## NC

First off, the ethical framework

Moral realism is true and justifies util. **Harris 10** writes[[1]](#footnote-1)

I believe that **we will increasingly understand** good and evil, **right and wrong**, **in scientific terms**, **because moral concerns translate into facts about** how our thoughts and behaviors affect **the well-being of conscious creatures like ourselves. If there are facts** to be known **about the well-being of such creatures**—and there are—**then there must be right and wrong answers to moral questions.** Students of philosophy will notice that **this commits me to** some form of **moral realism** (viz. moral claims can really be true or false) **and** some form of **consequentialism** (viz. the rightness of an act depends on how it impacts the well-being of conscious creatures). While moral realism and consequentialism have both come under pressure in philosophical circles, they have the virtue of corresponding to many of our intuitions about how the world works. Here is my (consequentialist) starting point: all questions of value (right and wrong, good and evil, etc.) depend upon the possibility of experiencing such value. Without potential consequences at the level of experience—happiness, suffering, joy, despair, etc. —all talk of value is empty. Therefore, to say that an act is morally necessary, or evil, or blameless, is to make (tacit) claims about its consequences in the lives of conscious creatures (whether actual or potential).I am unaware of any interesting exception to this rule. Needless to say, if one is worried about pleasing God or His angels, this assumes that such invisible entities are conscious (in some sense) and cognizant of human behavior. It also generally assumes that it is possible to suffer their wrath or enjoy their approval, either in this world or the world to come. Even within religion, therefore, consequences and conscious states remain the foundation of all values.

Util is axiomatic. **Harris 10** writes[[2]](#footnote-2)

So, while it is possible to say that one can't move from "is" to "ought," we should be honest about how we get to "is" in the first place. **Scientific "is" statements rest on implicit "oughts" all the way down.** When I say, "Water is two parts hydrogen and one part oxygen," I have uttered a quintessential statement of scientific fact. But what if someone doubts this statement? **I can appeal to data** from chemistry, describing the outcome of simple experiments. **But in so doing, I implicitly appeal to the values of empiricism and logic. What if my interlocutor doesn't share these values?** What can I say then? What evidence could prove that we should value evidence? What logic could demonstrate the importance of logic? As it turns out, **these are the wrong questions.** The right question is, **why should we care what such a person thinks in the first place? So it is with the linkage between morality and well-being: To say that morality is arbitrary** (or culturally constructed, or merely personal), **because we must first assume** that the **well-being** of conscious creatures **is good, is exactly like saying that science is arbitrary** (or culturally constructed, or merely personal), **because we must first assume** that a **rational understanding** of the universe **is good.** We need not enter either of these philosophical cul-de-sacs.

Thus the standard is **maximizing happiness**.

Also prefer the standard because

1. Respect for human worth would justify util. **Cummiskey 90**[[3]](#footnote-3)

We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.” Instead, the question is whether some persons must bear the inescapable cost for the sake of other persons. Robert Nozick, for example, argues that “to use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has.” But why is this not equally true of all those whom we do not save through our failure to act? **By emphasizing solely the one who must bear the cost if we act, we fail to** sufficiently **respect** and take account of **the many other** separate **persons**, each with only one life, **who will bear the cost of our inaction**. In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself”. Rational nature as such is the supreme objective end of all conduct. If one truly believes that all rational beings have an equal value, then the rational solution to such a dilemma involves maximally promoting the lives and liberties of as many rational beings as possible. In order to avoid this conclusion, the non-consequentialist Kantian needs to justify agent-centered constraints. As we saw in chapter 1, however, even most Kantian deontologists recognize that agent-centered constraints require a non- value-based rationale. But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? If I sacrifice some for the sake of others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. **Persons** may **have “dignity**, that is, an unconditional and incomparable worth” **that transcends any market value, but persons also have** a fundamental **equality that dictates that some must** sometimes **give way for the sake of others.** The concept of the end-in-itself does not support the view that we may never force another to bear some cost in order to benefit others.

2. Extinction is a meta-constraint on government. You must value the existence of the government first. **Abraham Lincoln 64**[[4]](#footnote-4)

I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I can not remember when I did not so think, and feel. And yet I have never understood that the Presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling. It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States. I could not take the office without taking the oath. Nor was it my view that I might take an oath to get power, and break the oath in using the power. I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery. I had publicly declared this many times, and in many ways. And I aver that, to this day, I have done no official act in mere deference to my abstract judgment and feeling on slavery. I did understand however, that **my oath to preserve the constitution** to the best of my ability, **imposed upon me the duty of preserving**, by every indispensabale means, that government — **that nation — of which that constitution was** the organic **law.** Was it possible to lose the nation, and yet preserve the constitution? By general law life and limb must be protected; yet often **a limb must be amputated to save a life;** but a life is never wisely given to save a limb. I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable to the preservation of the constitution, through the preservation of the nation. Right or wrong, I assumed this ground, and now avow it. **I could not** feel that, to the best of my ability, I had even tried to **preserve the constitution, if**, to save slavery, or any minor matter, **I should permit the wreck of** government, **country, and Constitution all together.**

Allow new NR responses to aff spikes. 3 reasons.

