SAVING THE FEW

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In

> Many/Few—You have some medicine. Without it, Alan, Bob, and Christine will die. Alan needs it all. Bob and Christine need half each. So you can save Alan only if you let Bob and Christine die. You can save Bob and Christine only if you let Alan die. Each is a stranger to you and someone to whom you have no special obligation. None is your unknown child or patient or charge or…All are equally happy. Each will, if saved, go on having a fine life. Etc. Saving a life or lives would cost you next-to-nothing: administering the medicine is no problem and you have no need of it. You alone can help.

What should you do? Generally, in cases where you have a choice between saving a larger group, the many, and a smaller group, the few, where there is no overlap in members between the groups, where you have no special obligations, where the stakes are the same for everyone, and where saving would cost you next-to-nothing, what should you do?

1

When writing about these cases, people assume, as I just did, that each person is like the others—none is the president or a "driveling old person" or an "idiot infant loved by no one" (Taurek (1977): 295) or… And when writing about these cases, people assume, as I just did, that each person stands to lose the same—years of a very decent life. To think about cases in which these assumptions do hold, it helps to think about cases in which they don't. In

> JOYFUL/BORED—You have some medicine. Without it, Joyful and Bored will die. Each needs all the medicine. So you can save Joyful only if you let Bored die. You can save Bored only if you let Joyful die. Each is a stranger to you and someone to whom you have no special obligation. Till now, each has lived a boring, somewhat empty life. Saving Joyful will be a revelation to her. Her life will become much happier. Saving Bored will do nothing of the sort. He will continue on in his bored, somewhat empty life. If saved, each will live for many more years. Etc. Saving a life would cost you next-to-nothing. You are the only person who can help.

Is it permissible to save Bored?

I think so. That he will go on to be much less happy and with a life emptier than Joyful's is not enough to show that you have to save Joyful. But those seem to be the only candidate morally relevant differences between the two. It is not part of the case, for example, that Bored's life is not worth living or that his life will end soon. His life is worth living. His life will not end soon. What death will cost him is tremendous.

To make the permissibility of saving Bored vivid, imagine that in some ways Bored's and Joyful's post-rescue lives would be extremely similar. They would both work as managers. Joyful would get more out of it. They would both have an interest in cooking. Joyful would get more out of it. They would both play soccer. Joyful would greatly enjoy it. Bored would persevere—you have to do something. Her life is full of *joie de vivre*. His life is full of... It's not full of anything. Etc. Still a *requirement* to save more joyful managers or cooks or soccer players strikes me as incredible.

Now modify Joyful/Bored slightly:

> FINGER—You have some medicine. Without it, Bored and Joyful will die and Pinky will lose a finger. It is possible to save either Bored or Joyful but not both. Joyful needs slightly less medicine than Bored. If you save Joyful, you can use what is left of the medicine to save Pinky's finger. Each is a stranger to you and someone to whom you have no special obligation. Death will cost Bored what it will cost him in Joyful/Bored, years of a passable life. Death will cost Joyful what it will cost her in Joyful/Bored, years of a *much* happier life. Etc. Saving a life or finger would cost you next-to-nothing. You are the only person who can help.

Is it permissible to save Bored?

I think so. Remove Pinky from Finger and you have a case just like Joyful/Bored. And you can save Bored in that case. So the question is whether adding Pinky to the scene brings about a requirement to let the few die, whether adding someone who stands to lose *much* less than a life brings about a requirement to let Bored die. There is some reason to think so: you can help more people by saving Joyful and Pinky; Joyful's post-rescue life will go better than Bored's post-rescue life; and you can save a life plus save someone else from misfortune by not saving him. But these reasons don't seem to be enough to show you have to save the many, and they appear to be the only candidate morally relevant differences between saving Bored and saving Joyful's life and Pinky's finger. Think of things this way: instead of Pinky losing the finger, let Joyful lose it. Your choice is to save Bored's life or Joyful's life. If you choose to save Bored, Joyful will lose a finger and then, some time later, die. If you choose to save Joyful,

she will keep her finger and Bored will, some time later, die. This modification does nothing to my judgment about the case: I think you can save Bored in both. But, then, why would having someone *else* lose a finger make a difference to what is required? Seeing no answer, I believe you can save the few in Finger.

My claims about Joyful/Bored and Finger won't move everyone.[1] Like many non-consequentialists, I find them totally obvious. For now, I just assume the permissibility of saving Bored in Joyful/Bored and in Finger. I come back to the assumptions at the end and say a few things about why I make them. Still, if someone takes the paper as a *reductio* of them, there is little I can say against this.

