the boiler rooms, and so on. But of course it is precisely to the everyday moral position of the citizen – your position and mine ('off duty', at least) – that such strikers as I have been considering are reverting when on strike. To go on strike is to eschew just that proximity at issue. But, it might be objected, if that is the case, then is it not also the case that those who have voluntarily put themselves into a position of proximate responsibility have a moral obligation not to eschew it? After all, no one is forced to become an ambulance driver: those who do, therefore, are under a contractual obligation to perform the duties they have agreed to undertake (the second variety of the 'special responsibility' argument).

Once a person agrees to become an ambulance driver, nurse, or doctor, then they are morally bound to accept those special contractual obligations which are part of the job (hence suggestions of 'no strike' clauses in the contracts of various groups of workers). This, I take it, is the view which is the most widely adhered to – both by those who argue that strikers are behaving immorally, and, unfortunately, by many strikers as well. Hence the tendency in television and similar interviews for strikers and union officials to seek either to avoid the issue, or to introduce special justificatory grounds: in brief, to attempt to avoid admitting that a specific strike has brought about, or might bring about, someone's death. But if such workers are under a special contractual obligation because of the nature of the work they have voluntarily undertaken to perform, then the question must be asked whether they are also under some sort of obligation (aside from that of giving proper notice) to continue being such workers. If ambulance drivers are under a special obligation not to strike, are they also (and on the same grounds) under a special obligation not to give up the job? The answer must be, I would have thought, that they are not. For if they were, then one might reasonably ask on what grounds anyone should be expected to become an ambulance driver. Why should any particular person be expected to place herself or himself under such an onerously special obligation? Now, either there are or there are not moral grounds why people ought to become ambulance drivers, ought, that is, to take on, among other things, the special obligation in question. If there are such reasons, then I cannot see that they could fail to apply to everyone, at least up to the point where there were enough ambulance drivers to prevent all those deaths which were preventable by a sufficient supply of ambulance drivers. Again, a particularly morally

sensitive society might, I suppose, take such a view: but ours is not such a one, and indeed is somewhat averse to the notion of forced labour for all (though if all 'essential' jobs were to be filled by universal conscription constrained only by physical, intellectual, and psychological capacity the considerations of this paper would not apply). If, on the other hand, there are no such grounds, then we must either posit other sorts of grounds, that is, non-moral grounds, or leave the supply of ambulance drivers and others to chance (literally drawing lots perhaps) or to reason-irrelevant considerations (blackmail, for instance) – both of which ill accord, to say the least, with an insistence on such people's special responsibilities. I conclude that there are no general moral grounds for forcing this or that person to become, for instance, an ambulance driver. But in that case, what general moral grounds are there against a particular person's ceasing to be an ambulance driver? And I do not see how the question of ceasing to be an ambulance driver differs from that of an ambulance driver's going on strike in respect of specific consequences of such action, namely a person's death (although there may well be other moral respects in which the two cases do differ). Whether or not the likelihood of certain specific consequences as set against others constitutes good moral grounds for not ceasing to be an ambulance driver is one and the same question as whether it constitutes good moral grounds for not going on strike – and it is just this which is at issue in the case of a strike bringing about someone's death.

It might of course be that the grounds for people's taking on a special set of contractually moral obligations are not themselves moral, but material. This seems not unreasonable: people taking special responsibilities should receive special benefits. But this is just the opposite of our standard practice: though the proper response of National Health Service workers, that if their work carries such special responsibilities they should be paid accordingly, might be worth at least exploring, not least by those whose criticism of their going on strike is fiercest. The 'special responsibility' argument, like the simple consequentialist one, collapses on grounds of inconsistency.

### III

Unless we were all either to agree that human life is in all circumstances a completely overriding value, or admit the extent of our moral responsibility for others' suffering and death, in proportion as we are in a position of power to affect their circumstances, the striker whose omissions bring about someone's death has no *prima facie* moral case to answer. It is a question of the details and their consequences – and the striker is likely to be in a better moral position than the typical critic (1).

## References

- (1) An earlier version of this paper was read at the Society for Applied Philosophy's Workshop on Philosophical and Ethical Issues in Medicine at its meeting in Manchester on 12 November 1983: my thanks to participants for their criticism; and to David Rea for his comments.

## Commentary

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Brecher argues that ambulance drivers, nurses, doctors and other hospital workers do not have special moral obligations that prevent them from striking in circumstances where workers without those special obligations would be justified in striking. I wish to argue against this position. People voluntarily undertaking work in the emergency services, implicitly or explicitly undertake co-operatively to provide these emergency services. Since striking is not compatible with such a provision, implicitly they undertake not to strike. This does not, as Brecher alleges, mean that they have a special obligation not to give up the job – for given reasonable notice it is generally possible to find replacements so that the emergency service can be maintained.

There is no reason to argue that because some workers do not accept the special moral obligations of providing emergency services, therefore no workers can or should accept the special moral obligations. Indeed it is patently obvious that such 'moral relativism' exists. While there is no moral obligation to take on such supererogatory commitments, once one has taken them on there is a moral obligation to honour them. Brecher states 'either there are or there are not moral grounds why people ought to become ambulance drivers, ought, that is, to take on, among other things, the special obligation in question. If there are such grounds, then I cannot see that they could fail to apply

to everyone . . .'. It is obvious that there are many voluntary moral obligations that people are free to undertake but which do *not* apply to everyone. What does apply to everyone is that moral undertakings should be honoured.

Volunteer life-boat men are obvious examples. They voluntarily commit themselves to accept the special obligations of the task, including the very special obligation to provide an emergency service at great risk to themselves. Why should the moral obligations undertaken in volunteering for unpaid life-saving work differ so greatly from those voluntarily taken in paid life-saving work? Emergency workers including ambulance men voluntarily accept the special moral obligations of their callings and are aware (often with pride) of the special risks and burdens which are involved. It seems an implicit part of those burdens that the normal strike weapon is eschewed, and it may be sensible to make this explicit in the contract of employment. Such work has its own intrinsic satisfactions, including a certain moral satisfaction. To incorporate an explicit 'no-strike clause' seems justifiable not only on the grounds that it is wrong to inflict suffering on innocent and already sick third parties in order to achieve one's own economic ends but also on the general utilitarian grounds, that welfare is likely to be maximised by such arrangements. If these in practice resulted in inadequate recruitment, no doubt this could be remedied by adjusting wages perhaps also by linking these to the wages of other groups not morally bound by no-strike agreements.

Two final points: To use words such as 'strike' 'weapon' or 'threat' in debates about ethical issues implies a bellicose if not a non-moral stance. Furthermore the acceptance of the term 'strike' as being synonymous with 'not working' rather than seeing it as a withdrawal from an agreed contract would appear to beg the moral issues involved.

### Correction: Risk and medical ethics, Pochin, E. *Journal of Medical Ethics* 1982, 8: 180–184.

The author has asked us to correct the heading to Table 1c. Instead of reading Risk of fatality to passenger, per 100 miles travel, UK 1972/76' it should have read 'Percentage risk of fatality to passenger, per 100 miles travel, UK 1972/76'. The author adds that he very much regrets the error.

Editor