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Objection 1: Individual Rights

The most glaring weakness of utilitarianism, many argue, is that it fails to respect individual rights. By caring only about the sum of satisfactions, it can run roughshod over individual people. For the utilitarian, individuals matter, but only in the sense that each person's preferences should be counted along with everyone else's. But this means that the utilitarian logic, if consistently applied, could sanction ways of treating persons that violate what we think of as fundamental norms of decency and respect, as the following cases illustrate:

Throwing Christians to lions

In ancient Rome, they threw Christians to the lions in the Coliseum for the amusement of the crowd. Imagine how the utilitarian calculus would go: Yes, the Christian suffers excruciating pain as the lion mauls and devours him. But think of the collective ecstasy of the cheering spectators packing the Coliseum. If enough Romans derive enough pleasure from the violent spectacle, are there any grounds on which a utilitarian can condemn it?

The utilitarian may worry that such games will coarsen habits and breed more violence in the streets of Rome; or lead to fear and trembling among prospective victims that they, too, might one day be tossed to the lions. If these effects are bad enough, they could conceivably outweigh the pleasure the games provide, and give the utilitarian a

reason to ban them. But if these calculations are the only reasons to desist from subjecting Christians to violent death for the sake of entertainment, isn't something of moral importance missing?

Is torture ever justified?

A similar question arises in contemporary debates about whether torture is ever justified in the interrogation of suspected terrorists. Consider the ticking time bomb scenario: Imagine that you are the head of the local CIA branch. You capture a terrorist suspect who you believe has information about a nuclear device set to go off in Manhattan later the same day. In fact, you have reason to suspect that he planted the bomb himself. As the clock ticks down, he refuses to admit to being a terrorist or to divulge the bomb's location. Would it be right to torture him until he tells you where the bomb is and how to disarm it?

The argument for doing so begins with a utilitarian calculation. Torture inflicts pain on the suspect, greatly reducing his happiness or utility. But thousands of innocent lives will be lost if the bomb explodes. So you might argue, on utilitarian grounds, that it's morally justified to inflict intense pain on one person if doing so will prevent death and suffering on a massive scale. Former Vice President Richard Cheney's argument that the use of harsh interrogation techniques against suspected Al-Qaeda terrorists helped avert another terrorist attack on the United States rests on this utilitarian logic.

This is not to say that utilitarians necessarily favor torture. Some utilitarians oppose torture on practical grounds. They argue that it seldom works, since information extracted under duress is often unreliable. So pain is inflicted, but the community is not made any safer: there is no increase in the collective utility. Or they worry that if our country engages in torture, our soldiers will face harsher treatment if taken prisoner. This result could actually reduce the overall utility associated with our use of torture, all things considered.

These practical considerations may or may not be true. As reasons to oppose torture, however, they are entirely compatible with utilitarian thinking. They do not assert that torturing a human being is intrinsically wrong, only that practicing torture will have bad effects that, taken as a whole, will do more harm than good.

Some people reject torture on principle. They believe that it violates human rights and fails to respect the intrinsic dignity of human beings. Their case against torture does not depend on utilitarian considerations. They argue that human rights and human dignity have a moral basis that lies beyond utility. If they are right, then Bentham's philosophy is wrong.

On the face of it, the ticking time bomb scenario seems to support Bentham's side of the argument. Numbers do seem to make a moral difference. It is one thing to accept the possible death of three men in a lifeboat to avoid killing one innocent cabin boy in cold blood. But what if thousands of innocent lives are at stake, as in the ticking time bomb scenario? What if hundreds of thousands of lives were at risk? The utilitarian would argue that, at a certain point, even the most ardent advocate of human rights would have a hard time insisting it is morally preferable to let vast numbers of innocent people die than to torture a single terrorist suspect who may know where the bomb is hidden.

As a test of utilitarian moral reasoning, however, the ticking time bomb case is misleading. It purports to prove that numbers count, so that if enough lives are at stake, we should be willing to override our scruples about dignity and rights. And if that is true, then morality is about calculating costs and benefits after all.

But the torture scenario does not show that the prospect of saving many lives justifies inflicting severe pain on one innocent person. Recall that the person being tortured to save all those lives is a suspected terrorist, in fact the person we believe may have planted the bomb. The moral force of the case for torturing him depends heavily on the assumption that he is in some way responsible for creating the danger we

now seek to avert. Or if he is not responsible for this bomb, we assume he has committed other terrible acts that make him deserving of harsh treatment. The moral intuitions at work in the ticking time bomb case are not only about costs and benefits, but also about the non-utilitarian idea that terrorists are bad people who deserve to be punished.

We can see this more clearly if we alter the scenario to remove any element of presumed guilt. Suppose the only way to induce the terrorist suspect to talk is to torture his young daughter (who has no knowledge of her father's nefarious activities). Would it be morally permissible to do so? I suspect that even a hardened utilitarian would flinch at the notion. But this version of the torture scenario offers a truer test of the utilitarian principle. It sets aside the intuition that the terrorist deserves to be punished anyhow (regardless of the valuable information we hope to extract), and forces us to assess the utilitarian calculus on its own.

