

How Hard are the Numbers?

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1.

Suppose you find yourself in the following “tradeoff” situation.

Tradeoff: you own a life saving drug which you can give away at only small cost to yourself. “Six people will all certainly die if they are not treated with the drug. But one of the six requires all of the drug if he is to survive. Each of the other five requires only one-fifth of the drug.”

All six persons are strangers to you

What should you do? The costs to you of giving away the drug are low, so you should certainly do so. But to whom should you give it? Nearly all of us judge that you ought to save the five people who require only one fifth of the drug. The “numbers problem” is the problem of saying *why* it is that you ought to save the five.

Consequentialists are thought to have an easy time answering this question. They can say that you should save the five because you would thereby bring about the best state of affairs that you can. But many

philosophers

have rejected this explanation for being, say, unintelligible or implausible.

For these non-consequentialist philosophers, the numbers problem is thought to be very *hard*. In this paper I am going to ask whether this is true. I am going to look at what answers you can give to the numbers problem if you are a non-consequentialist. That is, what answers you can give without appealing to the goodness of states of affairs.

The standard non-consequentialist accounts try to answer the problem by appealing to *fairness*. According to these accounts, you ought to save the five because this is the only way to treat each needy person fairly. If you fail to save the five, they say, then there is at least one member of the five that you will have treated unfairly.

Appealing to fairness in this way turns out to be difficult. In sections 2 and 3 I explain why. I first show some *prima facie* problems with appealing to fairness to justify saving five (section 2) and then argue that recent accounts have not surmounted these problems (section 3). In section 4 I argue that we should quit trying to surmount them since, I show, fairness is irrelevant in a case such as Tradeoff. In section 5 I offer my own account of why you should save the greater number. Failing to save the greater number, I claim, would be uncharitable.

2.

The standard non-consequentialist approaches to the numbers problem begin with the idea that one must respond fairly to those who need your aid. Now, there is a sense in which every ethical theory claims to be concerned with fairness. Fairness in this sense means something like “impartiality” or not giving greater importance to some people over others. A theory violates this very abstract requirement of impartiality when it claims, for instance, that some people are naturally more morally important than others in virtue of, say, their race or class. The morality of a caste society, for example, would fail to satisfy this requirement. Of course, nearly all the theories we ordinarily consider in moral philosophy satisfy this very broad requirement.

The non-consequentialists I am discussing have in mind a notion of fairness that is less abstract and much more controversial. It is this notion that is deployed, for instance, when we criticize a parent for favoring one of their children over another or a teacher for helping some students less than others. Some ethical theories deny that fairness in this sense has any fundamental importance. Utilitarians, for instance, deny that one is ever bound by a requirement of fairness of this sort. They do think that we should sometimes act as fairness would demand by, say, helping our children equally. But only when, and because, so acting would increase aggregate utility, not because it would be fair.

Fairness in this sense is a requirement on how we treat others. It is comparative: it concerns how we treat some persons compared with how we treat other persons. It requires, roughly, that we treat all relevantly similar

person similarly. Where we providing benefits, fairness demands, more specifically, that we benefit people in proportion to their eligibility for the benefit. For instance, fairness requires a teacher to give equal attention to every member of her class since they are each equally eligible for her help.

According to the standard non-consequentialist accounts, we are required to be fair in our treatment of needy strangers. The only relevant characteristics of these needy persons, they say, is the extent of their need. That is, the only thing that makes one needy person more eligible for our aid than another is the extent of her need. So, they conclude, fairness requires that we help each needy person in proportion to her need. Where needs are equal, as in Tradeoff, we should apportion our aid equally.

In Tradeoff, there is a seriously difficulty with apportioning our aid equally. The help we can offer comes in the form of a life saving cure. But it is impossible in this case to cure each person and thus save each person's life.

It is very tempting to conclude that in such a case we simply cannot distribute our aid in a fair way, since we cannot divide it evenly. If that is true, then we should simply abandon the appeal to fairness to justify saving the greater number. We would then have to justify saving the greater number on some others grounds. This the first problem I will mention for any account that appeals to fairness: Tradeoff seems plausibly to be a case where fairness simply cannot be done.

