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## Incomparable Numbers

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This chapter presents an argument that the value of persons is incomparable. It then tries to work out the consequences of this proposition in the context of a particular ethical problem. The problem is this old chestnut:

*Numbers.* Zigra the alien goblin shark is on his way to kill everyone on Monster Island. Three people remain, A in one house, B and C in another. Helen has the power to summon Gamera and direct him to save the occupants of one of these houses—to save A or the pair B and C, but not all three.

We should not be surprised if Helen approached this problem like this:

(i) I am morally required to aid these people. (ii) Whatever it is that explains this requirement (e.g. the *value* of each person or their *claims* on me) is (as far as I can tell) equal amongst A, B, and C. (iii) Therefore, there is more of this requirement-grounding quality in the combination of B and C than in A. (iv) Therefore, saving B and C would be better than saving A. (v) Therefore, I morally ought to save B and C.<sup>1</sup>

Some philosophers think this is sound moral reasoning. Others don't.

Critics of this style of reasoning have by and large focused on steps (iii), (iv), and (v) in Helen's argument—on the legitimacy of aggregating

<sup>1</sup> To simplify the discussion, I will assume that what explains Helen's (prima facie) duty to render aid is the personal value of those who are in danger. But I think much of what I say here can be easily transposed into other theories about the ground of our duties to aid, e.g. to the view that these duties are grounded in the valid claims those persons can make on us or in the special reasons we have to render aid. If the value of persons is incomparable, then these things probably are too.

the value of persons and on the relevance of aggregated value to what Helen morally ought to do. The classic misgiving is that aggregation does not take seriously the “separateness” of persons. As Rawls says:

[Utilitarianism’s] view of social cooperation is the consequence of extending to society the principle of choice for one man, and then, to make this extension work, conflating all persons into one through the imaginative acts of the impartial sympathetic spectator. Utilitarianism does not take seriously the distinction between persons.<sup>2</sup>

Unfortunately, this style of objection has proven less than decisive. It is not at all clear how we are supposed to understand the claim that persons are “separate,” what it means to take this separateness “seriously,” and why aggregative moral theories like utilitarianism fail this test. In particular, it’s not clear that there is a gloss on this claim that is at once incompatible with Helen’s reasoning and independently plausible. Many commentators have concluded there isn’t.<sup>3</sup>

Those who despair of making the separateness of persons objection stick but are nonetheless made queasy by Helen’s reasoning might consider another, less salient point of resistance. The problem might lie not with the aggregation of personal value that happens in step (iii) but with the comparison of value that takes place in (ii)—with the claim that the persons A, B, and C have *equal value*. Thus, one might insist, the problem with Helen’s reasoning is not its failure to respect the separateness of persons per se, but a profound misconstrual of the kind of value persons possess. The value of persons merits a kind of regard—“respect” we could call it—that forbids comparisons. We don’t become aware of the mistake in step (ii) immediately because the claim that persons are of *equal value* seems innocuous. Only when we arrive at *inequalities* through aggregation do we start to feel the incipient dread of commodification. But aggregation is not the real culprit (or at least not the only one)—it’s the making of comparisons. This is the possibility I consider here.

<sup>2</sup> (Rawls 1996: 21–4).

<sup>3</sup> See, for example, (Hirose 2015: 64–88), (Norcross 2009), and (Brink 1993).

There are many different claims we might have in mind when we talk about the incomparability of personal values. I will argue for two slightly different theses:

*Moral Incomparability.* For all persons *a* and entities *b*, sound moral reasoning cannot rely on comparisons of the value of *a* to the value of *b*.

*Unrestricted Incomparability.* For all persons *a* and entities *b*, sound evaluative reasoning cannot rely on comparisons of the value of *a* to the value of *b*.<sup>4</sup>

Here “entities” ranges over both persons and non-persons, so both theses forbid comparisons of value between persons and *everything else*. (The claim that a person is more valuable than a rock would therefore be defective in the same way as the claim that two persons have equal value.) Both theses are compatible with the truth of the relevant value comparisons since they are claims about the infelicity of comparisons in certain contexts, not about the truth of those claims. This will be quite sufficient for showing the error of Helen’s reasoning, however. And of course, the second thesis would easily yield the claim that no value comparison involving persons is true if complemented with the right sort of metaethical view about the dependence of value on valuing.

## 1. Some Preliminary Arguments

Beyond the groping intuitions surveyed a moment, is there any reason to doubt that we can compare value of persons the same way we compare the length of battleships, the size of continents, or any other pair of quantities?

