

## Is Saving More Lives Always Better? On Giving a Chance to Minorities

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Questioning the ethical reasoning behind ways of attributing value to lives impacts philosophical dilemmas encountered in policy making and innovation in AI. For instance, this sort of reasoning requires us to determine how self-driving cars should behave when encountering real-life dilemmas such as inevitably crashing into one person as opposed to a group of people.

I will examine this issue with the Rocks Case, a case of conflict of interest where all the relevant parties are strangers, and we can either save one person or a group of five.<sup>1</sup> The two courses of action which will be discussed in this paper are: 1) “Ought to Save the Many” (OSM) and 2) “Permitted to Save the Few” (PSF).<sup>2</sup> I will be arguing for the second option of PSF when it represents the result from a weighted lottery.

<sup>1</sup> Other examples might rightly be used here (e.g., 1 versus 25, 25 versus 100). The abstraction of 1 versus 5 strangers is used for the sake of simplicity and clarity in argumentation.

<sup>2</sup> ‘Permitted’ instead of ‘ought’ is used for 2) as I will not be assessing further options such as ‘Ought to Save the Few’ or ‘Ought to Save No One’, which seem intuitively morally wrong.

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The opposing position of OSM represents the majority in such debates, which is why I choose it as a starting point. OSM is generally supported by utilitarianism, but John Taurek's criticism of its lack of subjectivity and inadequate additivity offers a strong challenge against this view. An alternative stance for OSM is given by Thomas M. Scanlon's non-aggregate theory of contractualism, which, I will argue, holds weight. Nevertheless, Mike Otsuka's transitivity counterargument needs reply.

The position of PSF is less defended.<sup>3</sup> I will present Taurek's solution of the "fair coin," with its advantages and disadvantages. Furthermore, I will suggest the weighted lottery to be an improved and strong solution, since it overcomes criticisms such as wasting lives, avoidance of responsibility, and the cost involved.

Finally, I will defend the position of PSF, using a weighted lottery, rather than acting according to utilitarian or contractualist OSM reasoning on the grounds that it would give all persons involved a fair opportunity of survival. I judge this to be a more important criterion than merely maximising the number of people to rescue.

### The Rocks Case

Prior to the following positions, the Rocks Case needs some specifying. This paper will not debate supererogation, deontological constraints, or contract related duties due to the limited space. Thus, cases of for instance doing more than duty requires, doing wrong acts to achieve a positive outcome or doing a job such as working as a coast guard will be excluded. Besides, this is a case where the number of people to be saved, but nothing about who they are, is known. Additionally, the context or information about the number of people involved in the case is fixed. In other words, the case does not allow for a sudden change of variables such as discovering there are in fact a different amount of people on a rock. Moreover, to illustrate the question, we will imagine a situation where one person is stranded on one rock with five others on a second rock, and we are only able to rescue people from one of the two rocks, for reasons such as limited amount of fuel in the rescue boat.<sup>4</sup>

<sup>3</sup> See Taurek and Saunders.

<sup>4</sup> I will consider lives to be an indivisible good, something we cannot divide between multiple agents. Lives have a binary nature; one is either alive or not, but never  $\frac{1}{2}$  alive. The welfare these agents would have in their lives, which might be a divisible thing, will thus not be considered.

|              |                           |
|--------------|---------------------------|
| Rock X       | Rock Y                    |
| 1 person (A) | 5 persons (B, C, D, E, F) |

### Ought to Save the Many: Utilitarianism

The OSM option is primarily supported by the utilitarian theory. The utilitarian theory defines “right” actions as those that bring about consequences that achieve the greatest good for the greatest number of people, whether by increasing their happiness or pleasure, or by reducing their unhappiness or pain. Utilitarianism is the theory that generally will be endorsed in this Rocks Case, based on the argument that the death of five persons will be worse than the death of one. The utilitarian supports this argument with a simple calculation, weighting the happy moments the non-rescued people would be deprived of (such as building meaningful relationships) and the pain they would bring into the world if they weren’t in it anymore (for example, the mourning families or an unfinished new theory in science), in contrast with the good in the lives of the rescued (being able to pursue their passion, etc).