(A) Spikes aren’t complete arguments until the 1AR because she hasn’t proven a link to the NC yet.

(B) Forcing the neg to answer every potential theory spike in the NC means every round gets wasted on theory.

(C) Key to clash, or the aff will just write blippy arguments and extend the dropped ones in the 1ar.

Gutcheck against dumb 1AR theory. Competing interps leads to a race to the bottom where every round comes down to theory, killing substantive education.

## CP

Counterplan Text: The United States should value community-based prosecutorial discretion in the criminal justice system.

The counterplan is mutually exclusive. The CP incorporates the voices of local communities to achieve retributive equality. **Alfieri 99**[[5]](#footnote-5)

The **community justice-based** model of **prosecutorial discretion proceeds from** the premise of **lawyers as** morally independent **agents within** a system of **adversarial justice**.361T his model struggles against the competing roles and functions of prosecuting and defense attorneys in the criminal justice system.362 Under its alternative template, the function of **the prosecutorial role expands** beyond the predicate state obligation to the public **to encompass both victim and defendant communities**. In contrast to the usually obscurantist role of defense counsel,363 here prosecutorial role performance combines both intrasystemic and extrasystemic appeals to justice. Intrasystemic appeals invoke **principles of justice embodied in** **the** legal **system and public morality.**364 Appeals of this kind **compel the** prosecutorial **duty to bargain justly**.365 Conversely, they bar "prosecutorial reliance on tactical and resource considerations'366 in the exercise of ethical discretion. **Informing** both **rehabilitative and punitive** discretionary **judgments, the appeals** strive to **achieve a retributive equity of blame and responsibility**, hence to strike a balance of equitable attribution and blameworthiness,367 in spite of the ambiguity of criminal rehabilitation and punishment.368

The counter-plan solves the case better. It builds community solidarity, deconstructing identity while solving the State manipulation at the heart of modern power structures. **Alfieri 99**[[6]](#footnote-6)

Conceiving the **prosecutor**ial function **as a political project dedicated** both **to dismantling hierarchical structures** of racial identity and narrative, and to building oppositional forms of advocacy that liberate subordinate images and discourses, **pushes prosecutors into** a model of **community participation**. Here the community at stake travels far out-side local boundaries to countenance a historical community connected by common issues of racially subordinated identity and narrative. Relevant models of community participation may be found in prior instances of identity-based criminal violence, even when confounded by the crosscutting categories of race, ethnicity, and gender that reflect the individual and group diversity of color.657 The **failure to recognize** the historical intersection of **gender, ethnicity, and class** 658 **in race cases permits** the continued manipulation of stereotypical images "in the service of political or economic expediencies."659 Ending the **state manipulation of stereotypical imagery** demands a study of race as a political and cultural project. In the Louima case, this overlapping project involves a process of sociolegal reimagination specific to the black male body. For Michael Uebel, undertaking a recasting of the signifying male body introduces "a political enterprise, aimed at producing new solidarities and exposing the bounds of the dominant and 'normal' as fragile and subject to revision."660 Recasting directs the mapping of identities in terms antagonistic to "colonial fantasy and the iconography of racial masculine bodies."661 From this mapping, theoretical models may emerge "that are aimed at supplanting reductive accounts of identity formation at the intersection of race and masculinity."'662 The Louima case illustrates the performative intersection of race and masculinity. In demonstrating that the identity categories of race, sexuality, and nationality may be readily "defined less as fixed identities rooted in bodies, normative sexuality, nature, or geography, and more as dynamic and dramatic modes, the sum of one's cultural prac-tices,"663 the Louima assaults how that the cultural politics of race and masculinity play out in the sociolegal context of the criminal and civil justice systems. The play of racial masculinities in the Louima case highlights the "dynamic modes of cultural practice" in legal advocacy and adjudication.664 Evidence of this dynamic, divulged in "shifting, repeating sets of performances "with no "fixed or essential subject category,"665 compels the investigation of white/black masculinity" as a re-visionary process, a constitutive performance"666that inscribes race and masculinities within the cultural politics of performativity.667 The juridical inscription of racial and masculine subjectivities in the Louima case through the contextualized performance of criminal and civil advocacy constitutes a "politics of representation" that manufactures its own social and political existence.668 Confronting the harsh reality of that racially oppressive and segregated existence, and its animating politics of legal representation, commences a gradual process of ethical positioning for prosecutors, victims, and communities of color.669 This process involves the move toward the **prosecutorial** exercise of **race-conscious, community-oriented** ethical **judgment** accompanied by joint victim/community acts of moral solidarity. In these ethical moments,670 **prosecutor, victim, and community** collectively **acknowledge that the** discursive and symbolic **systems** of meaning **that configure race, sex, class, and nation** **may be** constructed and **deconstructed by** the force of human agency.671 Here, deconstruction refers to **the contest over** the **performative space in** law and **legal advocacy** where identity categories become constituted.672 Unsurprisingly, **the construction** and negotiation **of identity** brokered **in this space occurs** "**against a** complex historical **matrix of** alterities, against a web of differences" signified by **race, class, gender, and sexual orientation.**