One provocative argument comes from John Taurek. When confronted with a choice between saving five equally valuable objects from a fire or one object, Taurek says that he would save the five. Why would he do

<sup>4</sup> Traditionally, incomparability has entailed the failure of three comparison relations: greater-than, less-than, and equal-to. Ruth Chang (2002) has argued that there is a fourth such relation, that of being “on a par.” I’m sympathetic to Chang’s position, but I don’t believe anything I say here is sensitive to the question of whether comparability encompasses three or four relations. In particular, at no point do I argue from the failure of each of the three traditional relations to incomparability.

this? “Because the five objects are together five times more valuable in my eyes than the one.” But things are different with persons, as he explains:

When I am moved to rescue human beings from harm in situations of the kind described, I cannot bring myself to think of them in just this way. I empathize with them. My concern for what happens to them is grounded chiefly in the realization that each of them is, as I would be in his place, terribly concerned about what happens to him. It is not my way to think of them as each having a certain objective value, determined however it is we determine the objective value of things, and then to make some estimate of the combined value of the five as against the one. (Taurek 1977: 306–7)

Here Taurek offers a conception of moral concern that seems incompatible with interpersonal comparisons. If moral concern is a species of empathy, then in cases where the stakes are very high, moral concern will involve an overwhelming interest in the well-being of whomever I am presently empathizing with, an interest so strong that it blots out all other concerns. The claim that each person has on us while empathizing with them in this fashion will then be so great that all other claims will seem negligible. If this is right, then in a case like Helen’s, moral concern will cycle between being utterly consumed by the needs of one person, then another, and then another. But there will be no point of view from which these overwhelming claims can be reconciled. There is something compelling about Taurek’s suggestion that full-blooded moral concern involves a total investment in another individual, even if that investment is paralyzing. But there are also familiar reasons to balk at the idea that moral concern is unreconstructed empathy. Empathy must be “corrected,” to use Hume’s term, by a more impartial point of view for it to qualify as moral judgment, lest we end up thinking our servant the moral equal Marcus Brutus. And this “correction” seems like exactly the sort of perspective from which aggregation may appear appropriate.

Another way of approaching the issue comes from Kant, who offers this highly compressed argument:

Nothing can have a worth other than that which the law determines for it. But the lawgiving itself, which determines all worth, must for

that very reason have a dignity, that is, an unconditional, incomparable worth; and the word respect alone provides a becoming expression for the estimate of it that a rational being must give.

(*Groundwork* 4: 436)

What does Kant mean by “incomparable worth”—is he endorsing one of our theses?<sup>5</sup> David Velleman thinks so:

Kant believes that each person has a dignity in virtue of his rational nature, and hence that all persons should be judged to have the same value. What he denies is that comparing or equating one person with another is an appropriate way of responding to that value. The value that we must attribute to a person imposes absolute constraints on our treatment of him, thus commanding a motivational response to the person in and by himself. And the constraints that it imposes on our treatment of the person include a ban on subjecting him to comparisons.<sup>6</sup>

I am in complete agreement with these claims, but as far as I can tell neither Kant nor Velleman offers much of an argument to support them. At first pass, the quote from Kant could be reconstructed like this:

1. The law determines the worth of everything.
2. Persons are lawgivers.
3. Therefore, persons have incomparable worth.

But this is a non sequitur. Why should anything about incomparability follow from the dependence of value on persons *qua* lawgivers? Velleman suggests that conceiving of personal value as incomparable solves certain problems about the nature and demands of love, but this is a highly circumstantial case. I would like to have something more direct.

The conception of value that Velleman relies upon—“to be valuable is to be worthy of being valued in some way”—is also defended by

<sup>5</sup> There are some reasons to doubt that Kant held one of the strong theses I stated above. For discussion see (Hill 1980).

<sup>6</sup> (Velleman 1999: 102). Also see (Velleman 2008: 48).

Elizabeth Anderson. On such a view, values are comparable just in case they are worthy of being compared, just in case it is rational to compare them.<sup>7</sup> Anderson has suggested some reasons why some comparisons will be irrational. First, comparisons may be pointless, as is “the project of comprehensively ranking all works of art in terms of their intrinsic aesthetic value.”<sup>8</sup> Second, there are instances where we should refrain from comparisons because “it makes sense to leave room for the free play of nonrational motivations like whims and moods.”<sup>9</sup> Finally, there are times when the comparison of two goods would be utterly incoherent because they are so different, for example between a friendship and the life of one’s mother. We might reasonably hope that we could give an argument along these lines in support of the claim that the value of persons is incomparable. But that seems unlikely. It is not pointless for Helen to seek a comparison between the value at stake in her conundrum. Nor is it important for her to leave room for the free play of her whims and moods. Nor are the values at stake in interpersonal value comparisons so different as to make comparison incoherent; they are values of exactly the same species. So Anderson’s strategies seem to be of little help for establishing the incomparability we are after.

In this section I have summarized some possible arguments for the incomparability of personal value—inspired if not quite endorsed by the likes of Taurek, Kant, Velleman, and Anderson—and found each wanting. I now turn to my own version of the argument.

## 2. Rigid Activities and Comparability

Value comparisons involving one’s friends can seem quite tasteless. Special relationships may therefore be a useful starting point for our questions about comparability. Joseph Raz, for example, suggests that special relationships exhibit “constitutive” incomparability:

Certain judgments about the non-comparability of certain options and certain attitudes to the exchangeability of options are constitutive

<sup>7</sup> (Anderson 1993: 47ff).

<sup>8</sup> (Anderson 1997: 100).

