'SAVING THE GREATEST NUMBER'

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Imagine there are three boats equidistant from one another. You are alone in the first boat. The other two boats are sinking fast: one boat has one person (A), the other has two persons (B&C). There is only enough time to allow saving either A or B&C before their boats sink, drowning whoever is onboard.[1] 'As far as common-sense morality is concerned, one's duty as rescuer, under the circumstances, is a straightforward matter: one ought to save the greatest number' (Kumar 2001: 165).

In this example, one reason in favour of saving B&C and not A is the Kamm-Scanlon argument, a contractualist framework without any commitment to aggregating various outcome values nor a combination of individual claims for rescue.[2] If the claims of A, B, and C are accorded equal and positive weight, Michael Otsuka contends that the Kamm-Scanlon argument 'considers C's claim in combination with B's claim so that they together tip the balance in favor of saving B and C' and not A (2000: 290–91; cf Scanlon 1998: 232–33). C's presence in B's boat makes the difference between saving A or B&C. For Otsuka, the assertion that 'C has a claim to be saved by virtue of an appeal to the difference that B and C make when considered together or in combination rather than one by one' amounts to an 'appeal to the claim of a group of individuals' (2000: 292). He rejects the significance of contractualism versus consequentialism for the Kamm-Scanlon argument as it appears to combine the appeals of hopeful individuals in solving the sinking two boats example.

If Otsuka is correct, Scanlon fails to provide the 'clear alternative to utilitarianism and other forms of consequentialism' in cases such as these, denying what Scanlon considers to be one of the 'most appealing features' of his contractualism (1998: 229, 241). For Scanlon, the claims of each person who may be saved in situations such as the sinking two boats example share

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[1] Our choice is between saving A or B&C: no matter what we decide, we may not choose to save *either* B *or* C.

[2] The Kamm-Scanlon argument is based upon Kamm (1993: 101, 114–21) and Scanlon (1998: 228–41).

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the same moral weight (1998: 232). We would then be justified in reject-ing any principle that failed to give the same importance to the lives of each individual (1998: 233). Scanlon says:

> in a case in which we must choose between saving one person and saving two, a principle that did not recognize the presence of the second person on the latter side [i.e., B&C] as making a moral dif-ference, counting in favor of saving that group, could reasonably be rejected (1998: 234).

While agents would be directed to save the greatest number as a result, they would only do so by 'adding up the costs or benefits to different individ-uals' in 'a form of aggregation' Scanlon calls 'intrapersonal aggregation' (1998: 237). In intrapersonal aggregation, we acknowledge A's claim to res-cue — equal in moral weight with B and C's individual claims to rescue[3] — although we would save B&C and not A. However, in cases such as the sinking two boats example, the *consequences* of Kamm-Scanlonian contrac-tualism will be that whenever all persons share morally equivalent claims to rescue, we will always save the greatest number of persons possible. As a result, Otsuka is justified in saying 'such reliance upon this type of aggrega-tion renders obscure' Scanlon's claim that 'the rightness of actions depends only on the rejectability of principles from various individual standpoints' (Otsuka 2000: 292; Scanlon 1998: 241).

Iwao Hirose agrees with Otsuka that the Kamm-Scanlon argument 'im-plicitly involves the combination of claims' (2001: 341). In addition, Hirose contends that Kamm's distinctly different 'aggregation argument' 'does not aggregate the claims of different people' (2001: 341). Kamm's aggregation argument may be summarized in the following manner:

(1) It is equally bad if A alone dies or if B alone dies.
(2) It is worse if B&C die than if B alone dies.
(3) Therefore, it is worse if B&C die than if A alone dies (Kamm 1993: 85).

Hirose reformulates Kamm's aggregation argument into three choices where the individual claims of A, B, and C share equivalent 'moral importance':

X: = (A saved, B dead, C dead)
Y: = (A dead, B saved, C dead)
Z: = (A dead, B saved, C saved) (2001: 341–42).

Hirose states that (1) X and Y have equal claims to rescue (the impartiality condition); (2) Z is preferable to Y as Z is best for C *and* Z is worst for no one (the Pareto condition); and (3) Z is better than X as a result. As nei-ther (1) nor (2) entail aggregative conditions, Kamm's aggregative argument

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[3] See Scanlon (1998: 232).

justifies saving the most people in this instance without combining claims of those hoping to be rescued.