The first net benefit is Racism

Status quo prosecutorial discretion makes systemic racism inevitable. Only the counterplan solves the colorblindness at the heart of white supremacy by incorporating the views of the community. **Alfieri 99**[[7]](#footnote-7)

**Liberal** models of lawyer **discretion suffer** deep-seated internal **tensions** rankling the pursuit of client, lawyer, and community interests. The **conflicting endorsement of client autonomy and lawyer independence** under the same normative slate of liberal individualism **works to the detriment of community** conceptions of a higher collective good. That endorsement also gives little guidance to the lawyer-client analysis of options in light of their impact on individually joined community. Additionally, though the privileged position accorded to autonomy under a theory of liberal individualism seems clear-cut, the scope of the privilege falls unbounded. Indeed, liberal theory seems to waver in the "acceptance of autonomy as a desirable end in itself, rather than as a means to the attainment of the good."348 Similarly, it seems to falter both in asserting the neutral quality of liberal autonomy "irrespective of the use to which it is put,"349 and in accommodating the adverse consequences flowing to individuals and communities. Consider then an alternative account of autonomy tied to community interest and collective responsibility.350L like the standard liberal vision, this account views lawyer discretion, and more specifically prosecutorial discretion, as an institutional necessity of the criminal justice system. Accepting that necessity, Angela Davis concedes the difficulty of "imagin[ing] a fair and workable system that does not include some level of measured discretion in the prosecutorial process."351 Whether the institutional incentives and disincentives driving that discretion may accommodate competing considerations of merit, justice, and racial community evades easy answer. By way of answer, however, consider first merit-based discretion. The merit-based model of liberal ethical discretion seems well grounded in conventional ethics rules. In the criminal arena, for example, Model Rule 3.8 recognizes the function of merit in the exercise of prosecutorial decisionmaking.352Under that Rule, the demands of **merit-based discretion strive to guarantee impartiality** and state inde-pendence.3 Both elements are essential for legitimacy reasons. Here, the idea of legitimacy seems **untouched by** speculation of **racial harm** to the defendant or victim, and to the communities that may embrace each. Legitimacy remains undiminished because the theory of merit-based **prosecution relies on colorblind** claims of **punishment fired by the race-neutral logic of instrumental** and intrinsic **reasoning**.354 Driving the rationality of merit-based action, **these** claims **ignore** the fact **that prosecutorial discretion presents "a major cause of racial inequality in the c**riminal **j**ustice **s**ystem."355 **Causal neglect** of this kind **fosters the view of systemic racial inequality as a necessary cost of** prosecutorial **agency.**356 The sociolegal institutions of the state tolerate that view. **Curing** the **systemic racial inequality** operating **in** **criminal justice** institutions **requires community-based prosecutorial discretion**. Converting institutional tolerance of systemic racial inequality into institutional condemnation under an ethical rationale of a community-oriented, racial justice-based model of prosecutorial discretion begins with a sense of moral activism. Consider David Luban's notion of moral activism in evaluating this contemplated conversion. Luban argues that "morally activist lawyers should sometimes refrain from zealously advancing lawful client interests even when the threat to third parties is minimal or even intangible, and even when the benefit to the client may be substantial."357 Specifically, he urges avoiding the performance of "collectively harmful actions."358 Transmuting Luban's cautionary prohibition for civil jus-tice into an exhortation for the use of prosecutorial power as a collective instrument of racial justice conforms to a community justice-based model of discretion. To that end, Angela Davis recommends deploying such power "to construct effective solutions to racial injustice."359Fo r Davis, prosecutors possess "the power, discretion, and responsibility to remedy the discriminatory treatment of African Americans in the criminal justice process."360