However, we cannot objectively determine the overall happiness that the world would be deprived of by five people dying compared to one, due to I) indeterminacy, since their lives are not predictable and II) epistemic factors, as the lives are not comparable. By denying comparability we deny that we can compare two things even if all the relevant features are known (Lazar 242-3). By focusing on predictability, we concern ourselves with the problem of comparing things in the absence of relevant information (Hare 172-4). This makes utilitarianism a difficult, non-objective, theory to apply in the real world.

I shall focus on two criticisms provided by Taurek, directly aimed at the OSM position. According to Taurek, happiness or suffering are subjective and not additive. Firstly, he thinks they are subjective because we need to ask for whom it would be worse or better to choose a certain course of action (304). Saving the many would be better for the five people on rock Y, but worse for the person on rock X; but it would not be better simpliciter. Secondly, Taurek thinks happiness or suffering are not additive because, in treating the outcome of a human life as something we can add in the form of numbers, we would be dealing with them as we would with objects (306).

For example, consider another rescue scenario where I could bring one versus five pens of equal value to me, to university; the remaining one(s) would be given to my annoying sibling. I would take the five, the many, because objects’ value can be added, making that option five times

more valuable to me compared to taking only the one object. Taurek underlines that what differentiates the object rescue case with the initial human rescue case is that he would empathise with the humans in the latter (306). He says that the important aspect enabling him to judge the course of action in something like the Rocks Case is not the objective death of a person, but rather the subjective event of a person dying, or what it would mean for them to stop living (307).

I have not yet given a positive account for the PSF position, but I shall reject the generally adopted view of utilitarianism for OSM for reasons of predictability, comparability, subjectivity, and non-additivity.

### Ought to Save the Many: Contractualism

In a different vein, we have the argument that one should save the five on rock Y, based on a non-aggregate point of view. One iteration of this argument is Scanlon's contractualism, which focuses on the standpoint of individual persons. The theory of contractualism is founded on the notion that all persons are of equal moral status as rational autonomous agents. They pursue their personal interests while needing to be able to justify their acts to others. Reasons for acting must thus be I) 'personal', as having to do with a particular person who is affected by the action, and II) 'non-aggregative', as the agent's motive for acting cannot be the result of adding together the different reasons or circumstances the various affected people have. In the Rocks Case, every one of the six persons has a right to claim for rescue. This claim is equal in moral weight to everyone else's. Therefore, one should save the maximum number of persons possible. In other words, one does something good for the individual when one rescues them. It is better to do good for five than for one.

However, we should abandon Scanlon's argument as Otsuka will qualify his non-aggregate view as "irrational," since it results in intransitivity ("Skepticism" 416). The difficulty is that Scanlon wants to claim his theory as simultaneously non-aggregative, while it obliges us to save the many.

What makes Scanlon susceptible to the "irrational" line of attack is the idea of trading off lesser evils for greater ones. According to Scanlon's example of the World Cup accident ("What We Owe" 235), it is morally wrong to trade off one life for minor pleasures of others (no matter how

numerous those may be).<sup>5</sup> However, as Alastair Norcross points out, according to transitivity, there would be some number of minor harms that would be better to prevent than one death.

Otsuka clearly states the issue with his example of a pill curing paralysis. Imagine you have three special pills which restore limbs and have four patients with paralysis of all their limbs. On the one hand, patient A will get one limb restored per pill. On the other hand, any person from the remaining group of three will get two limbs restored with the help of one single pill, noting that the effect of taking two pills is completely futile. Possible allocations of the three pills are as follows:

| Scenario: | Patient A |                   | Group of 3 patients (B, C, D) |  |
|-----------|-----------|-------------------|-------------------------------|--|
|           | Pills:    | Effect:           | Pills:                        | Effect:  |
| I         | 0         | No limbs restored | 3                             | 3 have 2 limbs restored                              |
| II        | 1         | 1 limb restored   | 2                             | 2 have 2 limbs restored, and 1 has no limbs restored |
| III       | 2         | 2 limbs restored  | 1                             | 1 has 2 limbs restored, and 2 have no limbs restored |
| IV        | 3         | 3 limbs restored  | 0                             | 3 have 0 limbs restored                              |