The second problem is that to the extent that fairness can be achieved, it seems to require not saving the greater number, but, instead, giving each

candidate an equal chance of being saved. The fairest thing we can do, plausibly, is what Taurek proposed, namely tossing a coin to pick between saving the one or the five. Here is why:

I said that fairness seems to require giving each person an equal amount of help, and that doing so is impossible here. But we can still try to treat each candidate the same way. Rather than giving each candidate the same amount of help, we can, as a proxy, give each candidate an equal *chance* of being helped. Since we cannot equally increase the well-being of each candidate, we can instead equally increase the expected well-being of each candidate. We can do this by using a coin toss to make our decision about whether to save one or five, thereby giving each person a fifty percent chance of being saved.

If this line of reasoning is correct, then the fairest thing to do in the circumstances is not to save the greater number, but, instead, to toss a coin to decide whether to save one or five.

Thus, appealing to fairness to justify saving the greater number seems problematic. Initial investigation suggests, firstly, that it might be impossible to fair in these cases and, secondly, that the best approximation of fairness seems to be not saving the greater number but tossing a coin to decide whom to save.

Recent non-consequentialist accounts operate against this background. They attempt to show that, despite appearances, one can be fair in tradeoff cases and that, contrary to Taurek, fairness requires saving the greater number. I am going to briefly illustrate the most prominent of these recent accounts, namely Francis Kamm's, and the problems that any such account faces.

3.

Kamm claims, as does Taurek, that we ought to toss a coin if we are faced with a choice between saving a single person A and another person B (and all else is equal). This would be fair, they agree, because it would give each person a fifty percent chance of being saved and so each person would be treated the same way.

Where Kamm and Taurek differ is that Taurek would still use a coin if faced with a choice between saving person A and saving two other people B and C. Taurek would toss coin between saving A and saving B and C in order to give each of A, B and C an equal chance of being saved.

Kamm objects that in using a coin toss he would be proceeding just as if the choice were between saving A and just the individual B, rather than a choice between saving A or saving B *and* C. The presence of the additional person C would be making no difference to his actions. To proceed in this way, she claims, would be to “deny the equal significance” of person C. C could complain that she has been wronged, Kamm says, since her “presence does not make any difference to the outcome”. Kamm’s suggestion is that if we toss a coin when we can save either A or B and C, then we will have ignored the moral importance of C’s need.

Is this a reasonable objection to Taurek? It all depends on what we have

to do to take into account the presence of person C. Kamm is assuming that in this situation we must be fair to each needy person. So, on her view, taking into account C's need in this situation should just be a matter of giving her whatever help she can fairly demand. But, as we have seen, there is an argument Taurek can offer for thinking that treating C fairly just requires giving her an equal chance of being saved. Since A and B are just as needy as she is, C can demand no more, as a matter of fairness, than to be treated the same as they are. As a matter of fairness, Taurek can say, giving C an equal chance is the appropriate way to take account of her need. So more needs to be said if Kamm is to show that Taurek ignores the moral importance of C's need.

Kamm needs to show that fairness to C requires us to actually save her rather than just give her an equal chance of being saved. But it is difficult to see how she could establish this. I said that fairness requires treating all similarly eligible candidates for a good similarly. We can only give a candidate for a good more of it on grounds of fairness if they themselves are more eligible for the good.

Now, Kamm believes that when each of A and B's lives are a stake, each is equally eligible for your help and should be given an equal chance of getting it. But she thinks that when B is joined by another person C, such that we can either save A or save B and C, suddenly fairness requires giving no chance of aid to A and giving all your aid to B and C. So Kamm must claim that when C can be saved along with B, C is suddenly more eligible for your help than A. Kamm needs to give reasons for thinking that, in this case, C is relevantly

different from A, such that C is more eligible for your help than A.

It is hard to see what these reasons could be. A and C both stand to lose their lives. The only difference between them is that C can be saved along with B. But this does not seem to make C herself any more eligible for receiving help than A. It is thus hard to see why it would be *unfair to C* to not save her and it is hard to see why it would *not* be unfair to A to give him no help or chance of help.

Thus, Kamm's project of trying to show that we wrong C if we do not save B and C over A faces some serious difficulties. It is hard to see what could make C more eligible for help in this case than A, and so it is hard to see why fairness requires us to give more help to C. Kamm has not provided an answer to the challenges I presented in the previous section since she has not shown that fairness can be done in Tradeoff or that it would require saving the greater number.

4.

So any account that appeals to fairness faces serious difficulties in explaining why you should save the greater number. But I think there is an even more fundamental problem with appealing to fairness in these contexts. I think that it is not the case that in a situation such as Tradeoff one is required to be fair. I am not suggesting that we should act *unfairly* in these cases but, rather, that considerations of fairness do not apply there at all. Saving the greater number in this case, I think, would be neither fair nor unfair.