Rehab only makes the problem worse. It removes all checks on discretion which leads to racist sentencing. **MacKenzie 6:**[[8]](#footnote-8)

For many, the answer to this question was no; the officials should not be given such wide discretion. However, liberals and conservatives differed in why they wanted to limit discretion. Conservatives argued that the judges and parole boards were too lenient; they used their discretion to release predatory criminals who continued to victimize innocent citizens. Liberals argued that [And] **the discretion given to officials was coercive and ineffective**. **Because officials could not** really **tell when offenders were rehabilitated,** why should they have the power to decide when the individual should be released? If the professionals who were responsible for rehabilitation could not demonstrate that they could effectively change offenders (as the Martinson report indicated), then their authority and autonomy in establishing the length of sentences should be severely restricted so that they would have less control over people’s lives. Furthermore, they argued, the wide discretion often results in disparity and unfair sentences that are not remedied through the parole release system. **As a result of the wide discretion allotted to officials in the c**riminal **j**ustice **s**ystem, offenders with similar past histories convicted of similar crimes often served widely disparate sentences whereas those with disparate histories and crimes served similar sentences. Critics of the indeterminate sentencing system argued that **poor and minority offenders were discriminated against,** imprisoned offenders were **coerced into programs, and offenders who challenged prison conditions were denied parole.**

The net benefit turns and outweighs the case. The counter-plan solves institutional racism which is the worst form of identity construction. **Alfieri 99**[[9]](#footnote-9)

The alternative model of race-conscious, **community-oriented prosecutorial discretion** **sets aside** the **colorblind conventions** of advocacy and adjudication well known in the civil **and** criminal justice systems. Instead, this model **seeks to employ critical race theory in developing race-consciousness.** Before implementation, however, this model must first survive the threshold controversy over the meaning of race-consciousness.377 Race-based classification schemes present categorical dilemmas concerning the construction of racial identity and narrative. The di-lemmas implicate Christopher Ford's notion of "administering iden-tity.""378Ford reveals the strained coherence of racial differentiation in regulating race-administration systems.379 Like any assembly combining advocacy and adjudication, these systems labor under the added strain of race-layered interactions of power. In this respect, john powell argues that the very "process of **racial categorizing is a power struggle implicating** structural, cultural, economic, and **identity politics."380 A product of this** struggle, **the prosecutorial role under** the proposed model of **race-conscious discretion** expands to **recast the performative function of racial identity in role-specific** moral **decisionmaking.** David Wilkins discerns this performative function in the role-specific behavior of the black bar during the civil rights movement.381Within such sociolegal movements, Wilkins contends, "race based ties have moral as well as social significance."382For Wilkins,**race consciousness of the self and** of the **other influences moral decisionmaking.**383

The second net benefit is pluralism

Counterplan expands the role of the prosecutor while creating a shared citizenship. Independently key to pluralism. **Alfieri 99**[[10]](#footnote-10)

**Citizenship norms** likewise may **advance** the development of **prosecutorial race-conscious** duties of **community outreach** in cases of racially motivated violence. Early American history supplies a citizenship-inspired vision of a lawyer's role and duty.482 Bruce Frohnen points out that **the early American lawyer**'s responsibilities **transcended** narrow, **professional interests to encompass** a sense of **public good and community integration**.483Indeed, Frohnen notes, the lawyer's sense of calling **derived** in part **from the duties expected "of a citizen**, a member of a church, a member of a family, and a pious man."484 The cultivation of **prosecutorial race-conscious** duties of **community outreach** gleans from this vision to **create** **a "shared citizenship" of** liberal **constituents** engaged in "self-restrained, moderate , and reason-able" conduct.485 Derivation of the notion of self-government from a private/public sense of civic virtue evokes Michael Sandel's work on liberalism and self-governance.486 Sandel remarks that "**proliferating** sites of **civic activity** and political power can **serve** **self-government by cultivating virtue, equipping citizens for self-rule, and generating loyalties** to larger political wholes."487 **Local, decentralized proliferation** of this sort **conforms to** the scheme of **political pluralism,** often de-fined in terms of group competition, relative truth, and limited state mediation.