What matters mainly for the paper is the judgment about Finger; the judgment about Joyful/Bored is just a means to the judgment about Finger. If I am right about Finger, that shows something important about Many/Few, the case the paper started with. In it, Alan, Bob, and Christine are dying and only you can help. I assume you have to save someone. And I assume that if you save one of Bob or Christine, you have to save the other. And I assume that it is at least permissible to save Bob and Christine. So I assume there are just two moral possibilities: you are required to save Bob and Christine or you are required to save someone but permitted to save the many or the few.

These assumptions hide something important: Even if saving the few is a permissible outcome, it might be that doing so is permissible only after flipping a coin, holding a lottery, etc. The alternative to a requirement to save the many needn't just be that you are permitted to out and save the few or many. In what follows, I mostly focus on views according to which you can

[1] Ben Bradley would deny my claim about Finger, at least. See Bradley (2009). That is the only paper I know of that denies anything like my claim about Finger.

save one group or the other without a decision procedure. This appears to—does—stack the deck against the view that saving the few is a permissible outcome.[2] If the view that you have to save the many can't be upheld against a challenge from this especially implausible alternative, it can't be upheld.

It can't be upheld. Many/Few and Finger are morally alike. Saving Bored in Finger is the analog of saving Alan in Many/Few. You can save Bored. So you can save Alan. Generally, you can save the few.

2

Finger and Many/Few are alike in that in both one option available to you is much the best.

Parfit (1978) argues that it is impermissible, in Many/Few, to save the few because saving them is worse than you can do and you are required to do what is best. Saving the many is best, so you should save the many. The idea needn't be that you are always required to do what is best but, rather, just that you are required to do so here and in cases like it.

Assume that saving the few is worse, saving the many best.[3] For some, there is nothing else to say about why you should save the many.

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[2] But see Bradley (2009) for a powerful critique of a requirement to give everyone an equal chance at survival and Broome (1998) for a powerful critique of a requirement to hold a weighted lottery.

[3] I assume it is worse to save the few than the many in Many/Few and worse to save Bored than Joyful and Pinky in Finger. These are just assumptions: one of *the* questions in Taurek (1977) is whether either of them is correct. Taurek has two arguments, apparently inconsistent, that saving the many is not better than saving the few. One relies on the premise that the amount of good done whether you save Alan or Bob and Christine is the same. See Taurek (1977): 308-309 and Lübbe (2008) for discussion of that premise. The other argument relies on the premise that the notion of *good* does not make sense. Saving Alan is good *for* Alan and saving Bob and Christine is good *for*

Finger shows that this account of why you have to save the many is a no-go. In Finger, the case in which you can save Bored's life or save Joyful's life plus Pinky's finger, saving Joyful's life and Pinky's finger is best. But there is no requirement to save them. If doing what is best is, as Parfit thinks, the story of why you have to save the many in Many/Few, why isn't it the story of why you have to save the many in Finger? In both cases, you can save more or save fewer. In both cases, you can do more good by doing one thing rather than another. In both cases, there is no chance of saving everyone. In both cases, there is nothing you can do for everyone, in particular, nothing to do for the person you don't save.

Broome (1998) defends a view like Parfit's. But Broome makes explicit something that might well be implicit in Parfit: In Many/Few, you are required to save the many because doing so is *much* the best. Even roughly speaking, saving the many in Many/Few is best whereas, roughly speaking, saving Bored is as good as saving Joyful and Pinky.

Again, this is a no-go. Joyful, from the time she would be saved, will be radiant, Bored will be a dullard. Saving Joyful will be *much* better than saving Bored. And, if you save Joyful, you can save Pinky's finger, too. So saving the two is *much* the best. Saving Bored isn't even *roughly* as good as saving Joyful since Joyful will be one of those persons who shines and Bored is just…It's impolite to say more. Still, you can let radiant people die to save dullards. So you needn't do what is best in a case like this where what is best is much the best and, hence, even roughly speaking, the best. Broome's explanation of why you have to save the many is not right.

Bob and Christine. But it doesn't follow that saving Bob and Christine is better *period*—that doesn't, Taurek argues, even make sense. See Taurek (1977): 295, 304 and Thomson (1997), (2001), and (2008) for discussion of that premise.

I think Taurek's arguments have great force. But in what follows, I assume neither argument is sound. Doing so makes the position I argue against—that you have to save the many—more plausible.