Otsuka predicts the non-aggregate thinker to prefer restoring patient A's three limbs (IV) instead of restoring any number of limbs of a person of the group because A is better off than B, C, and D individually (as they cannot restore more than 2 limbs in total but A can). Nonetheless, she would also prefer giving all three pills to the group to restore two limbs from each person (I) since their individual claims are stronger (each pill in their group restores 2 limbs, while it would only restore 1 for A). This clearly does not make sense since the non-aggregate thinker ends up thinking about their preferences in an intransitive way ("Skepticism" 416). The issue is thus that one person has a preference III to IV, II to III, and

<sup>5</sup> In Scanlon's example, an engineer named Jones has an accident in the transmitter room diffusing the World Cup. Two courses of action are available: A) Save Jones and stop the broadcast for 15 minutes, thereby causing a minor inconvenience to millions of viewers of the World Cup, or B) Let Jones die and the millions of viewers enjoy the World Cup for 15 minutes. Contractualism would argue for action A) as Jones' claim to be saved would be more important than the individual claim of each viewer of the World Cup to continue the broadcast.

I to II, but does not have any preference between two events I and IV. So, she would always want to upgrade to the scenario above but would not mind trading for IV once she achieved I and thereby redo the circle. Assuredly, the aggregate view would simply say one should give the three pills to the group of three (I) since they would have more benefit than only one person.

As such, Otsuka's criticism seems to weaken the contractualist view of non-aggregation, which still does not offer a convincing OSM solution to the Rocks Case, since we do not achieve any progress to the utilitarian position. I will therefore reject the second option of OSM due to it being unsatisfying.

### Permitted to Save the Few: The Fair Coin Toss

I would like to focus on Taurek's view of the fair coin toss (303). He argues that we have no obligations towards strangers we could save, and we would cause no wrong in choosing to save the one or the group. It would, for example, be my own right to use my power of saving people and I would thereby violate nobody else's rights (301). Taurek proposes to toss a fair coin to decide whether to save the person on rock X (the few) or the group on rock Y (the many). This method gives everyone the highest possible equal chance, being fifty percent. By acting according to OSM, one would indeed deprive the single stranger of having any chance of being saved, which the fair coin toss avoids. In other words, the main strength of this type of coin lottery is its respect for the value of fairness.<sup>6</sup>

One objection from Scanlon to this coin lottery procedure is that, in attributing a chance of  $\frac{1}{2}$  to each rescue, we would not properly consider the fact that five, instead of one, are on the other side. It would be as if "denying the moral significance" of the four other persons ("What We Owe" 232). Scanlon says that Taurek does not give sufficient weight to the fact that there are four additional people present (C, D, E, and F).

Nonetheless, one would only truly deny their moral significance by saving one of the five and leaving four on the rock to die. By doing pairwise comparisons of the circumstances of the people on each rock, one is indeed giving equal and positive weight to the moral significance of each person's life.

<sup>6</sup> Due to the limited length of this paper, I will avoid a more detailed definition of 'fairness' other than the equality of proportions in attributing weights to agents' claims.

|   |
|---|
| A is compared with B → their claims to be saved are equal |
| A is compared with C → their claims to be saved are equal |
| A is compared with D → their claims to be saved are equal |
| A is compared with E → their claims to be saved are equal |
| A is compared with F → their claims to be saved are equal |

What might seem wrong is that we would have obtained the same result if C, D, E or F had not been there. However, that does not mean that their weight was ignored in the moral calculation using pairwise comparison. Their weight was calculated in just the same way as was A's and B's (which is not troublesome) and then duplicated for C, D, E, and F. Taurek chose this method as we are dealing with the same kind of weight, since what we compare are people's claims for their lives.