<sup>9</sup> p. 91.

of relations with friends, spouses, parents, etc. Only those who hold the view that friendship is neither better nor worse than money, but is simply not comparable to money or other commodities are capable of having friends. Similarly only those who would not even consider exchanges of money for friendship are capable of having friends.<sup>10</sup>

As a description of our relationships, this strikes me as credible.<sup>11</sup> It also suggests that the incomparability of certain values may be explained not so much by features of the value in itself, but by the structure of an activity or relationship in which that value is embedded. Friends are of incomparable worth because of the nature of friendship. Romantic partners are of incomparable worth because of the nature of love.<sup>12</sup>

In fact, I think the sorts of activities that occasion incomparability are not especially rare. Suppose you and I decide to spend the afternoon sailing. “Just you and me on the high seas,” I say. So understood, *our sail* is a collective activity. It is not something that each of us does individually or in parallel, but something that we do together. Moreover, each of us is an essential component of this activity, of our sailing together. It wouldn’t be *our sail* if you were replaced by your nephew at the last minute. And this seems to make certain comparisons of value defective. Suppose I ask, “who would be better vis-à-vis our sail, you or Captain Bligh?” or, “which would have more value in the context of our sail, you or a thousand dollars?” These questions sound bad because they represent speech acts that cannot be performed in the stated context. I can of course think that Captain Bligh would be a better sailing partner in a general sense, but this is a question entertained as part of a more general inquiry about sailing. It’s nonsense to say that he would be a better partner for our sail, since he couldn’t be a part of *our sail*. Thus you are not an apt object for comparison at all when it comes to our sail because you are a constituent part of that activity.

<sup>10</sup> (Raz 1986: 352). Here Raz only mentions comparisons between persons and non-persons, but I’ll read him as forbidding person–person comparisons as well.

<sup>11</sup> Though see (Chang 2001).

<sup>12</sup> These features of love and friendship suggest an argument similar to the one I offer here. Maybe these relationships are more closely allied with moral concern than we usually acknowledge and so the incomparability that features in them ends up having moral significance. Kieran Setiya (2014) pursues an argument like this.

(What about—the reader may ask—the question of who is more valuable in the context of our sail, you or me? I agree that this sounds sensible on first inspection, but I think this comparison is also defective for reasons that will become apparent shortly. I suspect that the reason it sounds felicitous is that we surreptitiously substitute the perfectly good question, “who contributes more to our sail, me or you?” for the problematic, “who has more value for our sail, me or you?”)

Our sail is an example of what I will call a rigid activity. A rigid activity is a collective activity constituted by particular persons. Sailing together is not a rigid activity since lots of different groups of people could constitute a sailing trip. But adding an “our” in front makes a token of this type rigid: *our sail* can only be undertaken by *us*. Particular loving relationships and friendships are also rigid activities. My marriage wouldn’t be my marriage if it involved anyone but me and my wife. By contrast, the activities of the Boston Red Sox and the New York Philharmonic are not rigid.

In a way, this point is perfectly uninteresting. Of course our sail can only be undertaken by us, so I can’t compare your merit to Captain Bligh’s for the purposes of our sail. But love and friendship seem special somehow, special in a way that our sail is not. My hypothesis is that this specialness is explained by the centrality of these activities in our lives. I cannot make comparisons involving your value with respect to our sail, but I can very easily step out of this activity to make such a comparison. I can ask about your value relative to the more generic project of sailing. I can ask about your value as a companion for the afternoon. In the grand scheme of my life, our sail means very little to me, and so the prohibitions on comparison afforded by that activity are correspondingly small. But it’s plausible that it is part of the nature of love and friendship that we cannot suspend these activities so easily. It is very difficult for me to deliberately “step outside” of my marriage and reason in a way that is unstructured by its demands because my marriage forms an essential part of my identity. I am who I am because of this marriage, so I cannot prescind from its demands as readily as I can from the demands of our sail.<sup>13</sup> On the picture I am offering, then, the

<sup>13</sup> This identity-fixing function is a key component of Frankfurt’s (2008) account of love.



constitutive incomparability Raz identifies in love and friendship is not a brute feature of those relationships. It follows from two separate elements: their rigidity and their role in one's practical identity.

I am not primarily interested in defending Raz's claim. I offer this hypothesis about love and friendship as a way of corroborating, indirectly, the thesis that my argument turns on.

*Rigidity Thesis.* Comparisons of value concerning the constituent members of rigid activities are defective in the context of those activities.

The examples of love, friendship, and our sail offer some modest support for this thesis, but I want to now offer a more direct argument for the claim.

The crucial premise in this argument is a form of internalism about value comparisons.<sup>14</sup> Comparisons of value are not merely descriptive claims. Thinking that myrrh is more valuable than frankincense is not just an idle observation about the relative magnitude of two quantities. The point of these comparisons is to guide our behavior in relation to the two items, so there must be practical implications for my accepting a comparative value claim. These implications can be made manifest in imagined choices, as Mill says about pleasure:

If I am asked, what I mean by difference of quality in pleasures, or what makes one pleasure more valuable than another, merely as a pleasure, except its being greater in amount, there is but one possible answer. Of two pleasures, if there be one to which all or almost all who have experience of both give a decided preference.<sup>15</sup>

If I say that myrrh is ten times more valuable than frankincense but take only frankincense and no myrrh in my burglary of the unusual gifts store, then we have a reason to think something has gone wrong: I was insincere in my declaration, I meant "valuable to others but not to me," or I am

<sup>14</sup> Of the sort frequently cited by non-cognitivists about value judgments, e.g. (Blackburn 1998: 70).