To dig in and insist that whereas saving Bob and Christine is better, roughly speaking, than saving Alan, saving Joyful's life and Pinky's finger is roughly as good as saving Bored would seriously underestimate the gap between Joyful's post-rescue life and Bored's. The point of making Joyful's life *so* much richer than Bored's was just to make it clear that even roughly speaking it is better to save her than Bored and, hence, even roughly speaking it is better to save her and Pinky than Bored. Insisting that Joyful's and Bored's lives are roughly as good seems pollyanna-ish to me, but, as I said, someone might dig in here—these judgments of rough strength are tricky. But digging in raises a problem: If it turns out that saving Joyful and Pinky is no better, even roughly speaking, than saving Bored, whence the confidence that saving Bob and Christine is better, roughly speaking, than saving Alan? (Taurek is at pains to argue it isn't any better.) Maybe it comes from our confidence that you needn't save Joyful and Pinky but need save Bob and Christine. But, if so, one might start to worry that it is facts about what we ought to do that explain facts about betterness. Rough betterness would be no explanation of why we ought save whomever we ought save.

Instead, I think, when it comes to how much good is done, even roughly speaking, saving more is best in Many/Few and Finger. In that way, the cases are analogous.

3

They are in another way analogous. In both cases, depending on your account of fairness, saving either group is fair or saving either group is unfair.

Take Broome's account of fairness. In Many/Few, the case in which Alan, Bob, and Christine stand to lose their lives, each is alike in what they will lose and each is alike in needing some quantity of medicine. Because of this, Broome argues that each has an equal claim on you

to get the medicine he or she needs (Broome (1990), (1998)). Since each has an equal claim, Broome thinks, fairness requires that each claim be satisfied to an equal degree. There is no way of satisfying each claim entirely—you can't rescue Alan, Bob, and Christine. There is no way of satisfying each claim more than not-at-all but less than entirely—there is no way of partly saving all three. That leaves saving none. Doing so satisfies each claim to the same degree: not at all. Broome argues it is fair to save no one.

Broome thinks there is another way of acting fairly, though less fairly, in Many/Few. Because Alan, Bob, and Christine have equal claims to be saved, Broome thinks it is fair to give them an equal something, a something relevant to their claim to be saved. (They shouldn't get same-sized cookies.) Chances are relevant. So it is fair to give Alan, Bob, and Christine equal chances at being saved. A 50% chance is the highest we can give to everyone—though a 1% chance would also be fair—so to be fair we can give each a 50% chance, flip a coin or the equivalent. The coin flip could go Alan's way, so it could be fair to save the few in Many/Few. Broome thinks that saving Alan after he wins a coin flip is less fair than saving no one: besides having claims on *chances* to be saved, Alan, Bob, and Christine have claims on *being saved* and if you save Alan but not Bob and Christine, you have satisfied equal claims to an unequal degree. But Broome thinks that giving everyone a chance to be saved is the next fairest thing to saving no one and still fair enough to be called 'fair'. So he thinks fairness permits giving equal chances and, hence, permits saving whichever group wins a coin flip.

In Finger, Bored stands to lose his life, Joyful stands to lose her life, and Pinky stands to lose her Finger. Importantly, Broome thinks that in a case like Finger, where people stand to lose quite different things, *if* the claims of some are satisfied, the claims of all need to be, to some degree, satisfied. So, as in Many/Few, saving no one will be fair: Bored's, Joyful's, and

Pinky's claims will be equally satisfied. Giving everyone a chance at being saved will be fair but less fair (exactly what chance each should get is unimportant). Saving one group or the other without giving everyone the chance they are due will be unfair.

So, if Broome is right about fairness, out and saving either group in Many/Few or Finger is unfair. Saving either group after giving everyone the appropriate chance in Many/Few or Finger is fair, if less so. All that is perfectly fair, in both cases, is saving no one. The cases are in all those ways alike, if Broome is right about fairness.

Is he right?

4

Frances Kamm and T.M. Scanlon don't *quite* deny Broome's view, but they deny something Broome would accept and accept something Broome would deny. They think a *requirement* to save the many in Many/Few is fair and a *permission* to save the few unfair. They think, too, that a permission to save the few is fair in Finger.

If they are right in all that, Kamm and Scanlon have shown two things. First, they have shown that there is a morally important disanalogy between Many/Few and Finger: a permission to save the few is fair in the second case, not in the first. Second, in showing that a requirement to save the many in Many/Few is fair, they have partly explained why there is a requirement to save the many.[4]

[4] Kamm and Scanlon believe there are three ways of acting fairly in Many/Few: saving no one, holding a weighted lottery, and out and saving the many. (Like them, I ignore ridiculous, but fair, options like killing everyone.) They proceed to show the first two options are impermissible. They conclude you are required to save the many.

Broome believes a weighted lottery in Many/Few is unfair. Timmerman (2004) argues it is fair, and we are required to hold one in cases like Many/Few.

I concede that, by Kamm's and Scanlon's own lights, a permission to save the few in Finger is fair. But I believe, for reasons given below, that, by Kamm's and Scanlon's own lights, a permission to save the few in Many/Few is fair. So, when it comes to fairness, whether you agree with Kamm and Scanlon or Broome about what it requires, Many/Few and Finger are analogous.