Nevertheless, there is an intuition that the fair coin toss does not give *enough* weight to the many. It is a very controversial position to give chances on a binary basis (choosing rock X or rock Y), when each group on their rock differs in quantity. This intuition comes to light when we consider a Modified Rocks Case, where instead of five persons a million are stranded on rock Y. Giving both the one person on rock X and the million on rock Y a  $\frac{1}{2}$  chance of survival does not seem to account the importance of the large quantity of lives at stake. I shall therefore argue that fairness should take the numbers into account, and not just the weight of claims of the agents involved.

### Permitted to Save the Few: The Weighted Lottery

We can improve Taurek's lottery by making it a weighted one, having a more straightforward justification by taking the numbers into consideration. It would thereby once more be permissible *not* to save the greater number, while the additional third, fourth, and fifth person make a difference. The weighted lottery goes as follows: We assign an equal probability of being saved to each person. In the Rocks Case, a  $\frac{1}{6}$  probability of being rescued is thus assigned to A, B, C, D, E, and F. Once we have the result of whom should be saved, there are two options.

- 1) The winner of the lottery is A. Thus, only person A should be saved.
- 2) The winner of the lottery is either B, C, D, E or F. According to strict fairness, we should then only save *that* specific person of the group.

However, that seems wrong as we would be wasting the lives of the others stranded on the same rock. If the decision has been made, according to the lottery, that one ought to go towards rock Y, it would be ridiculous to leave the four remaining people to die.

If we argue that the others should be saved by the same occasion, we will encounter issues related to chances being pooled from the start. Namely, it would seem as if the person on rock X has a  $\frac{1}{6}$  chance to be saved and the group on rock Y has a combined  $\frac{5}{6}$  chance of being saved. This type of reasoning is criticised by Iwao Hirose as it would give rise to “inverse lotteries” (51).

We avoid such issues with Ben Saunders’ “two-stage lotteries,” which argues we should save the rest of the group since at this stage, there is no conflict of interest requiring a fair assessment of available courses of action (287–8). By saving the rest of the group, we are not decreasing anyone else’s chance of being saved.

|         |   |
|---------|---|
| Stage 1 | (Supposedly) C gets chosen to be saved, with $\frac{1}{6}$ chance |
| Stage 2 | B, D, E and F are also saved                                      |

The advantage of the two-stage weighted lottery, compared to Taurek’s solution, is that each person has a specific weight in the lottery, making it evident how their case was accounted for in the calculation.

I find lotteries quite striking in real-life applications. When considering policies, we often find ourselves opting for those which would advantage the majority, since we are more likely to be concerned and benefited by them. However, it is often the case that minorities would therefore be treated unfairly. For example, we can picture a state where only people with no asthmatic issues, known or underlying, have the right to free medical treatment for Covid-19, with the condition that hospitals have enough space. It would benefit most citizens, but it would be unfair to those who know they have asthma, those having a rather unpleasant surprise when learning they have it, or those who arrive when the hospital is saturated. We can take this example in parallel to our case, arguing that it would be unfair to give more importance to the group because it might benefit more people. Everyone deserves a fair chance.



### Anticipating Critiques of the Weighted Lottery

I consider two criticisms which I find most threatening to the solution of the weighted lottery: avoidance of responsibility and the cost involved in saving the few.<sup>7</sup>

First, one could argue that by using a lottery, we are not strictly making a decision, but a lottery is. Does this still make us morally culpable, or do we thereby avoid responsibility for the course of action we take? The lottery seems to help one make a decision but not weigh the right and wrong of the action.

However, the aim of the lottery is not to remove any moral responsibility from the rescuer. The critical aspect of moral responsibility is our reasoning behind choosing a certain course of action. The initial action we take is to make use of a lottery, which we are morally responsible for. When choosing the lottery solution, we already weighed the right and wrong of the action. The outcome of the lottery is merely the procedure offered by the theory, helping us to respect the value of fairness which was the criterion for moral rightness in this case.