<sup>15</sup> (Mill 1863: ch. 2, para. 5).

irrational. It is hard to say what, exactly, I commit myself to in saying that myrrh is more valuable than frankincense, and it would certainly be a mistake to insist on a reduction of value comparisons to particular patterns of preference or dispositions to choose. Nonetheless, without *some* implications for our dispositions to choose when forced to, the comparison can look pseudo-evaluative: not concerning value but some impostor.

The practical implications for value comparisons can be summarized by what I will call exchange principles. These principles will specify under which circumstances the agent averring the comparison would accept an exchange of one combination of the items being compared for another: when they would accept  $m$  grams of myrrh and  $n$  grams of frankincense for  $r$  grams of myrrh and  $s$  grams of frankincense.

(Why—one might object—must the relevant principle be about *exchange*? Doesn't this rely on a narrow conception of what it means to value something? Why can't the value comparison, "person A is more valuable than person B" commit one to a principle that has nothing to do with "having" A or B—for example to one about systematically favoring the satisfaction of A's ends over the satisfaction of B's? The problem with this proposal is that these alternative ways of cashing out the practical consequences of value comparisons don't succeed in tracking what is distinctive about those comparisons. The candidate principle just suggested, for example, is something I could adhere to whatever I think about the relative value of A and B.)

I want to avoid saying much about which exchange principles are associated with particular value comparisons, since the connection will likely be mediated by the panoply of other value judgments the agent entertains and may end up being very complicated. All I need to claim is that for value comparisons to avoid being pseudo-evaluative, they must commit us to *some* principles that specify the conditions under which we would exchange one plurality of a thing for another. This is my first premise:

1. Averring a comparison of value concerning  $x$  commits one to accepting various exchange principles involving  $x$ .

Exchange principles concern what one would exchange under certain circumstances. They therefore presuppose that certain configurations of

goods are possible. If we ask whether I would accept twelve grams of frankincense in exchange for two grams of myrrh, we are presupposing that two things are possible: (i) that I have twelve grams of frankincense and no myrrh (or no more than I had before) and (ii) that I have two grams of myrrh and no frankincense. In this way the principle presupposes that it is *possible* that I end up with *no myrrh* or *no frankincense* since this is one of the possibilities envisioned by the principle. This is presupposed even if I would consistently refuse a particular possibility. Indeed, I would prefer an ounce of myrrh to any quantity of frankincense precisely *because* I can imagine how devastated I would be in the world where I am myrrhless.

This gives us:

2. Principles of exchange involving  $x$  presuppose the possibility of not having  $x$ .

Here “not having” must be read very broadly, to cover both cases where some quantity of myrrh is not in my possession, where some state of affairs involving  $x$  does not obtain, and where some special sources of value (like a person) do not exist at all.

From (1) and (2) we can infer:

3. Therefore, comparisons of value involving  $x$  presuppose the possibility of not having  $x$ .

This is the first part of the argument. Before moving on to the second, I pause for an objection. Might there be counterexamples to (3) involving some  $x$  that we *cannot* presuppose not “having” (in this broad sense)? One candidate is the dear self. I cannot have a sack of doorknobs without existing because I’m the one who is to have the sack of doorknobs. And yet it seems that I *can* compare the value of myself and the value of a sack of doorknobs. Here I bite the bullet: the comparison is indeed defective. Making it commits you to pondering a scenario in which you do not exist but nonetheless have a sack of doorknobs. Because this is incoherent, so is the value comparison. But why, then, are we tempted by the comparison? Why does the claim, “I am more valuable

than a sack of doorknobs” sound felicitous? My answer to this question is the same one I offered about comparisons amongst the participants in our sail. When I say that I am more valuable than a sack of doorknobs, I am not really making a value comparison but smuggling in a subtly different comparison. One possibility is that I am comparing the value of *aspects of me*, like my indomitable charm, firm handshake, or winning smile, to a sack of doorknobs. I could exist without any of these features, so the presupposition of such a comparison is indeed possible. Another is that I am not comparing *value* but some other property—usefulness to the company or contributions to society—that may not trigger the same presuppositions. A third is that I am making a kind of higher-order value claim. I value those things that are valuable in virtue of their connection to me and my projects more than I value any of the things that are valuable because of their connection to the sack of doorknobs. All three equivocations are common in everyday discourse and each could explain the ostensible felicity of the comparison I say is defective.