Kamm and Scanlon argue that if you are permitted to save the few in Many/Few, only some of those whose lives are at stake make a difference to what you are permitted to do. They then argue that if only some of those whose lives are at stake make a difference that is unfair to those whose lives make no difference. Fairness requires just that each like person make a like difference to what is permitted. Hence, a permission to save the few in Many/Few is unfair.[5]

About the first premise: why doesn't everyone make a difference, if you are permitted to save the few? What, exactly, does making a difference come to?

Some examples can help answer these questions. Consider the A case: Alan alone needs medicine and you can give it to him easily. In that case, you are morally required to save Alan. Hence, Alan makes a difference to what you are permitted to do: his being on the scene is what requires you to save someone. Consider the AB case: Alan and Bob need medicine and you can easily save one but only one. In that case, you have to save someone but that someone can be Alan or Bob. Put slightly misleadingly, you have to save one group, can save either group. This differs from what you are permitted to do in the A case and, hence, Bob makes a difference to

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Precisely how Kamm and Scanlon argue for the fairness of saving the many and a requirement to save them is controversial. For some ideas, see Otsuka (2000), Kumar (2001), Wasserman and Strudler (2003), and Doggett (2009).

[5] The argument is in Kamm (1985): 180-182, Kamm (1993): 99-122, Kamm (1998): 940-941, Kamm (2007): 33 and 53, and Scanlon (1999): 232.

what you are permitted to do. Consider Many/Few. If I am right about what is permissible, you have to save one group, can save either group. That's just as things are in the AB case, so Christine, unlike Alan and Bob, appears to make no difference to what you are permitted to do. That is unfair to Christine. So goes Kamm's and Scanlon's argument against the fairness of a permission to save the few. In Finger, by contrast, they think that a permission to save the few is perfectly fair.

I think Kamm and Scanlon are mistaken about all this. Christine does make a difference to what is permitted, if my view is right. She makes the same difference to what is permitted as Alan and Bob, viz., you are permitted to save the life of each person and if you save someone in his or her group, you are required to save everyone else in the group, too. So each makes some difference to what you can do. Compare: if you are required to save the many in cases like Many/Few, this is so no matter how big each group is. Consider Many/Few Plus, just like Many/Few except that you can save Diane along with Bob and Christine. If you have to save the many in Many/Few Plus and in Many/Few, that hardly shows that Diane makes no difference to what is permitted. In Many/Few Plus, unlike in Many/Few, you are required to save Diane, if you save the many—so she makes a difference.[6] I can make an equally plausible claim: if you

[6] Michael Otsuka makes a similar point in Otsuka (2006): 113-114. Another way to make it: Kamm believes that in the AB case, you have to give each an equal, maximal chance at being saved. Now Christine and Ed come onto the scene. If you save Alan, you can save Ed, too, and only Ed. Save Bob and you can save Christine, too, and only Christine. You have to give each an equal, maximal chance at being saved, Kamm would think. But Kamm wouldn't think that shows Christine and Ed make no difference to what is permitted even though what you should do in this case is just like what you should do in the AB case.

can save the few, then in Many/Few, unlike in the AB case, you are permitted to save Christine and required to save her if you save Bob—so she makes a difference.

Diane makes another difference in Many/Few Plus if you have to save the many: if Christine were absent, Diane's presence would ensure that you are nevertheless required to save the many. But, on my view, each member of the many makes a similar difference: if Bob were absent in Many/Few, Christine's presence would ensure that you are still permitted to save either group. You wouldn't have to save Alan.

Kamm and Scanlon try to show that Many/Few and Finger are disanalogous by showing that a permission to save the few is unfair in Many/Few but fair in Finger. Their objection to the fairness of a permission to save the few in Many/Few does not go through. A permission to save the few in Many/Few has each like person make a like difference to what is permissible. So, by Kamm's and Scanlon's own lights, it is fair. A permission to save the few is, by their lights, also fair in Finger. Hence, the cases are alike with respect to fairness, if their view of what fairness requires is correct.

5

In another way, the cases are analogous. There are no irrelevant utilities in either.[7]

Kamm would deny this and argue that Many/Few and Finger are disanalogous because saving Pinky's finger in Finger is an irrelevant utility; and, by contrast, saving the lives of Alan,

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As noted in the previous section, John Broome thinks that fairness requires saving no one or flipping a coin. He is unlike Kamm, Scanlon, Taurek, and Timmerman in thinking that you are required to do something unfair in Many/Few—save the many without giving chances.

[7] Cf. Broome (2002).

Bob, and Christine in Many/Few are not irrelevant utilities. (It is because she thinks saving Pinky's finger is an irrelevant utility that she allows it is fair to save the few in Finger.)