It seems to me that our dealings with needy strangers are in general unconstrained by fairness. For instance, consider the following case,

Charities: various people stop me on the street and ask me to donate to their charities, each of which is engaged in life saving activities in a different area of the world. Each is only asking for a small contribution but that contribution will help save a life.

Each of these charities, and the people they serve, is equally worthy of my aid. Yet, it is perfectly permissible for me to just pick one of these charities and give all of my aid to them. We do not think that I must divide my aid equally between them or find some way of giving each charity an equal chance of receiving my aid. I can just pick where my aid is going to go.

This suggests that requirements of fairness are not present when we are giving aid to strangers. But can we explain why? Can we give some rationale for denying that aid to strangers is subject to fairness?

It seems to me that fairness only comes into play where others have *rights* against us. Teachers owe it to their students to provide them with tuition, parents owe it to their children to care for them, members of a squash club are owed the benefits the club provides. All of these are cases where we think fairness is required. In each of these cases, there are individuals with similar rights and so fairness comes into play and requires that they are treated similarly.

By contrast, no restaurant, say, has a right that I attend it or even consider attending it. This provides an explanation for why I am not required to be fair in my decisions about where to eat and can frequent some restaurants more than others as I please.

Thus, a potential explanation for why fairness is not relevant to aid is that needy strangers do not have rights to our aid.

But is it true that needy strangers have no rights to our aid? It seems very plausible. We think it perfectly acceptable to not help some persons on the grounds that we have been helping others. If individuals had rights to our aid, this sort of justification would not be acceptable. For instance, since I owe it to you to keep my promises, I cannot justify breaking this promise to you on the grounds that I have kept many promises made to others. Your right that I keep my promise is not affected by what I have done for others. Aid is clearly different and a good explanation of why it is different is that no-one has rights to our aid.

I thus think we should say that fairness is not required of you in Tradeoff because no-one else has a right to your pill. It seems clear to me that in Tradeoff the only person who has a right to the pill is *you*. After all, you *own* it, and someone who stole the pill to give it to the needy would surely violate your right to it. The explanation for why and how you should give it away must not lie in considerations of rights or fairness.

5.

The appeal to rights and fairness to deal with cases such as Tradeoff seems to me to not only make the wrong predictions but also to simply ignore the most natural concepts to employ. Think about ordinary situations where private persons fail to provide for the needy and we think morality requires them to. Consider, for instance, someone who does not stop to help a fallen biker out of the road, someone who refuses to help look for a missing child or someone who never gives to charity. All of these people seem to me to have acted in ways that are morally wrong, at least assuming the costs to them of aiding are not excessively high. But we would not criticize them as rights violators or as failing to be fair. Rather, we criticize them for being uncharitable, selfish, callous, unbeneficent, insensitive or similar. It seems to me that we use the later concepts to describe a very different sort of moral failing to the failure to fulfill people's rights or to be fair.

The most general term I can find to describe this sort of moral failing is "uncharitableness". It seems to me that morality requires us to be charitable. We are not required to be *heroically* charitable, traveling the world to alleviate suffering or running into burning buildings. Being heroically charitable is morally praiseworthy, but beyond what morality requires. Being charitable is morally required. Situations where we can provide aid to the suffering at little cost seem to be clear cases where to not help would be morally wrong because uncharitable.

I think the reason it would be wrong to not save the five in Tradeoff is that it would be uncharitable. To see this, let's look at some different ways of being

uncharitable.

One way to be uncharitable is to be stingy or ungenerous in providing aid. In these cases, one is uncharitable because one gives the desires of the needy excessively low weight compared with what one prefers oneself. For instance, suppose that I see a man by the side of the road with a broken leg. "I've been lying here for hours in the heat he says, please give me a drop of water." You recognize his need, but, you think, "if I keep all of the water in my bottle I could use it to fix my hair better when I get back to the car".

This would be profoundly stingy or ungenerous because it would show a seriously excessive concern for one's minor wants in the face of great need.

But this doesn't seem to me to be the only way to be uncharitable. Another way is to simply ignore the needs of some people, quite irrespective of the gains to oneself. This is uncharitable because it shows a callous insensitivity to those person's needs.

For instance, suppose I have a pill, of little use to me, with which I can save someone's life. I decide to give it to him. Now I discover that this person only needs half the pill to save him, and so I can split it and save an additional person's life with the remaining half. But, I don't bother splitting it. I just give the whole thing to the one.