For the second part of the argument, recall the definition of a rigid activity. An activity is rigid with regards to a particular constituent actor if that activity’s identity is tied to that actor in a such a way that it wouldn’t be the same activity without the actor. Thus:

4. If  $x$  is a constituent member of a rigid activity  $a$ , then  $a$  cannot exist without  $x$ .

I want to claim that this feature of rigid activities places constraints on our deliberations about  $a$ . Namely:

5. Deliberations about  $a$  will presuppose the participation of  $x$  in  $a$ .

The obvious reason is that if you are deliberating about  $a$  without the presupposition of  $x$ ’s participation, then you aren’t really deliberating *about a*. You are deliberating about something else that resembles  $a$  in certain respects but could not be  $a$ .

This sounds reasonable enough, but we might worry once more about apparent counterexamples. For example, suppose a half dozen of us are sailing into the Devil’s Triangle, but one of our party, Long John Silver,

has scurvy. Prior to this journey, we might consider the questions: “What shall we do if Long John dies? Shall we turn back? Shall we press on? Shall we return with the body? Shall we bury him at sea?” These deliberations presuppose the nonexistence of one of our sail’s constituent members, so if they are also deliberations about the conduct of the rigid activity *our sail*, then we have a counterexample to (5). My reply is that these aren’t deliberations about the same activity; they are deliberations concerning the different, hypothetical activity constituted by the five sailors surviving Long John’s death. These two activities are obviously closely related to each other, and we probably don’t register the difference between them in our phenomenology of deliberation without being prompted to. But they are distinct.

This raises an important point about the individuation of our activities. The point is not a problem for my argument exactly, but it leads to a certain messiness that must be acknowledged. I am on a sail through the Hebrides. At every port, some people get off the boat and other people get on, but I remain the entire time. During this voyage there will be several distinct activities I am involved in. Many of these can be described in terms that suggest rigidity (“our sail from Muck to Eigg”) but also in terms that don’t (“sailing around Skye”). So the activities I am engaged in while sailing through the Hebrides can be individuated in a myriad of different ways.

We may worry about this fact for two reasons. The first is an ontological concern. Just how many activities am I engaged in while sailing through the Hebrides? And how do they relate to each other? Are some parts of the others? We might insist, more skeptically, that this sail comprises, at most, a small number of activities, not the multitude that my description seems to suggest. My reply is that this is a general problem that afflicts attempts to individuate many sorts of entities, not one that has anything in particular to do with rigid activities as I have defined them. A cloud is an entity, but *which* entity a given cloud is may be far from clear, and different precisifications of the same cloud will possess different properties. This is a puzzle, to be sure, but it’s not of my making, so I set it aside.<sup>16</sup>

<sup>16</sup> (Unger 1980).

The second reason to worry is that this glut of activities makes us vulnerable to charges of equivocation. Suppose we argue that I am barred from making certain comparisons because I am engaged in an activity *a*, and *a* is rigid. But a critic could insist that my comparison is actually tied to *a'*, an activity very like *a* but non-rigid. Or, in a similar spirit, even if I am engaged in *a* I could easily switch to *a'* in order to shed the prohibition. I agree that this is a hazard. The proper to avoid it, though, is to have an argument that it *must* be *a*—and not its cousin *a'*—that we are engaged in for such and such purposes. And that's the sort of argument I will embark on shortly.

Meanwhile, premises (3) and (5) yield the tension we are after. Deliberations concerning *a* presuppose *x*'s involvement, but comparisons of value presuppose the possibility of *x*'s non-involvement. We cannot assume both that *x will* be involved in *a* and that *x may not* be involved. (Compare: “That unctuous Horatio will be networking at the party, but he may not show up,” is infelicitous because the first part of the sentence presupposes Horatio's presence at the party, while the second asserts that he may be absent.) Thus we have:

6. If *x* is a constituent member of a rigid activity *a*, then comparisons of value concerning *x* and deliberations about *a* have incompatible presuppositions.

This yields the Rigidity Thesis. It also fixes the sense in which comparisons of value concerning the members of a rigid activity are “defective.” They cannot be made within the context of deliberations about how to pursue such activities because they carry presuppositions that are incompatible with other presuppositions that arise from the rigidity of the activity in question.

### 3. Morality as a Rigid Activity

If we accept the Rigidity Thesis, then one road to Moral Incomparability starts to look very promising. In our vignette above, Helen is engaged in moral reasoning. She has undertaken certain aims and commitments

characteristic of morality. If those aims and commitments involve particular other individuals, then her moral reasoning may be part of a rigid activity. That plus the Rigidity Thesis may, in turn, yield Moral Incomparability.

There is a family of views about the nature of morality that seems well-suited to supporting this kind of argument. According to these views, morality is an activity of mutual accountability.<sup>17</sup> In *The Theory of Moral Sentiments* Adam Smith offers a pithy summary:

A moral being is an accountable being. An accountable being, as the word expresses, is a being that must give an account of its actions to some other, and that consequently must regulate them according to the good-liking of this other. (Smith 1759: Part III, ch. 1, para. 4)<sup>18</sup>

In saying this, Smith suggests that morality is something I cannot do alone. I must “give account of my actions to some other.” This other must react in some way—by giving his “good-liking” or some such reaction—upon which I must “regulate” my actions accordingly. The other is therefore not just an object of moral concern—someone whose interests I might promote in the name of morality—but my partner in an activity of accountability. This other must likewise hold herself accountable to me in the same ways. This is what makes the relationship mutual.