The cases are not, I think, disanalogous in this way. Saving Pinky's finger in Finger is not, I think, an irrelevant utility.

On my view and Kamm's, saving Pinky's finger, like saving Christine's life, is morally important. There are good reasons to save Christine's life and good reasons to save Pinky's finger. On my view and Kamm's, Pinky's plight is relevant to what you should do in at least this way: *if* you save Joyful's life, you should save her finger. This shows that her loss, on both of our views, is significant. Pinky isn't some earthworm you can just ignore. Or some abandoned bucket, lying next to Joyful. Those things are irrelevant to what you can do.

It might be the *utility* of saving Pinky's finger is irrelevant to *why* you can save her. It might be impermissible to save the many in Finger *simply for the sake of* gaining some extra utility.[8] Might be. But the case for saving Pinky's finger needn't appeal just to utility any more than the case for saving Christine in Many/Few need appeal just to utility.

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[8] In Kamm (1993), Kamm introduced *the principle of irrelevant utilities* to deal with a case in which you can save one of X or Y, people exactly alike in all the morally important ways. Only if you save X can you save a patch of flowers that gives some folks pleasure. Saving X would, thus, maximize utility. According to the principle of irrelevant utilities, it would be wrong to spare X rather than Y "solely for the sake of" the extra utility ((1993): 146). Later Kamm expanded on the idea and proposed *the principle of irrelevant goods* (see Kamm (2007)).

While complaining about irrelevant utilities or goods makes good sense when discussing utilitarianism, it is less clear what the complaint even comes to when utilitiarianism isn't at issue. This is because, as far as utililitarianism is concerned, only utility makes a difference to what is permissible and it makes a difference only in the following way: you should do what brings about the most utility. With the flower example, Kamm shows that there are cases where you can bring about a bit more utility but are not required to do so. Hence, the patch of flowers is irrelevant in just this way: you are not required to bring about the outcome preserving it. But if that is

To make this vivid, think of how Christine sees things in Many/Few. If she were alone, you would be required to save her. Plus, whatever you do Alan or Bob will die, whereas it isn't true that whatever you do she will die. Pinky sees things similarly. If Joyful and Bored weren't in the picture, you would be required to save her finger. A soon-lost finger isn't a condition—like hang nails or itches—that it is permissible to ignore when improving it will cost you next-to-nothing.[9] And whatever you do, someone will lose a life but it isn't the case that whatever you do, someone will lose a finger. Essentially, you have a choice between preventing the loss of a finger and not where other things are equal—someone is dying either way—and saving the many is the only way to prevent it. The case for sparing Pinky's coming loss is to that extent like the case for sparing Christine's coming loss. Neither need have much to do with how much utility will be produced and, hence, saving either needn't be an irrelevant utility in the sense that they are done *simply for the sake of* an insignificant amount of utility.

Of course, the amount of utility saving Pinky's finger produces is much less than the amount of utility produced by saving Bored's or Joyful's life. Perhaps Kamm's idea is that saving Pinky's finger is an irrelevant utility because the size of the loss of a finger is so much

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what an irrelevant good comes to, whether Christine's life and Pinky's finger are irrelevant is just what are at issue in Many/Few and Finger. Simply insisting that saving Pinky's finger is an irrelevant good in Finger, saving Christine's life in Many/Few is not just begs the question.

[9] Kamm trenchantly discusses cases like Finger but her cases often involve, instead of a soon-lost finger, a sore throat you can relieve. I think there is no requirement to relieve sore throats, even when it costs you nothing. (You have more throat lozenges than you will ever need. You know your student has a sore throat. Do you have to share?) So I have changed the example.

Kamm does discuss soon-lost fingers in some places. In Kamm (2007), for example, she claims that even if Pinky were to lose three fingers in Finger, that loss would still be an irrelevant utility.

less than the size of saving a life. By contrast, Alan's, Bob's, and Christine's lives are equally good and, hence, none of them is irrelevant.

It can't simply be the sizes of the losses in question that make a utility (ir)relevant. For in Finger, you can save someone, Bored, who will muddle through or someone, Joyful, who will be much happier. What death will cost Joyful is quite a bit greater than what it will cost Bored. Even so, Bored's life isn't an irrelevant utility. At least, there is no requirement to save Joyful. So being an irrelevant utility can't simply have to do with the size of a loss.

A final idea about what would make saving Pinky's finger, but not Christine's life, an irrelevant utility: Kamm would think that if you have to save the many in Finger, this is inconsistent with an "adequate respect" for Bored ((2007): 34). By contrast, a requirement to save the many in Many/Few is consistent with an adequate respect for Alan. The reason for this difference in respect, Kamm thinks, is that in Many/Few, Alan has no complaint about the requirement to save the many. This is because there is no more reason to save him than Bob. So he can hardly complain if the fact that you can save Bob plus others generates a requirement to save the many. But then why would Bored have a complaint about a requirement to save the many in Finger? Of course, the reason to save Pinky is much less strong than the reason to save Bored. But where the reason to save Pinky is less strong than the reason to save Bored, the reason to save Joyful isn't.