Second, would this position still hold in the Modified Rocks Case involving one person to be rescued versus not five, but a million? Hirose points out the problem of cost if the few end up being saved instead of the many. I will suggest that the position still holds since it is a cost which the weighted lottery supporter agrees to pay for the sake of fairness. Furthermore, the probability of saving the many is *much* higher than the probability of saving the few, while granting each person an equal chance of being saved.

Hirose would then answer that, since the chance of the one person being saved is so minor, it renders the [General] Weighted Lottery “deceptive” (56). In other words: why would we even do the weighted lottery if it does not give any substantive chance of survival to the few?

I will respond that the weighted lottery is not deceptive but realistic. As Saunders put it: “equal consideration need not lead to equal outcomes” (281). Namely, the fact that we create a lottery to respect fairness does not entail that the resulting outcomes of the lottery will be fair. Fairness of action is not a synonym of equality in the result of an action. The action is making the use of a lottery and the result is choosing to save the person who won the lottery.

<sup>7</sup> I will not consider any criticisms which go beyond the discussed case, such as the information and dynamic context related arguments from Mathieu Doucet or the ‘Anti-Transformation Requirement’ from Joseph Adams.

### Conclusion

I reject the OSM position suggested by utilitarianism with its aggregate view and Scanlon's attempt to give a non-aggregate contractualist solution. When comparing lives with other lives in a case of conflict of interest, more is not better. I support Taurek's notion of fairness, which I deem to refute criticisms laid out by Scanlon. Nevertheless, to make the choice even more convincing, I will maintain the solution of the weighted two-stage lottery, defeating counterarguments such as wasting lives, lacking moral responsibility, and the cost involved. Finally, by making use of such a lottery, we can fairly save either the many or the few.

## Works Cited

- Adams, Joseph. "The Disrespectfulness of Weighted Survival Lotteries." *Proceedings of the Aristotelian Society*, vol. 120, no. 3, Apr. 2021, pp. 395-404, <https://doi.org/10.1093/arisoc/aoaa004>.
- Doucet, Mathieu. "Playing Dice with Morality: Weighted Lotteries and the Number Problem." *Utilitas*, vol. 25, no. 2, Mar. 2013, pp. 161-181, <https://doi.org/10.1017/S0953820812000374>.
- Hare, Caspar. "Perfectly Balanced Interests." *Philosophical Perspectives*, vol. 23, no. 1, 2009.
- Hirose, Iwao. "Weighted Lotteries in Life and Death Cases." *Ratio*, vol. 20, no. 1, 2007.
- Lazar, Seth. "Accommodating Options." *Pacific Philosophical Quarterly*, vol. 100, no. 1, Mar. 2019, pp. 233-255, <https://doi.org/10.1111/papq.12252>.
- Otsuka, Michael. "Scanlon and the Claims of the Many versus the One." *Analysis*, vol. 60, no. 3, 2000, pp. 288-293, <https://about.jstor.org/terms>.
- . "Skepticism about Saving the Greater Number." *Philosophy & Public Affairs*, vol. 32, no. 4, 2004, pp. 413-426.
- Saunders, Ben. "A Defence of Weighted Lotteries in Life Saving Cases." *Ethical Theory and Moral Practice*, vol. 12, no. 3, June 2009, pp. 279-290, <https://doi.org/10.1007/s10677-009-9157-7>.
- Scanlon, Thomas M. "Contractualism and Utilitarianism." *Utilitarianism and Beyond*, Cambridge University Press, 2010, pp. 103-128, <https://doi.org/10.1017/cbo9780511611964.007>.
- . "Chapter 5: The Structure of Contractualism." *What We Owe to Each Other*, 2000, pp. 189-247.
- Taurek, John M. "Should the Numbers Count?" *Philosophy & Public Affairs*, vol. 6, no. 4, 1977, pp. 293-316.