

Legal and Illegal Is Not Right and Wrong

One of my favorite sayings comes from the now defunct web-comic [A Softer World](#). “It was a sweet day when I realized,” reads the comic, “legal and illegal had nothing to do with right and wrong.”

I’ve been thinking about that a lot lately. I wish I could say it was because I had faced some grand moral dilemma that had brought me to a greater understanding of the crucial distinctions between when a thing is legal and when a thing is right, or when a thing is illegal and when it is wrong. There are certainly a lot of issues alive in our culture at the moment that seem to turn on those distinctions.

The Difference Between Legal and Right

But my recent thinking about right and wrong, legal and illegal, wasn’t inspired by any of that. Instead, it was inspired by a friend’s casual reference to the popular podcast, *My Favorite Murder*. I find true crime stuff intriguing, was about to get into the car for a three hour drive, and wanted something to listen to, so I downloaded a few episodes and listened to them in the car.

It’s a fine podcast and a funny one. I like it. The hosts—two comedians—discuss and theorize about a few different murders in every episode, covering everything from the details of the crime, to the investigation, to different theories about unsolved cases. The three-hour car trip flew.

But I felt increasingly uneasy.

I wasn’t uneasy because I was suddenly worried about potential murderers lurking in every dark corner. I was uneasy because I wasn’t sure that listening to this podcast was right for me. I

was driving along safely and happily listening to people talk about some of the worst things that humans have done to each other. I wasn't doing it to learn anything, or in hopes of making the tragedies less. I wasn't even doing it in order to practice my Smithian [ability to sympathize](#) with the sufferings of others.

I was being entertained. By murder. Real murder.

Somehow, the distinction between reality and the fictional murders in the Marvel Comics Universe that I enjoy so much, or in the mysteries I read so often, began to seem too much for me to treat the one as I treat the other. For me, listening to this podcast in the way that I was doing it was wrong. I didn't want to be the kind of person who treats tragedy as entertainment.

So I stopped.

It is perfectly legal to listen to *My Favorite Murder*. It should be. And I can imagine all kinds of people with all kinds of good reasons for listening to it that would make me nod and agree that it's the right thing for them to do. I'd object loudly if any Helen Lovejoys read this column as a reason to condemn the podcast and petition to have it taken off the air.

But unlike laws—which ought to be thin enough and general enough to apply to (as close as possible) all of us (as often as possible) all of the time, moral reasoning about what is right and wrong, should be thick and specific. It should be contextual—about the time and circumstance and the people involved—in a way that laws should not be.

Trolley Problem

That's why, when I found myself in a real life enactment of the classic philosophical conundrum of the "trolley problem" recently, it was easy to decide what to do. I was headed pell

mell down hill at top speed on my bike. A family—Mom, two elementary school kids, and Dad with a baby in a baby carrier—were headed down another hill, equally pell mell, right for me.

Of course I hit my brakes, ditched my bike, and crashed onto the asphalt. Because, for me, taking that damage myself was the right thing to do, rather than risk injuring the family headed towards me. It wasn't a question of calculating the costs the family would experience if I hit them, and contrasting that with the benefit I would accumulate from avoiding a severe case of road rash and a spectacular set of bruises.

It wasn't right to hit them. So I did my best not to.

You can't make a law for that kind of situation. It's too clunky. And it probably would have been legal for me to hit them, anyway. But it would not have been right.

Merely Legal

Sometimes, maybe most times, all you can do is do the best that you can, in the given circumstances, to make the kind of decision that allows you to be the person you can live with being. That's why I'm never impressed when a public figure—caught doing something shady—reminds us that he or she hasn't done anything illegal. It may well be true, but mere legality is a lousy way to be a human being.

Much of human life, possibly most of human life, and almost certainly the most important parts of human life, are not usefully discussed in terms of what is legal and illegal. We know that. That's why we write books like *Les Misérables* and make movies like *Loving*. Right and wrong have nothing to do with legal and illegal. They are complicated and personal. Right and wrong aren't inflexible rules; they are responses to the world as we move through it and to people as we interact with them.

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