The third net benefit is moral norms

Abstract moral claims in the context of the law are part of white supremacy. Only the counterplan creates prosecutorial duties based on moral norms. **Alfieri 99**[[11]](#footnote-11)

**Moral norms** additionally may **stoke the development of prosecutorial race-conscious** duties of **community outreach** in cases of racially motivated violence. The subject of moral norms brings attention to keenly debated matters of extraprofessional regulation. It also prompts revisiting the settled formalist separation of law and morality.553Returning to that separation proffers a choice between intrinsic and extrinsic venues for moral sustenance. An intrinsic choice to embrace the law itself for moral guidance in defiance of the law/morality separation relies on the disclosure of moral character. Look, for example, to the character standards for state bar admission,554 standards that are reiterated in the Model Rules"'5an d the Model Code.556 These standards prevail despite the often ad hoc and reprehensible application of character tests. To search out additional intrinsic sources of moral character, consider the substantive content of legal doctrine. Criminal law doctrine, for example, reflects a strong substantive **commitment to moral values**. 557 Alike commitment, evidencing a moral or at least theological disposition, **reverberates in** the **prosecutorial** use of **religious appeals**, **notwithstanding their** purported prejudicial effect"58 or their applied **ethical asymmetry**.559Be cause **moral claims** **echo** **a premodernist faith**,560they draw objection from separationist and neutrality561principles. As demonstrated below, **that** objection **shadows** the attempt to practice **racial morality** and, accordingly,t o abide by the antidiscrimination principle in government prosecutorial activity.562 **The confrontation of** faith**, race, and neutrality hinders** the search for an **objective moral** standpoint in **prosecutorial decisionmaking**. Contemplating objectivity in both its weak and strong senses mitigates the force of this confrontation and may evade the furor over moral objectivity. Although this distinction may ease the tension between morality and neutrality, the absence of transcendent possibility and the prevalence of moral uncertainty hamper any effort to reconfigure the meaning of objectivity. For R. George Wright, objectivity in a "weak sense" demands "only something like transcending some particular specified bias, authoritativeness, a standard external to the decision-maker whether that standard is authoritative or not, or a matter of judgment disciplined and constrained by some standard-setting community rules."563In contrast, objectivity in a "strong sense" entails "the fuller transcending of bias or of mere group conventional norms, or the transcending and correction of what might be called appearances."564 To fill the breach in a unified sense of moral objectivity, Alasdair MacIntyre offers the notion of norm-embedded practice traditions.565 For MacIntyre, practice traditions express normative standards through narratives.566 Yet neither professional norms nor rules may accommodate personal moral values.567In fact, the bureaucratic organizational settings and hierarchical work relations predominant in prosecutorial offices render "expectations of moral assertiveness" unreasonable.568 Nonetheless, significant historical precedent for moral invocation exists. **Segregationists,** for example, "**engaged in** highly **discursive strategies** of resistance **that facilitated** continued **discrimination by** **recreating the way** in which **the law defined African-Americans**."569 **These** strategies **recirculate in the modern** rhetorical **tactic of "substituting abstract** classifications of **morality for race."**570In the same way, the segregationist discursive tendency of "substituting the quality of blackness for the characteristic of immorality"571 equally "transformed blacks from the victims of wrong, to the agents of it."572The false depiction of Louima as a promiscuous homosexual, with a preference for rough-and-tumble nightclub sex, rather than as a victim of perverse police brutality, nicely illustrates this point. Invoking the ideal of the heroic prosecutor under morality- or virtue-based norms573 may work simply to refashion race-neutral discourse in order "to disguise racial discrimination as moral reform."574 The alternative resort to personal moral and religious norms offers no panacea. Bruce Green points out that personal moral values and religious beliefs present a double-edged sword-"they have the potential either to ameliorate or to exacerbate the deficiencies of the professional norms."575In an effort to modulate this tension, Green sketches a middle course remedy -the exercise of moral judgment on an "ad hoc basis."576 This course of action, however, fails to guide discretion in the encounter with a legal system rendered unjust by racial animus or by the pursuit of immoral objectives. Channeling **prosecutorial discretion** in these circumstances **based on ethical duties** **fashioned from** norms rooted in constitutional, citizenship, professionalism, **racial, and moral landscapes confronts** a battery of **objections to** a **race-conscious, community-based** ethic of **prosecutorial discretion.**

## DA

This week will make or break immigration reform. With all eyes on Obama because of his trip to Mexico, now is the key time to build legislative support.

