Jonathan Davey

Ethical Dilemmas: Who should decide – lawyers, scientists or God?

An ethical dilemma is a problem constituted by a moral choice - it is a situation necessitating a choice between two equally undesirable alternatives. Historically, the solutions to such problems have been provided by religion. Within this tradition, the answer to an ethical dilemma consists in a moral truth, itself existing independently of an individual's or a society's beliefs. That is to say, faced with an ethical dilemma, to know which is the "correct" choice is to know the mind of God - it is to have knowledge of the relevant moral truth and moral truths are themselves to be found in the canons of religion or the accepted moral code.

However, if such an understanding of ethical dilemmas has been accepted historically, it is less clear that it is now. In an increasingly secular and culturally diverse age to say that God should decide ethical dilemmas is, for some people, to beg the question: "Which God?" Or perhaps "What God?" If, following Neitzsche, God can no longer help us because he no longer exists, then to whom should we turn?

One possible answer is the scientists. Religion or morality may not be able to give us a definite answer to such questions as "Should a Siamese Twin be sacrificed for the sake of her sister?", but science can at least tell us whether it is possible medically. Thus the elusive moral truths of religion become replaced by the hard facts of scientific research. However, to assume that in the pronouncements of science the true arbiter of moral dilemmas has been found is to misunderstand what science is for. Arguably, science does not so much *solve* ethical dilemmas as *side-step* them. Science can tell us *how* to separate Siamese twins but still does not tell us *why* we should? Science can tell us *how* to clone sheep but, again, does not tell us *why* it is right or wrong to do so? Science can unlock the key to genetically modifying crops but it will not disclose to us whether we should undertake such pursuits with a clear conscience. Science can of course recommend one course of action over another because of its *scientific* or *biological* benefits (e.g. if an operation is performed, one twin may survive; if an operation is not performed, both twins will die). Indeed, sometimes these scientific benefits may coincide with moral benefits, but this is not a matter of necessity. The totality of scientific "facts" in the universe could be ascertained, but the question, "Is it ever morally justified to take a life?" will remain open. Ultimately, science on its own cannot decide ethical dilemmas because it talks past ethical debate. It speaks a different language and, for the most part, addresses different questions. Succinctly put, the scientist replaces the question of "Why?" with the question of "How?" The horns of the ethical dilemma in question are not removed, merely redescribed - in the language of science.

At its extreme, the aim of science is an ultimately and objectively true, theory-free description of the universe. Somewhat ironically, it is in many ways the same aim as that of religion. Both purport to be objective at the expense of competitors. Both face charges of missing the point from the opposing camp.

But if morality no longer provides objective truth - if God is invisible to all but the faithful - and if science at best informs ethical dilemma and at worst side-steps it, a third perspective is perhaps needed.

The lawyer does not - or certainly should not - purport to give an answer that is free from the constraints of space and time. God may be unshackled by such contingencies, but the lawyer is not. Hence, the distinction in outlook between law and ethics becomes evident. Where ethics inquires into the moral standard of a given decision (i.e. whether the decision is right or wrong), law focuses on the relationship

between those moral standards and the actual directives (i.e. laws) laid down to guide people's actions within a given community. Whether a community's moral standards are "true" is not the concern of the lawyer. Notwithstanding the historical connection between law and morality, whether a community's laws are themselves "right" or "wrong" is, at most, a secondary concern. Law by definition is man-made, arising within a given socio-historical context. Hence, to speak of the lawyer as the appropriate arbiter of ethical dilemmas is to accept that our "best" answers to moral problems are – and always will be – relative to a given socio-historical and legal context. It is to accept that in asking whether a Siamese twins should be separated, one is not asking what God would *say* about such a situation, or, empirically, what the scientist can actually *do* in such a situation. Rather, one is asking what the laws of a given society *permit* – and this is a separate question from that of moral (or scientific) validity of those laws in any absolute sense.

If this a fair analysis of the role of God (morality), the scientist and the lawyer, then the situation turns out to be as follows. God should decide ethical dilemmas but increasingly cannot; the scientist would perhaps like to decide but, for the most part, should not; and the lawyer (hopefully informed by both God and scientist) in practice does. Is this empirical state of affairs appropriate? It seems so. If understood correctly, then the merit of the law is that it does not purport to be more than it is, namely a body of human-made rules. The merit of God and, in a slightly different sense, the scientist is that both aim to provide backdrop against which (or frameworks within which) the decisions of men and women can be judged. Crucially, to recognise potential difficulties with theological/scientific quests for "truth" or theological/ethical quests for objective morality ("right" and "wrong") need not be to reject the many positive aspects of morality and science that persist.

Who should decide ethical dilemmas? It appears it is the lawyer. Or rather it is the lawyer provided that he or she is fully informed by the most advanced ethical and scientific discourses on the matter at hand.