It does not seem that my behavior in such a case would be stingy or ungenerous. I am not withholding any of my resources for myself rather than using them for others. So I cannot be accused of showing excessive concern for myself. Rather, in failing to split the pill, I can be accused of ignoring the

presence of the additional person whose life I could save. I have not been stingy with my resources, but I have been insensitive to need in failing to be concerned with the need of the additional person I could save. To show such insensitivity to need seems uncharitable to me.

Failing to save the greater number seems uncharitable to me for similar reasons. I think someone who does not save the greater number shows a callous insensitivity to need. It seems to me, for instance, that someone who saves one rather than five persons in our original Tradeoff case acts wrongly because they show insensitivity to need. For, in choosing to give the pill to the one, they must be ignoring the needs of the extra four persons who would be saved if they split it up and saved five instead. All of this seems plainly intuitive to me. But I think the following line of reasoning may make it clearer.

Suppose I am holidaying on my boat and I notice two people, A and B, drowning. If I sail to my left, I will be able to easily save A and if I sail to my right I will be able to easily save B. But there is not enough time to save both.

It would certainly be uncharitable to not take a few minutes out of my holiday to save one of these people. It is up to me, though, to decide which of them to save. Morality permits me to sail left or to sail right. Why? I think this is because it would be equally charitable to save A as to save B. And this is because a charitable person would be equally satisfied with saving A as with saving B. The charitable person will see that each stands to lose his life and will be equally satisfied with saving either one.

Suppose I now discover that if I sail to my right I will be able to pick up an

additional person, C, once I have saved B. Should I save person A alone, or should I save B and then this additional person C?

Taking into account just the needs of A and B, the charitable person is just as satisfied with sailing left as with sailing right. The only remaining consideration is the additional presence of C. Surely, as someone sensitive to need, she will treat the life of C as a positive reason to go right rather than left. And so, she will no longer be equally satisfied with going left or right since she now has an added preference for going right. She will go to the right, saving B and C.

To not take account of C in this way seems to me to show a callous insensitivity to her need. Someone who, on discovering the presence of C, was still just as satisfied with going left as going right would be offensively insensitive to C's need. Suppose that person goes ahead and arbitrarily chooses to save A. They would show a lack of sensitivity to need because they would have simply ignored the needs of C, acting as if they were still faced with just a choice between A and B. Showing a lack of sensitivity to need, as I suggested earlier, is uncharitable. So it is uncharitable to not save B and C.

Similar reasoning might be employed in any case where we face trade-offs between similarly needy persons. In any such case, it would be uncharitable to not save the greater number because it would show a lack of sensitivity to the needs of the extra persons who would be saved if one helped the greater number.

Now, the reasoning I have employed is very similar to some suggestions

made by Kamm and subsequent non-consequentialists. But their accounts differ crucially, as we have seen, because they are appealing to *fairness* and this makes it impossible for them to argue as I have done.

For instance, I relied on the claim that it is permissible, given a choice between saving A or saving B, to choose to save either because saving either is just as charitable. But just picking between A and B is not permissible where fairness is required. Fairness would require us to toss a coin between saving A or saving B.

Also, I claimed that when we can save C along with B, we should take C's presence into account by treating it as a reason to sail right rather than left. To not do so would show a lack of sensitivity to C's need. Fairness would require taking C's presence into account in a very different way, making sure that she received the same treatment as A and B, perhaps by giving her an equal chance to be saved. On my account there is no such requirement of fair treatment in this case and so we can just treat C's needs as a reason to choose to sail left despite her being no more eligible for help than A.

I thus conclude that it is wrong to save the lesser number in cases such as Tradeoff because to do so would be uncharitable. It would be uncharitable because it would show a callous insensitivity to need. It would show insensitivity to need because one would be ignoring the needs of the extra people one would save if one choose to help the greater number.

In conclusion, let me briefly summarize what we have found. Non-consequentialists have assumed that we must justify saving the greater number on grounds of *fairness*. This has proved very difficult and so the numbers problem has been thought very hard for non-consequentialists.

The difficulty arises, I argued, because of the false assumption that requirements of fairness apply in cases such as Tradeoff. This assumption is false because we are not required to be fair in giving aid to needy strangers. Fairness does not apply to these actions because needy strangers do not have rights to our aid.

Once we abandon the assumption that fairness is required of us in these cases, we can justify saving the greater number much more easily and intuitively on the grounds that it is the charitable thing to do.

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