**Turkish Weekly 4-29** writes[[12]](#footnote-12)

WASHINGTON — Washington’s political cacophony will be muffled this week, with Congress in recess and President Barack **Obama** **s**cheduled to travel outside the United States. Even so, the president’s **trip** to Mexico and Central America **will shine a spotlight on** efforts to overhaul America’s **immigration** system. President Obama had hoped to go to Mexico touting new gun-control laws that would impede the flow of American firearms to Mexico’s notoriously vicious drug cartels. The drug war has claimed thousands of lives in Mexico in recent years, but Mexican President Enrique Pena Nieto has pledged to continue the fight. “We will not abandon the fight against drug trafficking, drug production. Mexico’s government, my government, will continue to face these types of crimes," he said. Gun reform stalled in Congress, but another issue of great importance to Mexico is very much alive: U.S. immigration reform. **Many** of the 11-million undocumented **immigrants** in the United States **were born in Mexico. Overhauling** America’s **immigration** system **is a priority for** President **Obama,** as **he made clear in his** second **inaugural address.** “Our journey is not complete until we find a better way to welcome the striving, hopeful immigrants who still see America as a land of opportunity, until bright young students and engineers are enlisted in our workforce rather than expelled from our country," he said. Immigration reform would be welcomed by Mexico’s leaders, and by human-rights advocates like Andrea Gonzalez. “The reality is that migrants live there [the United States] and support the country through their hard work, their labors, the things they buy and the taxes they pay," she said. A bipartisan immigration reform bill was unveiled in the Senate earlier this month. **Although Congress is in recess, this week could prove pivotal in building legislative support for the proposal.** Lawmakers will be in their home states meeting with constituents. Voters’ strong support or **fierce opposition** to immigration reform **could sway members of Congress** for or **against the bill** when they return to work next week.

Polcap’s key to overcome new anti-terror concerns from the Boston Bombing.

**Thomasson 4-27** writes[[13]](#footnote-13)

**The turn-back-the-clock caucus wants to make sure no more** mad **bombers can cross our borders**, like the two who blew up the Boston Marathon, killing three and maiming many. The only problem with that, of course, is that both the suspects — the one who was killed in a shootout, and his younger brother, who was badly wounded and found hiding in a boat in a driveway — were here legally and really didn’t cross any borders. The older brother was even interviewed by the FBI and nominated by the CIA for a government terror watch list, and nothing untoward was found.

Those who really don’t want much except a Chinese-like wall built along our southern border to keep out the perceived riff raff are saying we should reassess an arduously negotiated compromise immigration bill in light of the Boston massacre. They would find some other reason to trash the proposal if the bombing had never taken place. Besides, once you’ve forced all the undocumented to leave, who would be left to build the wall? That’s an old question that is more and more valid.

**Egging on the** self-styled **libertarians** and contrarians in Congress **are the professional dissenters** — those ubiquitous nay saying blabber mouths on radio who incite to riot nearly any chance they get. I mean, there is good money in that nihilist shtick, what with all the paranoids running around waving semi- automatic assault weapons — or hiding under their beds when they aren’t running to the phone to shout, “Kudos to that.”

I’m sorry, but when I first began observing those charged with carrying out the public’s business nearly 60 years of journalism ago, there was some sanity in the conducting of it. Sure, there were crazies then, too, but most people ultimately recognized their diatribes as utterly counterproductive in the end. There were spirited differences in the legislature, but as dusk fell the parties involved were willing to take a chance on putting them aside for the good of all.

But I don’t just want to pick on one side. Aiding and abetting the dysfunction around here is a president who apparently thinks **arm twisting** has no place in political rough-and-tumble. How noble of him. Not only **is** it **a part of the** natural **political order**, so is eye gouging and ear biting and crotch kicking when necessary.

No less a master at that than Lyndon Johnson once told me that sitting down to reason things out always worked better when you had the other person’s arm held firmly behind his back. And Gov. Earl Long of Louisiana said that even ethics had a place in politics because “we use anything we can get our hands on.”

Yet getting four more senators from his own party to pull the lever for a crucial vote the other day apparently was undoable **for** Barack **Obama,** even when the public edge was sufficiently with him. This caused various critics to legitimately complain that **the one ingredient he lacked was forceful leadership**, the kind that makes it unequivocal that if you want something, you better give me what I want. His response was to cry shame and let it go at that.

