The value’s MORALITY.

Rationality requires acting on principles which serve our rational ordering of preferences. Gauthier 1:

Since **in representing our preferences we become aware of conflict among them[;]**, the step from representation to choice becomes complicated. **We must**, somehow, **bring our conflicting desires and preferences into some sort of coherence. And there is only one plausible candidate for a principle of coherence—a maximizing principle. We order our preferences, in relation to decision and action, so that we may choose in a way that maximizes our expectation of preference fulfillment. And in so doing, we show ourselves to be rational agents, engaged in deliberation and deliberative justification. There is simply nothing else for practical rationality to be.**

The only moral theory ensuring the maximization of each agent’s expected utility is one of mutual constraint. Gauthier 2:

**This rationale for agreed constraint** makes no reference to the content of anyone’s preferences. The argument **depends simply on the structure of interaction, on the way in which each person’s endeavor to fulfill her own preferences affects the fulfillment of everyone else.** Thus, **each person’s reason to accept a mutually constraining practice is independent of her particular desires**, aims and interests, although not, of course, the fact that she has such concerns. **The idea of a purely rational agent, moved to act by reason alone, is not**, I think, **an intelligible one.** **Morality is not to be understood as a constraint arising from reason alone on the fulfillment of nonrational preferences. Rather, a rational agent is one who acts to achieve the maximal fulfillment of her preferences, and morality is a constraint on the manner in which she acts**, arising from the effects of interaction with other agents.

This implies a contractarian theory of morality to reconcile differences in preferences. If there is no reciprocity or mutual agreement between parties, no contract exists and neither has an obligation to the other. Gauthier 3:

**Moral principles are introduced as the objects of** full voluntary ex ante **agreement among** rational **persons. Such agreement is hypothetical, in supposing a pre-moral context for the adoption of moral rules** and practices**. But the parties to agreement are real, determinate individuals, distinguished by their** capacities, **situations, and concerns. In so far as they would agree to constraints on their choices,** restraining their pursuit of their own interests, **they acknowledge a distinction between what they may and may not do. As rational persons understanding the structure of their interaction, they recognize a place for mutual constraint, and so for a moral dimension in their affairs.**

Thus, the standard is CONSISTENCY WITH CONTRACTARIAN RESTRAINT.

I contend that the US has no reason to enter into mutually restrictive agreements with non-citizen terror suspects. Terror suspects are accused of causing death and destruction to the citizens of the target nation, violating reciprocity of restraint and precluding the possibility of a contract existing to regulate behavior. Citizens would not will that terror suspects be let off due to marginally unfair practices in court since their lives are in danger, leading to defensive preferences.