If anything, it is Kamm's view that you need only save the many in Many/Few that seems a bit disrespectful. It treats Pinky merely as if she were a container of disutility. A very small container of disutility. But Pinky is a person with something quite serious to lose if you don't help her and, furthermore, there is nothing you can do for *both* of the people who stand to lose more than she. This strikes me as a decent case for saving her and, again, it strikes me as

extremely similar to the case for saving Christine. Finger and Many/Few are in that way alike. If you think there is a requirement to save the many in one, it hardly seems respectful for there not to be a requirement in the other. But I agree with Kamm there is no requirement to save the many in Finger. If all this shows that saving the few is in both cases disrespectful, then I think that doing what is disrespectful is permissible. Alternatively—and I prefer this—it could be that saving neither the few nor the many is disrespectful.

The notion of an irrelevant utility is obscure. I have interpreted it variously. But, under each interpretation, Many/Few and Finger are analogous with respect to irrelevant utilities. All the plights in all the cases I am interested in are morally important. If an irrelevant utility is something that makes no moral difference, neither saving Pinky's finger nor saving Christine's life is an irrelevant utility. True, what Pinky stands to lose is less than what Joyful and Bored do. But that doesn't suffice to show it is irrelevant: what Bored stands to lose is less than Joyful but there is no requirement to save Joyful because of that. Finally, a permission to save Bored, like a permission to save the few in Many/Few, isn't disrespectful.

6

In two final ways, Many/Few and Finger are analogous. In both, only one option allows you to give as many as you can what they need. And, in both, that option allows you to save as many of the worst-off as you can save and as many of the rest as you can save. These analogies show that Nien-hê Hsieh, Alan Strudler, and David Wasserman's explanation of why you have to save the many is false.

Hsieh, Strudler, and Wasserman (HSW) argue that, in Many/Few, because the need of each person is urgent and because you have no need of the medicine, Alan, Bob, and Christine

have claims on the medicine. Also, in Many/Few, just one option, saving the many, lets you satisfy as many claims as you can.

HSW think these features of Many/Few—there being just one way of satisfying as many claims as you can in a case where all claims are equally strong—are morally important. They argue that in Many/Few, you are required to save someone and treat them all equally, if possible. Since, in Many/Few, treating all equally isn't possible, they argue that you should come as close to treating them all equally as you can. This is saving as many as possible. (I leave out the details of why this is the closest you can come to treating all equally rather than, say, giving everyone the same chance at surviving.) So you should save Bob and Christine.

But the fact that Finger is just like Many/Few in having just one way of satisfying as many claims as you can and that there is no requirement to save the many in Finger undermines HSW. In Finger, Bored, Joyful, and Pinky have claims on your medicine. The case is just like Many/Few in that need is urgent and you have no need of the medicine yourself. And it is like Many/Few in that you should save someone. Because Pinky is unlike Bored and Joyful in what she needs and stands to lose, HSW needn't think each should be treated equally. Still, Pinky has some claim on the medicine. If you could give everyone what is needed, if you could satisfy every claim, you should. If you can't, since you have to save someone, your options are: save one from death, save another from death, save one from a loss of a finger, or save one from death and another from a loss of a finger. The last clearly comes closest to satisfying all claims: when it comes to death, the closest you can come to satisfying all claims is saving one.[10] If you save

[10] HSW are not committed to the view that you should, in all cases, satisfy as many claims as you can in order to treat everyone equally. Given a choice between saving five from headaches and one from death, HSW's view needn't imply that you should save the five. But Finger is quite different from this in that, whichever group you save, you will save as many of those whose lives are on the line as you can.

Joyful and Pinky, you do so. When it comes to loss of fingers, you can satisfy all claims. If you save Joyful's life and Pinky's finger, you do so. So, if HSW's explanation of why you have to save the many in Many/Few is right, you have to save the many in Finger. You don't. So HSW's explanation is not right.