The city of happiness

The second version of the torture case (the one involving the innocent daughter) brings to mind a short story by Ursula K. Le Guin. The story ("The Ones Who Walked Away from Omelas") tells of a city called Omelas—a city of happiness and civic celebration, a place without kings or slaves, without advertisements or a stock exchange, a place without the atomic bomb. Lest we find this place too unrealistic to imagine, the author tells us one more thing about it: "In a basement under one of the beautiful public buildings of Omelas, or perhaps in the cellar of one of its spacious private homes, there is a room. It has one locked door, and no window." And in this room sits a child. The child is feeble-minded, malnourished, and neglected. It lives out its days in wretched misery.

They all know it is there, all the people of Omelas . . . They all know that it has to be there . . . [T]hey all understand that their happiness, the beauty of their city, the tenderness of their friendships, the health

of their children, . . . even the abundance of their harvest and the kindly weathers of their skies, depend wholly on this child's abominable misery. . . . If the child were brought up into the sunlight out of the vile place, if it were cleaned and fed and comforted, that would be a good thing, indeed; but if it were done, in that day and hour all the prosperity and beauty and delight of Omelas would wither and be destroyed. Those are the terms.⁸

Are those terms morally acceptable? The first objection to Bentham's utilitarianism, the one that appeals to fundamental human rights, says they are not—even if they lead to a city of happiness. It would be wrong to violate the rights of the innocent child, even for the sake of the happiness of the multitude.

Objection 2: A Common Currency of Value

Utilitarianism claims to offer a science of morality, based on measuring, aggregating, and calculating happiness. It weighs preferences without judging them. Everyone's preferences count equally. This nonjudgmental spirit is the source of much of its appeal. And its promise to make moral choice a science informs much contemporary economic reasoning. But in order to aggregate preferences, it is necessary to measure them on a single scale. Bentham's idea of utility offers one such common currency.

But is it possible to translate all moral goods into a single currency of value without losing something in the translation? The second objection to utilitarianism doubts that it is. According to this objection, all values can't be captured by a common currency of value.

To explore this objection, consider the way utilitarian logic is applied in cost-benefit analysis, a form of decision-making that is widely used by governments and corporations. Cost-benefit analysis tries to bring rationality and rigor to complex social choices by translating all costs and benefits into monetary terms—and then comparing them.

The benefits of lung cancer

Philip Morris, the tobacco company, does big business in the Czech Republic, where cigarette smoking remains popular and socially acceptable. Worried about the rising health care costs of smoking, the Czech government recently considered raising taxes on cigarettes. In hopes of fending off the tax increase, Philip Morris commissioned a cost-benefit analysis of the effects of smoking on the Czech national budget. The study found that the government actually gains more money than it loses from smoking. The reason: although smokers impose higher medical costs on the budget while they are alive, they die early, and so save the government considerable sums in health care, pensions, and housing for the elderly. According to the study, once the “positive effects” of smoking are taken into account—including cigarette tax revenues and savings due to the premature deaths of smokers—the net gain to the treasury is \$147 million per year.⁹

The cost-benefit analysis proved to be a public relations disaster for Philip Morris. “Tobacco companies used to deny that cigarettes killed people,” one commentator wrote. “Now they brag about it.”¹⁰ An anti-smoking group ran newspaper ads showing the foot of a cadaver in a morgue with a \$1,227 price tag attached to the toe, representing the savings to the Czech government of each smoking-related death. Faced with public outrage and ridicule, the chief executive of Philip Morris apologized, saying the study showed “a complete and unacceptable disregard of basic human values.”¹¹

Some would say the Philip Morris smoking study illustrates the moral folly of cost-benefit analysis and the utilitarian way of thinking that underlies it. Viewing lung cancer deaths as a boon for the bottom line does display a callous disregard for human life. Any morally defensible policy toward smoking would have to consider not only the fiscal effects but also the consequences for public health and human well-being.

But a utilitarian would not dispute the relevance of these broader consequences—the pain and suffering, the grieving families, the loss of

life. Bentham invented the concept of utility precisely to capture, on a single scale, the disparate range of things we care about, including the value of human life. For a Benthamite, the smoking study does not embarrass utilitarian principles but simply misapplies them. A fuller cost-benefit analysis would add to the moral calculus an amount representing the cost of dying early for the smoker and his family, and would weigh these against the savings the smoker's early death would provide the government.

This takes us back to the question of whether all values can be translated into monetary terms. Some versions of cost-benefit analysis try to do so, even to the point of placing a dollar value on human life. Consider two uses of cost-benefit analysis that generated moral outrage, not because they didn't calculate the value of human life, but because they did.