We can arrive at this conception of morality by noting the connection between our concepts of moral duty, right, and obligation on the one hand and practices of accountability on the other. Mill puts it like this:

We do not call anything wrong, unless we mean to imply that a person ought to be punished in some way or other for doing it; if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience. [...] There are other things, on the contrary, which we wish that people should do, which we like or admire them for doing, perhaps dislike or despise them for not doing,

<sup>17</sup> In this section I am borrowing from Stephen Darwall’s argument in chapters 4 and 5 of his (2006).

<sup>18</sup> The quote is removed in the sixth edition.

but yet admit that they are not bound to do; it is not a case of moral obligation; we do not blame them, that is, we do not think that they are proper objects of punishment. [...] I think there is no doubt that this distinction lies at the bottom of the notions of right and wrong; that we call any conduct wrong, or employ, instead, some other term of dislike or disparagement, according as we think that the person ought, or ought not, to be punished for it; and we say, it would be right, to do so and so, or merely that it would be desirable or laudable, according as we would wish to see the person whom it concerns, compelled, or only persuaded and exhorted, to act in that manner.<sup>19</sup>

Mill's point is not (or should not be) about the connection between obligation and punishment exactly, but about the former's connection to more generic ideas of being held to account. A moral duty, he says, "is a thing which may be exacted from a person, as one exacts a debt. Unless we think that it may be exacted from him, we do not call it his duty."

Who is it that does the "exacting" here? Who are we imagining "compelling" and "exhorting" us to fulfil our obligations? The answer must be other members of our moral community, whoever that ends up being. These are the people who can "exact" duty from us, either by punishing us or eliciting pangs of conscience. This connection should have important consequences for what moral reasoning looks like. Moral reasoning is reasoning that aims to produce conclusions about what we morally ought to do, about what would be right or wrong, about what we are obligated and permitted to do. If these notions constitutively involve accountability to other members of our moral community, then moral reasoning should involve sensitivity to those members in one form or other.

There are two basic models for this sensitivity. Our moral reasoning can be sensitive to others in the way I am sensitive to the temperature when deciding whether to wear a coat or to the geography of campus when I walk home—sensitive to some fixed condition. Or it could be sensitive to others in the way I am when I listen the person I am conversing with or to the instruction of the person trying to teach me to play the cello—sensitive as a recognition of their part in a shared

<sup>19</sup> (Mill 1863: ch. 5, para. 14).



endeavor. There is much to be said about what the difference between these comes to, but I cannot say it here. I trust that the intuitive distinction is clear enough, and it is obvious that the kind of sensitivity that moral reasoning calls for must be the second variety. Moral reasoning requires us to involve other members of our community not as signs and symptoms of wrongdoing, but as agents who can actively *exact* duty from us.

This suggests that other members of my moral community are tacit participants in my moral reasoning. Even if you will never interact with me, my moral reasoning must involve you by fostering dispositions to anticipate and respond to the ways you can hold me accountable. And insofar as this holding me accountable is something you *do*—rather than a fixed state of affairs—you are an implicit participant in my reasoning. (If it sounds fantastic to think that someone so physically remote from me could be my partner in this activity, then think about other massive collective activities, like democratic political regimes and legal systems, in which our partners are equally remote.) Moral reasoning is a collective activity or, as Gerald Postema puts it, “a form of practical reasoning in the first person *plural*.”<sup>20</sup>

This is no more than a sketch of an argument, but it points to the idea that moral reasoning is a collective activity. It is one that involves, explicitly or otherwise, the other people who make up one’s moral community. For Helen, this certainly means that the people we called A, B, and C will be her silent partners in deliberations about what she morally ought to do. For the reasoning she undertakes to qualify as moral reasoning it must be reasoning that incorporates the accountability that is constitutive of moral obligation, and to do this it must, as Postema says, “integrate the deliberations of co-members into [her] own deliberations and judgments.”<sup>21</sup>

The crucial question for us is this whether this activity is not only collective but rigid. There is good reason to think it is. Suppose that Helen entertains a plan to borrow Greg’s car without permission because she needs to take her aunt to the emergency room. To make a determination about the permissibility of this plan, Helen must take up the plural point

<sup>20</sup> (Postema 1995).

<sup>21</sup> p. 41.

of view of her moral community. She must imagine members of that community holding her accountable for her action. It seems very important that Greg *in particular* be amongst those holding Helen accountable. If I am going to borrow Greg's car, one person to whom I am especially accountable is Greg. If we imagine substituting someone else for Greg, then we are enacting either an approximation of morality as equal accountability (if this person is a sort of proxy for Greg) or departing from it entirely (if they are not supposed to represent Greg at all).

