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ESSAY

When Intentions Don't Matter

As recent controversies show, moral judgment requires asking if people deserve punishment for harms they inflict without meaning to.

By Paul Bloom

March 12, 2021 12:59 pm ET



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A journalist at the New Yorker was fired for exposing himself in a Zoom call; another lost his job at the New York Times for quoting a racial slur; an employee of the centrist Niskanen Center in Washington was fired for tweeting a joke about Mike Pence being lynched; an actress was removed from the cast of "The Mandalorian" for allegedly anti-Semitic posts on Instagram. In all of these cases, the accused parties denied malicious intent. Suppose they were telling the truth. Were they treated unjustly?

Many think the answer is obvious. We shouldn't blame people for accidents, for mistakes and for actions that they didn't know were wrong at the time. Discussing such cases, the conservative commentator Ben Shapiro says that anti-Semitism, like racism, "requires intent." After an initial claim to the contrary, New York Times editor Dean Baquet told his staff in discussing the incident there, "Of course, intent matters when we are talking about language in journalism." And Times columnist Bret Stephens—in a piece rejected by his own paper but then published in the New York Post—wrote, "Every serious moral philosophy, every decent legal system and every ethical organization cares deeply about intention...It's an elementary aspect of parenting, friendship, courtship and marriage. A

hallmark of injustice is indifference to intention. Most of what is cruel, intolerant, stupid and misjudged in life stems from that indifference.”

There are all sorts of cases where we ignore intention, or at least don't see good intention as fully exculpatory.

This rings true for many people, and I think it's sometimes right. But as a general claim, many philosophers, legal scholars and moral psychologists will tell you that it's mistaken. There are all sorts of cases where we ignore intention, or at least don't see good intention as fully exculpatory—and we are right to do so. By thinking hard about what goes into a moral judgment, we will find ourselves in a better position to debate the merits of any particular case.

There are two main considerations that we take into account when something has done wrong—the intent of the actor and the outcome of the action. To take the sort of example used in psychological research, Mrs. Smith thinks your child is allergic to peanuts, makes him a peanut butter and jelly sandwich with homicidal intent, and gleefully watches him die. This is murder. But what if she's mistaken and your child has no such allergy? She watches with surprise as he says thank you and runs off to play. This is bad intent without a bad outcome. It's awful but not as awful as murder.



If you spill coffee on someone's laptop by accident, are you still obligated to pay for the repair?

PHOTO: GETTY IMAGES

Now imagine a third scenario in which Mrs. Smith is unaware of the allergy and kills your child by mistake. Here we have a bad outcome without bad intent. But she would presumably be racked with guilt—and should be—and might still be charged with a criminal offense. To take a milder case, if you spill your coffee on my laptop, it matters a lot to me whether you did it on purpose. But even if it was a totally unavoidable accident,

you should apologize and perhaps offer to help pay for the repair. Outcomes matter even in the absence of intentions.



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There is a logic to this: Intentions are hard to infer and easy to lie about. Outcomes are observable by third parties and can form the basis of impartial judgment. And outcomes—the death of a child, a ruined laptop—are what matter. Indeed, it's likely that we worry so much about intentions only because they are clues to future outcomes. If you intended to knock over my coffee, it raises the chances that you might do it again—or worse—in the future. But even in the absence of malice, we should attend to bad outcomes. If you get sick from undercooked meat at a restaurant, you probably don't want to return, regardless of the chef's good intentions.

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So it's not surprising that outcome-focus is a natural default. In studies that have been replicated numerous times, the developmental psychologist Jean Piaget found that younger children weigh outcome more than intent. For instance, if you tell 4-year-olds

about someone who accidentally breaks 15 cups and someone else who purposefully breaks one, they'll say, unlike adults, that the first child is naughtier.

Then there are cross-cultural differences. In his recent book, "The WEIRDest People in the World," the Harvard evolutionary biologist Joseph Henrich reviews cross-cultural studies where people from around the world are given scenarios involving different violations, such as theft, poisoning and battery. In some cases, the violations were intentional; in others, they were accidents. These studies find that people in other cultures care less than Americans do about whether or not the acts were done on purpose, at least when it came to judging the actions of strangers. As Dr. Henrich notes, "Intentions, beliefs and personal dispositions are so central to [Western] moral judgments that the idea that people in other societies judge others based mostly or entirely on what they did—the outcome—violates their strong intuition that mental states are primary. But putting relatively little importance on mental states is probably how most people would have made moral judgments of strangers over most of the last 10 millennia."

