

Practicum

Advances are made by answering questions
Discoveries are made by questioning answers

Mental Reservation When lying is permissible?

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The pretest reached the question formulation phase. While discussing the comparison question the examinee, a fresh graduate of a Jesuit Seminary of Theology, was asked: “Have you ever lied in your life?”, “Never” came the answer with eye contact avoidance and hesitation. The examiner with somewhat teasingly tone responded to that: “Never, ever, even not as a child?”. “Well... define lie” came the answer with an inaudible and unclear murmur. “What was that?” asked the examiner but the answer never came. The pattern of breaking eye contact along with physical uneasiness and

excessive body movement, sneaky and indirect answers followed by an inaudible and unclear murmur continued all along the comparison questions discussion¹. It seemed like the examinee tries to overcome and fight his inner conflict in where in one hand he should tell the truth while on the other hand to maintain a respectful and honest façade. The inner conflict itself was not exceptional; examiners face it daily, but rather the avoidance patterns which were consistent and seemed like

¹ It seems like this examinee never read the large body of research rejecting those cues as being indicative of deception.

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some kind of a systematic training, a type of a mental counter measure....And indeed it was.

“Mentalis Restricti” (Mental Restriction a.k.a Mental Reservation)

The ninth verse of the Ten Commandments^{II} “Thou shalt not bear false witness against thy neighbor” is one of the fundamental directives in the Judeo-Christian morale code. Lying is forbidden and according to the Catholic teaching it is considered as an evil. And evil cannot even be exercised in order to save human. Yet, there are some unique situations or as Slater^{III} (1911) explains:

“... However, we are also under an obligation to keep secrets faithfully, and sometimes the easiest way of fulfilling that duty is to say what is false, or to tell a lie. Writers of all creeds ..., both ancient and modern, have frankly accepted this position. They admit the doctrine of the lie of necessity, and maintain that when there is a conflict between justice and veracity it is justice that should prevail...”

To resolve the conflict the common Catholic teaching established the doc-

trine of mental reservation as a mean in where “...both justice and veracity can be satisfied....”^{IV}

The doctrine was first introduced in 1235 by St. Raymund of Pennafort, a Spaniard professor of Cannon Law when Raymond published the Summa Casuum of which several editions appeared in the sixteenth and seventeenth centuries^V.

“... I believe, as at present advised, that when one is asked by murderers bent on taking the life of someone hiding in the house whether he is in, no answer should be given; and if this betrays him, his death will be imputable to the murderers, not to the other’s silence. Or he may use an equivocal expression, and say ‘He is not at home,’ or something like that. And this can be defended by a great number of instances found in the Old Testament. Or he may say simply that he is not there, and if his conscience tells him that he ought to say that, then he will not speak against his conscience, nor will he sin ...”

“... Such expressions as “He is not at home” were called equivocations, or amphibologies, and when there was good reason for using them

II Exodus 20:16, The Holy Bible, English Standard Version, Crossway Bibles, Ministry of Good News Publishers (2001).

III Slater, T. (1911). Mental Reservation. In The Catholic Encyclopedia. New York: Robert Appleton Company. Retrieved April 3, 2015 from New Advent: <http://www.newadvent.org/cathen/10195b.htm>

IV Ibid, Slater (1911)

V O’Kane, M. (1911). St. Raymond of Peñafort. In The Catholic Encyclopedia. New York: Robert Appleton Company. Retrieved April 12, 2015 from New Advent: <http://www.newadvent.org/cathen/12671c.htm>

their lawfulness was admitted by all. If the person inquired for was really at home, but did not wish to see the visitor, the meaning of the phrase “He is not at home” was restricted by the mind of the speaker to this sense, “He is not at home for you, or to see you.” Hence equivocations and amphibologies came to be called mental restrictions or reservations. It was commonly admitted that an equivocal expression need not necessarily be used when the words of the speaker receive a special meaning from the circumstances in which he is placed, or from the position which he holds. Thus, if a confessor is asked about sins made known to him in confession, he should answer “I do not know,” and such words as those when used by a priest mean “I do not know apart from confession,” or “I do not know as man,” or “I have no knowledge of the matter which I can communicate...”^{VI}

The doctrine of strict mental reservation (*stricte mentalis*)

In the sixteenth century mental reservation doctrine mounted into its next stage when Martin Aspilcueta (a.k.a “Doctor Navarrus,”) another Spaniard professor of Cannon Law coined the strict mental reservation doctrine when consulted whether a statement given by a person to a woman “I take thee for my wife”



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without the intention of marrying her and later denying saying it in court is considered to be a lie or perjury or a sin? Navarrus answered that the man neither lied, nor committed perjury, nor any sin whatever, on the supposition that he had a good reason for answering as he did^{VII}. Navarrus held that mental reservation involved truths “expressed partly in speech and partly in the mind,” relying upon the idea that God hears what is in one’s mind while human beings hear only what one speaks. Therefore the Christian’s moral duty was to tell the truth to God. Reserving some of that truth from the ears of human hearers was moral if it served a greater good. A user of the doctrine could reply “I know not” aloud to a human and “to tell you” silently to God, and still be telling the truth.