This needn't mean that Greg holds veto power in Helen's reasoning. And even if Greg's input is mediated by various filters and conditions (e.g. reasonableness), it is still very much *Greg's* rejection that is morally significant (and not his more reasonable counterpart). This gives us our argument for the rigidity of the activity. Collective reasoning that involves Greg has the property of being, other things being equal, apt moral reasoning in a community that involves Greg. Collective reasoning that does not involve Greg lacks this property. By Leibniz's law, these two activities—reasoning with and without Greg—are distinct. So Greg bears the constitutive connection to the identity conditions of this reasoning that distinguish rigid activities.

The ideas motivating morality as mutual accountability therefore lead us to the following thesis:

*Moral Reasoning Thesis.* Moral reasoning is a rigid activity whose constituent members are the members of the relevant moral community.

There is of course a perfectly generic sense of moral reasoning that is not rigid, a sense that is predicated of all particular instances of moral reasoning. Helen's moral reasoning is a token of this type, and so is King Solomon's moral reasoning. Most of the general claims we make about moral reasoning concern this type, not particular tokens. But it is not this generic activity that grounds the claims that morality makes on Helen. If the mutual accountability conception of morality is right, moral obligation reflects the collective claims of specific individuals to whom an agent is accountable.

#### 4. Moral Incomparability

I have so far argued for two propositions. Value claims involving *a* are defective in the context of rigid activities in which *a* is a partner. Moral reasoning is a rigid activity in which all members of my moral community are partners. Together these yield:

*Moral Incomparability.* For all persons *a* and entities *b*, sound moral reasoning cannot rely on comparisons of the value of *a* to the value of *b*.

Among other things, the argument for Moral Incomparability shows that Helen's reasoning at the start of the chapter is defective in the same way as claims of the form, "Captain Bligh would be a better partner for our sail." One cannot say that A is more, less, or equally valuable as C within the context of Helen's activity of moral reasoning because A and C are, constitutively, partners in that moral reasoning. This conclusion, as I've noted, is compatible with the truth of value comparison claims. It is also compatible with making value comparisons in the context of other activities. My claim is only that such comparisons are infelicitous in moral reasoning.

What should we make of Helen's reasoning then? I think the most charitable diagnosis of Helen's reasoning is not that it contains a gross mistake, but that it is simply not moral. In comparing the value of those at risk, she has stopped treating them as *partners* in her moral reasoning and begun treating them as objects encountered in a decidedly first-personal *singular* form of reasoning. And this is not moral reasoning.

#### 5. Unrestricted Incomparability

My argument for Moral Incomparability depended on two claims. Moral reasoning is a rigid activity, and rigid activities preclude comparisons of value involving their constituent members. This argument can be generalized in straightforward way. If we can say that all evaluative discourse is part of a rigid activity whose constituent members are persons *tout court*, then we can get a version of our thesis that is not restricted to moral reasoning.

Here is a story about value that makes this condition obtain. It would be impossible to defend it here, but it should be a familiar story. All evaluative discourse is partly *legislative*. To say that something has a certain value is to propose a universal law in which everyone regards that thing as having that value. The legislature in which these laws are proposed, debated, and enacted consists of all rational creatures. When someone makes a value claim, they are not just recording their opinion about some fixed facts; they are performing an illocutionary act designed to create certain facts. (It is important that they do both. To say that value discourse legislates does not mean that it is legislation *ex nihilo*. Responsible agents will recognize precedent.) Moreover, this legislation is rigid: it is a particular *we*, a collective of specific valuers, who are undertaking for this legislation. Insofar as these illocutionary acts are tied to a rigid activity of value legislation, evaluative discourse will also be tied to that activity.<sup>22</sup>

This story gives us the first premise in the following argument:

1. All value judgments are made in the context of a rigid collective activity in which every valuer is a constituent participant, *viz. the legislation of value*.
2. *Rigidity Thesis*. Comparisons of value concerning the constituent members of rigid activities are defective in the context of those activities.
3. All comparisons of the value of persons are defective in whatever context they are made in.

This is one way of understanding the remarks from Kant I quoted before. “Nothing can have a worth other than that which the law determines for it,” he says. “But the lawgiving itself, which determines all worth, must for that very reason have a dignity, that is, an unconditional, incomparable worth.” The conclusion of incomparability, I worried, was a non sequitur. But if we specify that what Kant calls “lawgiving” is a collective

<sup>22</sup> Strictly, this is a claim about value discourse, not about value itself. To get a claim about truth we would need to add that the facts about value are somehow grounded in this legislation.

activity, the framework I developed in the foregoing sections plugs the gaps in the argument. Insofar as I must treat other persons as my partners in the legislation of value, I cannot make comparisons of their value within the context of that activity. But this activity is the only context for making value judgments and so value comparisons are defective *sans phrase*.

## 6. Consequences

I began by saying I wanted to make the case for the incomparability of personal value in the context of a concrete ethical problem so we can better gauge the practical significance of that claim. I now return to that problem. Most of my results are negative. Not only is Helen's reasoning dubious, but so are many of the alternatives that have been engineered to avoid the aggregation that she indulges in.