Valuing rehab kills Obama’s polcap. **Trinick 12** writes[[14]](#footnote-14)

Reasons why criminal justice policy is ignored 1) It’s politically toxic. **Any move to alter the** current **tough stance** on criminal justice **is** inevitably **viewed as** being **‘soft on crime’**, regardless of how much sense a new policy might make or how much it might reduce crime in the long-run. No politician, especially one running in a race as close as the current match-up, wants to be seen as ‘soft on crime’. For Republicans, “the party of law and order”, it would be sacrilege to even suggest a change in policy. For **Democrats, especially Obama,** the **aim** appears to be **to avoid looking “weak and liberal”** and avoid alienating middle-class white voters. In addition, it lacks appeal — few voters (read ‘people likely to vote in swing states’) care about the issue as they perceive that it does not affect them and it requires hard choices to be made. 2) People don’t like to have to think about it. This relates to the point above about having to make hard choices, but there is more to it. By its very nature, criminal justice is difficult and unpleasant to think about and so most people shy away from it — who wants to think about prison and criminals when there’s the new series of Homeland? The majority of people will have no interaction with the criminal justice system, especially not on the ‘wrong’ side of it, and so they shut their eyes, pretend they cannot see the problem and hope it will go away. The politicians and media know this and cater to the demands of their audiences. 3) Changes would require the states and the Federal government to work together. This shouldn’t be a deal-breaker, but it adds more complexity to an already difficult area. **Both states and the federal government maintain prisons** and any systematic attempt to reduce the prison population would require co-operation and negotiation between all the parties. In gridlocked Washington, this would be unlikely even if the topic was not so politically explosive. 4) Criminal justice policy is hard. Really hard. **What should be the moral basis** for imprisoning criminals — Deterrence? **Rehabilitation?** Proportionate punishment? Public protection? **Retribution?** Economic reality? Most countries follow a mix of these, but a different balance of the justifications can alter dramatically the policy pursued in a particular jurisdiction. **Agreeing on the** precise **balance is** something **fraught with** potential for **disagreement, even among** those who have no political concerns, like **academics.** On top of this, of course, is the fact that a **different weighting of** the **justifications can have real cost implications** — for example, both rehabilitation programmes and capital punishment are hugely expensive.

Valuing rehab would spill over to implementation anyway. **Urbany 8** writes[[15]](#footnote-15)

**Values are** enduring beliefs, both hard-wired (i.e., acquired genetically) and shaped by cultural context, **about preferred “end states.”**[2](http://sloanreview.mit.edu/article/how-to-make-values-count-in-everyday-decisions/#ref2) Whether we think about it or not, values guide our everyday behavior, even the most mundane choices. Consider the decision of whether to get up from one’s desk at work to get a cup of coffee. The decision maker may seek the coffee for physical stimulation in the interest of achievement, or perhaps to fulfill a need for affiliation in kibitzing at the coffee maker. **When the person gets up to make a coffee run,** one or both of those **values have won out over the value of staying at the desk to keep one’s nose to the grindstone. Values**, whether neutral, virtuous or not so virtuous, **drive our decision making. Even unethical**, illegal or dishonest **decisions are “values-based” — they’re just not reflective of** higher-order **“positive” values.**[3](http://sloanreview.mit.edu/article/how-to-make-values-count-in-everyday-decisions/#ref3) For example, a decision to engage in insider trading is ultimately a choice favoring the values that hail financial gain as more important than keeping one’s integrity. An athlete’s decision to use steroids might also be understood as a trade-off: short-term achievement and fame versus a healthy body and impeccable reputation. A boy’s decision to throw a rock through a window while playing with friends involves a values-based choice that emphasizes excitement and affiliation over respect and safety. These decisions are values-based even though their ends do not appear to reflect the pursuit of “good” values.

Immigration reform is key to Latin American relations which solve multiple existential risks. Now is key. **Shifter 12** writes[[16]](#footnote-16)