HSW might resist that their view implies you have to save the many in Finger by insisting saving the few and many come equally close to satisfying all claims. This in turn might be because Pinky has no claim on the medicine. This line of resistance is not, I think, effective. HSW focus on cases where you have a special obligation: you're a doctor saving your patients, a lifeguard saving your charges, a sergeant saving your troops.[11] But if you're Bored, Joyful, and Pinky's doctor, it is plain that Pinky has some claim on the medicine and, if you can satisfy it, you should. So I don't see how saving Bored could come as close to satisfying all claims as saving Joyful and Pinky does. In one case, you satisfy one of the two strongest claims and none

[11] When victims and rescuers stand in certain special relationships—relationships between supervisors duty-bound to look after the supervised or people who have together pooled resources to provide for rescue—it is especially plausible that the victims have claims on the rescuer and resource and especially plausible that the rescuer must save as many as she can. The cases Taurek discusses are cases where he believes there is no such special relationship. HSW claim at the end of their paper (p. 371) that even in cases like Many/Few, cases where you are a stranger to the victims, a special relationship of the right sort is established. But the point isn't argued for, and Taurek would certainly reject it.

Taurek believes that in cases where there is the sort of special relationship mentioned in the first sentence of this footnote, you might well be required to save the many. See Taurek (1977): 310-315. So if HSW are right about there being such a special relationship even in Many/Few, their disagreement with Taurek comes to a disagreement about when there are special relationships. Because of this, it is unclear to me how much HSW disagree with Taurek.

of the weaker claims. In the other, you satisfy one of the two strongest claims and all of the weaker ones.

Many/Few and Finger are alike in that in both one option comes closest to satisfying all claims, giving everyone what they need, and that option satisfies as many of the most pressing claims as can be and as many of all the other claims. Hence, those features can't explain what you have to do in Many/Few since they don't in Finger.[12]

7

Finger and Many/Few are alike in that in both cases, whatever you do, someone will lose a decent life. They are alike in that in both cases you have no special obligations to any of those you can save. They are alike in that in both you alone can help and can help without much cost to yourself. They are alike in that in both one option is much the best. They are alike in that in both saving either group is fair, if Kamm and Scanlon are right about fairness, or saving neither group is fair, if Broome is right. They are alike in that neither contains an irrelevant utility. They are alike in that in both one option lets you come as close as you can to giving everyone what they need. They are alike in that in both one option allows you to save as many of the worst off as you can plus as many of the rest.

In Finger, it is permissible to save Bored, the few. The argument for this is that in Joyful/Bored, where your choice is between saving Bored or Joyful, you can save Bored. The argument for that is that costs of his dull life aren't *so* great, the benefits of her luminous existence not *so* extensive to require you to let him die and save her. Further, the only candidate

[12] As HSW note, their account of why you have to save the many is close to Joseph Raz's in Raz (2003). The differences between the views do not render Raz's invulnerable to the Finger counterexample.

morally significant difference between them is this difference in quality of life. So if you aren't required to save radiant people rather than dullards in Joyful/Bored, why would you be in Finger? Why would the fact that you can save someone else from something much less serious from death generate a requirement to save the radiant? If it is permissible to save a dullard in Joyful/Bored, it is permissible to save one in Finger. If it is permissible to save one in Finger, it is permissible to save the few in Many/Few. I have argued that the cases are, in all the morally important ways I can think of, analogous.

Of course, Finger is unlike Many/Few in that in Many/Few, but not in Finger, each stands to lose a life. Surely an important difference!

It looks important. Could it alone be the disanalogy between the two cases? Shouldn't we be able to say something about why lives are important and why you should save more *lives* in Many/Few, though you needn't save more *people* in Finger?

Broome, Kamm, Parfit *et al* try to explain why lives matter. It might be that they are wrong to try to do so since, though more lives do mark a difference between Many/Few and Finger and you do have to save the many in Many/Few, these are just brute facts, near enough. Michael Otsuka seems to go for something like this at the end of his (2006). A related idea is that—and this is the brute fact—there is a *pro tanto* duty to save more lives. So you should save more, other things equal. In Many/Few, other things are equal. So you should save the many.

I see the attractions of these ideas, especially in comparison to the idea that you can save the few. Even so, it is striking that in other cases where we must choose who to save, we can explain why we have to do what we have to do and without appealing simply to *pro tanto* duties to save as many as we can. Given a choice between saving Alan at next-to-no cost or watching television, we can explain why we have to save Alan. Of course, theories differ on the

explanation, but it would be amazing if some theory said *just* that you have to save a life. Given a choice between saving Alan or curing Bob's sore throat, we can explain why we have to save Alan. Given a choice between saving Alan, saving Bob, or saving Alan and Bob, we can explain why we have to save both. In none of these cases need we just say, "You have to save lives" or "You have to save more lives, other things equal." It would be extremely surprising to me were we able to explain why we have to do all these things without being able to explain why we have to save the many in Many/Few or being able only to give the very shallow explanation that you have to save more lives, other things equal.