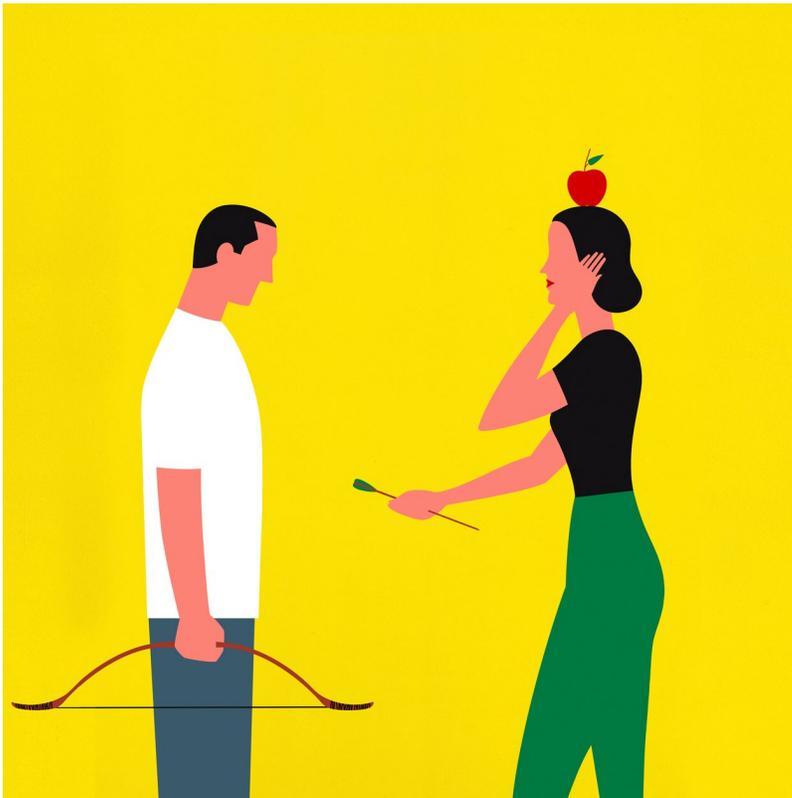


ILLUSTRATION: JON KRAUSE

We shouldn't find this too exotic. Even in American law, intention is often ignored. You can get a ticket for speeding even if you sincerely believe that you were driving under the limit. In some states, you can go to prison for statutory rape even if you were deceived

about the person's age. This sort of "strict liability" is even more common outside of criminal law. If a company makes a vaccine, for instance, it is responsible for any negative side effects, regardless of their intent, caution, due diligence or anything else. Someone has to carry the risk, after all.

Why are we concerned about intention in some cases but not others? One consideration is deterrence. If I know that I'm going to be punished even for innocent mistakes, I'll be more cautious. A second consideration involves intuitions about what matters the most. Are you most concerned about miscreants getting away with bad acts? Then focus on outcomes and increase the risk of punishing the innocent. Worried about unjust punishment? Then let people off if they can make a convincing case that their act was accidental, accepting that this means that some guilty actors will get away.

Typically, the law is more concerned about false imprisonment, as reflected in the English jurist William Blackstone's dictum, "Better that 10 guilty persons escape, than that one innocent suffer." (In other formulations, the ratio is 100:1 or even higher.) But the ratio should shift if the penalty is less severe. We don't have to think like Blackstone when it comes to traffic tickets or cases outside the law—I have colleagues who believe that it's better that 10 innocent students suffer than one plagiarist go free.



Marlon Brando as mob boss Vito Corleone in 'The Godfather,' for whom fairness matters less than deterrence.

PHOTO: EVERETT COLLECTION

And the ratio might shift if the punisher is especially concerned with deterrence. Take the scene in "The Godfather" where Vito Corleone is in intense negotiations with other mobsters, and he says that if anything were to happen to his son—accidentally killed by a police officer, hangs himself in his cell, struck by lightning, plane falls from the sky—he

will take vengeance on the other men in the room. This threat reflects the great value he puts on the safety of his son and the relatively low concern he has about fairness toward the other mob leaders. And it nicely aligns everyone's incentives.

For certain types of violations, we are particularly prone to ignore intention. In an intriguing series of studies, the neuroscientists Liane Young and Rebecca Saxe found that accidental taboo acts, such as incest, are treated almost as harshly as intentional ones. You might forgive Oedipus for bumping into the table and soaking your laptop with coffee, but he doesn't get as much of a pass for accidentally sleeping with his mother.

The morality of taboo turns out to be distinct in all sorts of ways from the morality of harm to people and property. It develops differently in children; it rests on different brain areas. Even the most progressive and well-educated individuals are subject to the psychology of taboo, of drawing lines that separate the pure from the impure. It is no accident that many of the cases in which such individuals dismiss people's intentions have to do with sex and race.

We take intention into account, after all, for people we care about.

In the end, there is nothing so surprising about our occasional dismissal of intent. It fits our psychological propensities, and in some circumstances, it can make the world better.

Yet I agree with Bret Stephens about the cruelty of ignoring intention. The law can be, and often should be, utilitarian; it can ignore intent in cases where a focus on outcome is more efficient and better satisfies certain goals. But punishment and shaming in everyday life involve different considerations, and there is more room for kindness and generosity.

We take intention into account, after all, for people we care about. For them, we are sensitive to nuance and purpose and inclined to give second chances. Zero-tolerance is something we reserve for strangers and enemies, either personal or political. Part of this might just be a desire to harm them, a delight in seeing them fired and humiliated. But deeper considerations are also at work. We don't trust those we don't like, and so we dismiss their stated intentions; we are more comfortable thinking of their suffering as instrumental, helping us to satisfy broader goals of deterrence; we find it easier in such cases to be swayed by the psychology of taboo.

And so, in the end, the argument for caring about intention is an argument for charity—for treating a stranger or even an enemy like someone we care about. It is possible that even here outcome will trump intent, particularly if someone is guilty of a string of past offenses. But charity should incline us to be more willing to take other considerations into account. And there might even be some selfish advantage in contributing to a culture of greater kindness. If you are the one to make an awful mistake, you might have a chance to redeem yourself by explaining that the harm you caused was truly not what you wished for.

—Dr. Bloom is the Brooks and Suzanne Ragen Professor of Psychology at Yale University and the author, most recently, of “Against Empathy: The Case for Rational Compassion.”

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