The problem with Hirose's defence of the Kamm aggregative argument is that — despite A and B having theoretically equal claims for rescue — we may elect to save only A, *but we cannot elect to save only B*. Therefore, choices X and Y are not equal as Y is impossible to perform. Instead, we may *only* decide between X (saving A) and Z (saving B&C).[4] If each person has an equal moral claim to rescue, then X provides one claim and Z provides two claims. X and Z are not morally indifferent to each other as a result, as Z's two claims to rescue are greater than X's single claim. Therefore, it is *not* the case that (a) X and Z are morally indifferent without combining claims and (b) Z is preferable to either X or Y with the introduction of Y as a third choice. The former is false because Z can be considered only as the claim for rescue of *both* B *and* C. The latter is false because Y cannot be introduced as it is a choice we are simply unable to make. Thus, we should choose Z due to a combination of B and C's claims, as neither B nor C can be considered apart from one another.[5] As a result, Hirose's reformulation and application of Kamm's aggregation argument is not an improvement on the Kamm-Scanlon argument as it fails to avoid combining claims in saving the greatest number.[6]

Otsuka recognizes correctly that the Kamm-Scanlon argument need not be consequentialist, as it entails recognition of individual claims and not appeals to outcomes. For example, imagine that a majority in a community would benefit from doing 'x'. Most varieties of consequentialism would justify doing 'x'. Kamm-Scanlonian contractualism would take stock of

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[4] If Y is *not* a possible choice, the Pareto condition — Z is preferable to Y as Z is best for C and Z is worst for no one — does not apply. When we compare X with Z, we find that Z is worst for someone: A.

[5] Rahul Kumar states that B's successful appeal for rescue is not a result of a combined claim with C, but simply B's good luck in being with C (2001: 169–70). The 'natural pooling of claims' of A, B, and C do not adversely affect A so long as each claim is equal and valid (2001: 169). Disregarding any wrong to A, Kumar will always save the boat with '$n + 1$' persons on board rather than 'n' in situations where each person has an equally valid moral claim to rescue.

[6] It is important to note Kamm's own criticism of this aggregation argument: she recognises that, when we physically *act* to save the greatest number, we lose our equal moral attachment to individual claimants we held when determining *how* we should act (1993: 87). In other words, the decision to save the greatest number of persons might be arrived at through aggregation without combining individuals claims, but when we act on this decision we privilege the saved over the abandoned as a necessary, albeit highly unfortunate, consequence. As a result, when we save the greatest number we prioritise members of a given group over others despite choosing to save certain members on equal claims to rescue.

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the individual claims of all in the community prior to deciding to do 'x'
or, say, 'not x'. While this argument might ultimately choose the same as
most consequentialist theories, the manner in which it arrives at decisions is
distinctly different.[7]

At issue is whether or not individual claims are aggregated in the sinking
two boats example. If new facts are taken into consideration, the Kamm-
Scanlon argument may distinguish itself from consequentialism more clearly.
My moral duty to save A or B&C demands that I act as the principle agent.
If this duty to act does not take affect, different possibilities may result. If
I should risk drowning in order to save others, rescuing A or B&C may not
be a moral duty for me, although it might be praiseworthy. Most consequen-
tialists would be satisfied in any result where the greatest number is saved.[8]
Choosing who lives is an arbitrary affair amongst equal claimants.

On the other hand, my claim to self-preservation in rescuing others would
be taken into consideration by the Kamm-Scanlon argument. Thus, only the
Kamm-Scanlon argument is open to saving A *or* B&C where each has an
equally valid moral claim to rescue: consequentialism would only be open
to saving the greatest number. In the sinking two boats example, it is this
fact that most distinguishes the two views. Otsuka is correct to say that in
this case the Kamm-Scanlon argument combines claims. This combination
is particular to this case and may not play any role in variations of the sinking
two boats example.[9]

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[7] Scanlon says: 'The principle just defended directs an agent, under the specified condi-
tions, to choose the course of action that yields the greater benefit, but the argument for the
principle considered only objections that could be raised from the standpoints of the individ-
uals involved' (1998: 234).

[8] Not all consequentialists would be satisfied in only saving the greatest number of per-
sons. For example, the 'maxim principle' judges circumstance 'x' to be better than circum-
stance 'y' iff the well-being of the worst off in x is greater than in y. While a consequentialist
principle, the maxim principle is indifferent to the claims of saving two or saving one. I am
indebted to an anonymous referee for raising this point.

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