What would be surprising would not be that there are brute moral facts. It would be that the requirement to save the many is one or that the presence of more lives that need saving is a brute, morally important difference between Many/Few and Finger. What would be surprising would not be that there is a *pro tanto* duty to save lives. It would be that that is *all* there is to say about why you have to save the many. These claims would surprise just because in cases that are like Many/Few in that they involve saving more lives or fewer, we can explain why we have to save more lives. We don't just appeal to the importance of saving more or the importance of saving lives or a *pro tanto* duty and leave it at that.

Further, something striking about these other life-saving cases is that *if* you let Alan die and instead watch TV or you cure Bob's sore throat or if you save just Bob's life when you can just as easily save Alan, too, part of the explanation of why you have done wrong will appeal to how you have mistreated Alan. (How, exactly, this fact figures into the moral explanation varies from theory to theory.) It is hard to see who has been mistreated if you save Alan in Many/Few

or save Bored in Joyful/Bored or Bored in Finger.[13] What Bob stands to lose in Many/Few is just like what Alan stands to lose. What Christine stands to lose is just like what Alan stands to lose. True, what they together stand to lose is greater, but what Joyful stands to lose in Joyful/Bored is much greater than what Bored stands to lose.[14] Imagine her complaining of mistreatment if you save Bored: "Don't you see I enjoy my hobbies more? Don't you see that I get more out of being a manager?"

What Alan stands to lose is tremendous. Even if it is less than what Bob and Christine together stand to lose, it is, nevertheless, enormous. Again, there are parallels with Joyful/Bored and Finger. In Joyful/Bored, Joyful can quite rightly say to you, "Don't you see it's so much better if you save me? Don't you see how much more I will benefit from your rescue?" In Finger, the many, quite rightly, can ask, "Don't you see how much more good you will do if you rescue two of us rather than one of him? Are you innumerate?" But the Joyful/Bored case shows that just because you can do so much better, you don't have to. And Finger shows that just because you can save more people, including as many of the worst-off, you don't have to.

[13] This is one of the main points of Anscombe (1967) and Munoz-Dardé (2005). Kamm and HSW differ on who is mistreated if you save the few. In her (2007): 55, Kamm claims just Christine is mistreated (though as Wasserman and Strudler (2003) notes, she seems conflicted about whether it is Christine or Christine and Bob). HSW claim each of the many is mistreated, if you save the few, though they admit that their view might in fact imply that everyone, each of the many and the few, is mistreated! See their (2006): 368, fn. 23. I believe their view does imply this.

[14] Whether there is a group, Bob+Christine, that stands to lose more than Alan and whether and why that group matters to what you are permitted to do are important questions discussed in Taurek (1977), Parfit (1978), and Broome (1991), among other places.

They show, too, that various accounts of why you have to save the many in Many/Few are not right.[15]

I am reasonably confident those accounts aren't right. But I go further and say you are permitted to save the few. For others, the lesson might be that there is a hidden difference between Joyful/Bored and Finger, on the one hand, and Many/Few on the other. Or the lesson might be that you have to save Joyful in Joyful/Bored or Joyful and Pinky, the many, in Finger. Or the lesson might be that we have a choice between the claim that it is permissible to save the few in Finger and the claim that you must save the many in Many/Few, though which to choose is unclear.

I am not entirely convinced that these are the wrong lessons simply because the view that you can save the few in Many/Few strikes me, like almost everyone else, as lunatic. Its lunacy is the main stick with which it is beaten. But it also strikes me as lunatic to deny you can save

[15] I think Joyful/Bored shows something else. Take this example: Two small children will die without your help. You have a forced choice between them. Saving the first gives him ten years of life. Saving the second gives her twenty years of life. Saving the first does not strike me as anything like roughly as good as saving the second. Saving the second seems, even roughly speaking, the much the best. Nevertheless, I think you are permitted to save the first.

My reasoning here is like my reasoning in Joyful/Bored. If you have to save the second, how would you explain this to the first? "Yes, I see that I am depriving you of learning to ride a bike, of playing soccer, of watching Pixar movies, of cuddling with your family. But if I don't save her, I will deprive her of all those things plus high school. And then college." The first child is not rejecting the wondrousness of college when she rejects this reasoning. Rather, it seems to me that you are underestimating the wondrousness of those ten years and the fact that that is all there can be for him.

Bored in Joyful/Bored or in Finger. Giving those judgments up strikes me as a great cost. And those judgments are the grounds the permission to save the few grows out of.[16]

[16] For much help with this paper, I thank Selim Berker, Ben Bradley, Terence Cuneo, Tom Dougherty, Caspar Hare, Elizabeth Harman, James John, Arthur Kuflik, Don Loeb, Mark Moyer, Veronique Munoz-Darde, Michael Otsuka, Derk Pereboom, Philip Stratton-Lake, Jussi Suikkanen, Judith Jarvis Thomson, and audiences at the MIT-ing of Minds conference in 2009 and the Pacific APA in 2010.

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