**Some** enduring **problems stand** squarely **in the way of** partnership and **effective cooperation.** The **inability** of Washington **to reform** its broken **immigration** system **is a constant source of friction between the U**nited **S**tates **and** nearly **every other country in the Americas**. Yet US officials rarely refer to immigration as a foreign policy issue. Domestic policy debates on this issue disregard the United States’ hemispheric agenda as well as the interests of other nations. Another chronic irritant is US drug policy, which most Latin Americans now believe makes their drug and crime problems worse. Secretary of State Hillary Clinton, while visiting Mexico, acknowledged that US anti-drug programs have not worked. Yet, despite growing calls and pressure from the region, the United States has shown little interest in exploring alternative approaches. Similarly, Washington’s more than half-century embargo on Cuba, as well as other elements of United States’ Cuba policy, is strongly opposed by all other countries in the hemisphere. Indeed, the US position on these troublesome issues—immigration, drug policy, and Cuba—has set Washington against the consensus view of the hemisphere’s other 34 governments. These issues stand as obstacles to further cooperation in the Americas . The United States and the nations of Latin America and the Caribbean need to resolve them in order to build more productive partnerships. **There are compelling reasons for the U**nited **S**tates **and Latin America to pursue** more **robust ties. Every country** in the Americas **would benefit** from strengthened and expanded economic relations, **with improved access to** each other’s **markets**, investment capital, and energy resources. Even with its current economic problems, **the U**nited **S**tates’ **$16-trillion economy is** a **vital** market and source of capital (including remittances) and technology **for Latin America**, and it could contribute more to the region’s economic performance. For its part, **Latin America’s rising economies will** inevitably **become** more and more **crucial to the U**nited **S**tates’ **economic future. The U**nited **S**tates and many nations of Latin America and the Caribbean **would** also **gain** a great deal **by more cooperation on** such **global matters as climate change**, nuclear **non-prolif**eration, and **democracy and human rights.** With a rapidly expanding US Hispanic population of more than 50 million, the cultural and demographic integration of the United States and Latin America is proceeding at an accelerating pace, setting a firmer basis for hemispheric partnership Despite the multiple opportunities and potential benefits, relations between the United States and Latin America remain disappointing . **If new opportunities are not seized, relations** will likely **continue to drift apart** . The longer the current situation persists, the harder it will be to reverse course and rebuild vigorous cooperation . Hemispheric **affairs require urgent attention**—both from the United States and from Latin America and the Caribbean

Adopt a parliamentary model to account for moral uncertainty. This entails minimizing existential risks. **Bostrom 9** writes[[17]](#footnote-17)

It seems people are overconfident about their moral beliefs.  But **how should one** reason and **act if one** acknowledges that one **is uncertain about morality** – not just applied ethics but fundamental moral issues? if you don't know which moral theory is correct?

It doesn't seem **you can[’t] simply plug your uncertainty into expected utility** decision theory and crank the wheel; **because many** moral **theories** state that you **should not** always **maximize** expected **utility.**

Even if we limit consideration to consequentialist theories, it still is hard to see how to combine them in the standard decision theoretic framework.  For example, suppose you give X% probability to total utilitarianism and (100-X)% to average utilitarianism.  Now an action might add 5 utils to total happiness and decrease average happiness by 2 utils.  (This could happen, e.g. if you create a new happy person that is less happy than the people who already existed.)  Now what do you do, for different values of X?

The problem gets even more complicated if we consider not only consequentialist theories but also deontological theories, contractarian theories, virtue ethics, etc.  We might even throw various meta-ethical theories into the stew: error theory, relativism, etc.

I'm working on a paper on this together with my colleague Toby Ord.  We have some arguments against a few possible "solutions" that we think don't work.  On the positive side we have some tricks that work for a few special cases.  But beyond that, the best **we have managed** so far is **a** kind of **metaphor, which** we don't think is literally and exactly correct, and it is a bit under-determined, but it **seems to get things roughly right** and it might point in the right direction:

**The Parliamentary Model.**  Suppose that you have a set of mutually exclusive moral theories, and that you assign each of these some probability.  Now imagine that **each** of these **theorie**s **gets to send** some number of **delegates to The Parliament**.  The number of delegates each theory gets to send is **proportional to the probability of the theory.**  Then the delegates bargain with one another for support on various issues; and the Parliament reaches a decision by the delegates voting.  What you should do is act according to the decisions of this imaginary Parliament.  (Actually, we use an extra trick here: we imagine that the delegates act as if the Parliament's decision were a stochastic variable such that the probability of the Parliament taking action A is proportional to the fraction of votes for A.  This has the effect of eliminating the artificial 50% threshold that otherwise gives a majority bloc absolute power.  Yet – unbeknownst to the delegates – the Parliament always takes whatever action got the most votes: this way we avoid paying the cost of the randomization!)

The idea here is that moral theories get more influence the more probable they are; yet **even a** relatively **weak theory can still get its way on some issues** that the theory think are extremely important **by sacrificing** its influence **on other** i**s**sues that other theories deem more important.  For example, **suppose you assign 10% probability to** total **util**itarianism and 90% to moral egoism (just to illustrate the principle).  Then **the Parliament** would mostly take actions that maximize egoistic satisfaction; however it **would make some concessions to util**itarianism **on** issues that utilitarianism thinks is especially important.  In this example, the person might donate some portion of their income to **existential risks** research and otherwise live completely selfishly.

I think there might be wisdom in **this model**.  It **avoids the** dangerous and **unstable extremism** that would result **from letting one’s current favorite moral theory completely dictate action**, while still allowing the aggressive pursuit of some non-commonsensical high-leverage strategies so long as they don’t infringe too much on what other major moral theories deem centrally important.

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