Exploding gas tanks

During the 1970s, the Ford Pinto was one of the best-selling subcompact cars in the United States. Unfortunately, its fuel tank was prone to explode when another car collided with it from the rear. More than five hundred people died when their Pintos burst into flames, and many more suffered severe burn injuries. When one of the burn victims sued Ford Motor Company for the faulty design, it emerged that Ford engineers had been aware of the danger posed by the gas tank. But company executives had conducted a cost-benefit analysis and determined that the benefits of fixing it (in lives saved and injuries prevented) were not worth the eleven dollars per car it would have cost to equip each car with a device that would have made the gas tank safer.

To calculate the benefits to be gained by a safer gas tank, Ford estimated that 180 deaths and 180 burn injuries would result if no changes were made. It then placed a monetary value on each life lost and injury suffered—\$200,000 per life, and \$67,000 per injury. It added to these amounts the number and value of the Pintos likely to go up in flames,

and calculated that the overall benefit of the safety improvement would be \$49.5 million. But the cost of adding an \$11 device to 12.5 million vehicles would be \$137.5 million. So the company concluded that the cost of fixing the fuel tank was not worth the benefits of a safer car.¹²

Upon learning of the study, the jury was outraged. It awarded the plaintiff \$2.5 million in compensatory damages and \$125 million in punitive damages (an amount later reduced to \$3.5 million).¹³ Perhaps the jurors considered it wrong for a corporation to assign a monetary value to human life, or perhaps they thought that \$200,000 was egregiously low. Ford had not come up with that figure on its own, but had taken it from a U.S. government agency. In the early 1970s, the National Highway Traffic Safety Administration had calculated the cost of a traffic fatality. Counting future productivity losses, medical costs, funeral costs, and the victim's pain and suffering, the agency arrived at \$200,000 per fatality.

If the jury's objection was to the price tag, not the principle, a utilitarian could agree. Few people would choose to die in a car crash for \$200,000. Most people like living. To measure the full effect on utility of a traffic fatality, one would have to include the victim's loss of future happiness, not only lost earnings and funeral costs. What, then, would be a truer estimate of the dollar value of a human life?

A discount for seniors

When the U.S. Environmental Protection Agency tried to answer this question, it, too, prompted moral outrage, but of a different kind. In 2003, the EPA presented a cost-benefit analysis of new air pollution standards. The agency assigned a more generous value to human life than did Ford, but with an age-adjusted twist: \$3.7 million per life saved due to cleaner air, except for those older than seventy, whose lives were valued at \$2.3 million. Lying behind the different valuations was a utilitarian notion: saving an older person's life produces less util-

ity than saving a younger person's life. (The young person has longer to live, and therefore more happiness still to enjoy.) Advocates for the elderly did not see it that way. They protested the "senior citizen discount," and argued that government should not assign greater value to the lives of the young than of the old. Stung by the protest, the EPA quickly renounced the discount and withdrew the report.¹⁴

Critics of utilitarianism point to such episodes as evidence that cost-benefit analysis is misguided, and that placing a monetary value on human life is morally obtuse. Defenders of cost-benefit analysis disagree. They argue that many social choices implicitly trade off some number of lives for other goods and conveniences. Human life has its price, they insist, whether we admit it or not.

For example, the use of the automobile exacts a predictable toll in human lives—more than forty thousands deaths annually in the United States. But that does not lead us as a society to give up cars. In fact, it does not even lead us to lower the speed limit. During an oil crisis in 1974, the U.S. Congress mandated a national speed limit of fifty-five miles per hour. Although the goal was to save energy, an effect of the lower speed limit was fewer traffic fatalities.

In the 1980s, Congress removed the restriction, and most states raised the speed limit to sixty-five miles per hour. Drivers saved time, but traffic deaths increased. At the time, no one did a cost-benefit analysis to determine whether the benefits of faster driving were worth the cost in lives. But some years later, two economists did the math. They defined one benefit of a higher speed limit as a quicker commute to and from work, calculated the economic benefit of the time saved (valued at an average wage of \$20 an hour) and divided the savings by the number of additional deaths. They discovered that, for the convenience of driving faster, Americans were effectively valuing human life at the rate of \$1.54 million per life. That was the economic gain, per fatality, of driving ten miles an hour faster.¹⁵

Advocates of cost-benefit analysis point out that by driving sixty-

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five miles an hour rather than fifty-five, we implicitly value human life at \$1.54 million—much less than the \$6 million per life figure typically used by U.S. government agencies in setting pollution standards and health-and-safety regulations. So why not be explicit about it? If trading off certain levels of safety for certain benefits and conveniences is unavoidable, they argue, we should do so with our eyes open, and should compare the costs and benefits as systematically as possible—even if that means putting a price tag on human life.

Utilitarians see our tendency to recoil at placing a monetary value on human life as an impulse we should overcome, a taboo that obstructs clear thinking and rational social choice. For critics of utilitarianism, however, our hesitation points to something of moral importance—the idea that it is not possible to measure and compare all values and goods on a single scale.