Importantly, the incomparability theses will not rule out particular acts, principles, or even decision procedures—at least not directly. Instead, they will affect certain kinds of reasoning en route to acts, principles, or decision procedures. (Or, if you prefer, justifications of those things.) This is a significant limitation, since for a given act, principle, or decision procedure, we can imagine dozens of different possible justifications. Nonetheless, there are several otherwise attractive approaches to the Numbers problem that do seem incompatible with the theses.<sup>23</sup>

*Coin Flip.* The persons in danger have equal value, therefore Helen owes each an equal chance of being rescued. The decision procedure that gives each person an equal chance of being rescued is one in which Helen flips a fair coin. Therefore, Helen should flip a coin to decide whether to rescue A or the pair or B and C.<sup>24</sup>

*Wheel of Fortune.* Helen owes everyone a chance at being rescued. The persons in danger have equal value, therefore Helen should assign each a sector of equal area on a wheel of fortune that determines whom Helen

<sup>23</sup> Each of the following is inspired by a proposed solution to the Numbers problem, but I am not attributing the details of each argument to the author cited. Nor do I mean to suggest that those authors ultimately commit themselves to the value comparisons that are made in these arguments.

<sup>24</sup> Compare (Taurek 1977: 303).

will go to help. Obviously if B or C is selected by this method, Helen will also help their companion.<sup>25</sup>

*Tie-Breaking.* The persons in danger have equal value, therefore the claims of each should be accorded equal moral force. Therefore, the claims of A and B, which cannot both be satisfied, create a tie such that if it were only A and B in danger, it would be permissible to rescue either one. But C's claim to a rescue breaks this tie. It follows that a principle saying that it is permissible to rescue A effectively ignores the claims of C. On the other hand, a principle enjoining us to rescue the many does not ignore anyone's claims. Therefore, Helen should rescue the many.<sup>26</sup>

*Best Approximation.* Helen has an obligation to rescue each of A, B, and C. But Helen cannot rescue all three. So she should come as close as possible to discharging her obligation. Because A, B, and C are of equal value, rescuing B and C comes closer to discharging her obligation than rescuing A. So Helen should rescue B and C.<sup>27</sup>

Each of these episodes of moral reasoning runs afoul of the incomparability theses, since each depends on the claim that persons have equal value.

Now of course, one can complain that while my vignettes make explicit value comparisons, those comparisons are not actually essential to the spirit of these arguments. Settling what is and isn't truly indispensable to a particular style of moral reasoning is well beyond the scope of the present discussion, but I can offer a taste of how this inquiry might go. To do this I will briefly indicate why one especially salient way of trying to avoid value comparisons won't do. "I owe A and B this good. Fortunately, unlike in the Numbers case, the good is divisible, so I ought to split it in half and give one half to each person." This reasoning seems justified not by a comparison of the value of the two people, but by a more formal requirement of equal treatment. Could we replace the problematic comparisons of value in any of these arguments with this formal requirement of equal treatment? I don't see how this strategy could work for Tie-Breaking, which relies not just on the claim that the claims of A, B, and C

<sup>25</sup> Compare (Timmermann 2004).

<sup>26</sup> Compare (Scanlon 1998: 232–4), (Kamm 1998: 99–122), and (Kavka 1979: 285–94).

<sup>27</sup> Compare (Hsieh et al. 2006).

ought to be treated equally, but on the further thought that C's claim *breaks a tie* created by A and B. To say that the claims of these people can create and break ties goes beyond insisting on equal treatment. It involves ordering them. Likewise, Best Approximation relies on a comparison between different partial fulfilments of our obligation: rescuing B and C is *closer to* our duty than rescuing A alone. But this comparative claim cannot be justified simply by a prohibition on the differential treatment of A, B, and C; it must be justified by an analogous comparison concerning the objects of obligation, i.e. of the values at stake when contemplating the loss of A, B, or C. There is a different problem with Coin Flip and Wheel of Fortune. As I've described them, it is plausible that they rely on no more than a formal requirement to treat persons equally. But that requirement does not yield univocal advice about how to proceed in the Numbers case. The randomizing procedures recommended by these procedures satisfy the prohibition on differential treatment, but so do innumerable other procedures. For example: a wheel of fortune that determines not who will be rescued, but who will *not* be rescued; two coin flips, the first of which determines who gets to be assigned heads on the second, the second of which involves a coin biased toward heads. And so on.<sup>28</sup> If our only requirement is that our parties be treated symmetrically, then this leaves our course of action underdetermined. (Bertrand's paradox is an example of the essentially the same phenomenon: different ways of applying the principle of indifference will yield different probabilities for the same event.) In order to come to a particular decision procedure, we need a stronger claim about how we ought to treat the parties, not just a bar on differential treatment.

As I said, this is just a sketch of the kind of investigation we would have to mount if we wanted to show that particular acts, principles, or decision procedures cannot be supported except by comparisons of value. And this investigation wouldn't even begin to address the even bigger question of what we should do in the face of a choice like Helen's—of whether any act, principle, or decision procedure might actually be recommended by morality.<sup>29</sup>

<sup>28</sup> I discuss these alternative procedures in (Walden 2014).

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