Modern implementation

^{VI} Ibid, Slater (1911)

^{VII} Ibid, Slater (1911)

In spite of the fact that the concept of mental reservation has never been included in Canon Law nor was it officially approved by the Catholic Church authority it has been debated in years past by the scholars of the law and of moral theology^{VIII}. However it seems that the practical implementation of the doctrine is still practiced. According to the Irish Government “Commission to Inquire into Child Abuse^{IX}” (a.k.a The Ryan Report) published in 2009 the Roman Catholic archbishops in Dublin obsessively covered up widespread sexual abuse of children by priests until the mid-1990s. One priest admitted abusing more than 100 children. Another said he had abused children every two weeks for more than 25 years. All archbishops in charge over the 1975-2004 period covered by the inquiry were aware of some complaints and the archdiocese was pre-occupied with protecting the reputation of the Church over and above protecting children’s welfare. It said the Church was “obsessively” concerned with secrecy and operated a policy of “don’t ask, don’t tell” about abuse. Cardinal Desmond Connell the former Archbishop of Dublin and the Primate of Ireland, who made misleading statements in connection with clerical sex abuse is quoted of saying “...There may be circumstances in which you can use

an ambiguous expression realizing that the person who you are talking to will accept an untrue version of whatever it may be...”^X

For the sake of equality the view on lying of the other two monotheistic religions should be described as well:

In addition to the ninth commandments, the Old Testament (Torah) guide that “Thou shall not steal, thou shall not deny falsely, and thou shall not lie one to another”^{XI} and “Distance yourself from a false matter”^{XII}. Yet, in the Talmud which is a collection of Jewish law and tradition as interpreted by ancient scholars, there are several circumstances where one is permitted or sometimes required to lie^{XIII}:

- Lying to preserve the cause of peace, not to hurt another person’s feelings, or to provide comfort.
- Lying in a situation where honesty might cause oneself or another person harm.
- Lying for the sake of modesty or in or-

X Roddy, M., In abuse by Irish priests, a little “mental reservation”, Reuters US Edition, <http://blogs.reuters.com/faithworld/2009/11/29/in-abuse-by-irish-priests-a-little-mental-reservation/>

XI Ibid, the Holy Bible, Leviticus 19:11

XII Ibid, The Holy Bible, Exodus 23:7

XIII Friedman, H.H., & Weisel, A.C, (2003), Should Moral Individuals Ever Lie? Insights from Jewish Law, Jewish Law Articles, http://www.jlaw.com/Articles/hf_LyingPermissible.html

VIII Doyle, T.P, (2006), The Doctrine of mental Reservation, www.awrsipe.com/Doyle/2006/2006-11-19-Doyle-Mental_reservation.pdf

IX Commission to Inquire into Child Abuse, www.childabusecommission.com/rpt/

der not to appear arrogant.

- Lying for the sake of decency, i.e., not telling the truth about intimate matters.
- Lying to protect one's property from scoundrels.

Following the Jewish and Christian footsteps, Islam takes a similar stand. While the Quran prohibit the followers of lying: "...And do not conceal testimony, for whoever conceals it – his heart is indeed sinful..."^{XIV} and "And do not mix the truth with falsehood or conceal the truth while you know [it]."^{XV} However, the Hadith which is a collection of teaching attributed to Muhammad one may choose not to tell the truth when^{XVI}:

- A Muslim's life is in danger if he speaks the truth to a non-believer.
- To promote harmony between spouses.
- While making peace between two quarrelling Muslim parties, so that it would not escalate into something worse the mediator in such case may falsely speak.

XIV Quran 2:283, <http://quran.com/2>

XV Ibid, Quran 2:42,

XVI Sahih Muslim, Chapter 25: Forbiddance of telling a lie and the cases in which telling of lie is permissible, Book 032, Number 6303: http://d1.islamhouse.com/data/en/ih_books/single/en_Sahih_Muslim.pdf

- To make the unbelievers realize the truth of Islam.

The potential risk

Polygraph examiners meet on a daily basis examinees which belong to one of these dominations, nevertheless if the examinee is orthodox or secular the prohibition to lie along with the permission to lie is part of her/his heritage which are well rooted into her/his DNA, which in return means that in some instances the examinee will have no remorse upon lying. Will that affect her/his psychophysiological responses and reduce them? The leading theories which explain the responses disregard guilt or remorse as an influencing factor in the psychophysiological arousal process but some researcher theorize that guilt does produce deception cues. Ekman and Frank (1993)^{XVII} "Deception Guilt" refer to the guilty feelings of the liar either because of the act committed or by the act of denying it or both. The "Deception Guilt" can produce very mild to strong deception cues^{XVIII}. So in those instances in where the examinee is convinced by the necessity of lying as grounded in her/his domination we may face a non-responsive examinee. Such should be defined as a mental countermeasure and managed by the examiner as such.

XVII Ekman, P., & Frank, M.G., (1993), "Lies That Fail," in *Lying and Deception in Everyday Life*, New York, NY: Guilford Press; US, 190.

XVIII Ibid, Ekman & Frank, 191.