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The Right Balance

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1 Introduction

Problems in public, ethical and judicial decision-making often concern important but conflicting or incompletely compatible human values and interests. In many cases this seems to require us to balance the relevant options against each other. Philosophers generally regard the weighing up of competing human interests, goods and normative principles as an important aspect of ethics and public policy.[1] Also in theories and conceptions of justice and in judicial decisions weighing may play a

[1] See especially John Broome's *Weighing Goods* (Oxford: Blackwell Publishers, 1995), *Ethics out of Economics* (Cambridge: Cambridge University Press, 1999) and *Weighing Lives* (Oxford: Oxford University Press, 2004) in which he discusses many insightful and plausible examples of the need to weigh competing values or goods against each other in ethics, politics and economics. The belief that some value conflicts should be resolved by determining the comparative weights of the relevant values is common amongst philosophers. For other examples, see Farrelly, "Justice in Ideal Theory: A Refutation," *Political Studies* 55 (2007): 844–864; Goodin, "Political Ideals and Political Practice," *British Journal of Political Science* 25 (1995): 37–56; Kamm, "Deciding Whom to Help, Health-Adjusted Life Years and Disabilities," in Anand, Peter and Sen (eds.), *Public Health, Ethics, and Equity* (Oxford: Oxford University Press, 2006), pp. 225–242; Robeyns, "Ideal Theory in Theory and Practice," *Social Theory and Practice* 34 (2008): 341–362; Ross, *The Right and the Good* (Oxford: The Clarendon Press, 1930); Sen, "Incompleteness and Reasoned Choice," *Synthese* 140 (2004): 43–59; Swift, "The Value of Philosophy in Nonideal Circumstances," *Social Theory and Practice* 34 (2008): 363–387; Mason, "Just Constraints," *British Journal of Political Science* 34 (2004): 251–268. Where this essay speaks about conflicting human interests, principles, ethical demands or rights, it is assumed that they concern conflicts between the human values on which they are based.

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significant role, as is symbolized by Justitia's scales. John Rawls points out that "the assignment of weights is an essential part of a conception of justice" and emphasizes that justice requires "a proper balance" between competing claims and principles and that it is important to know how they "are to be assessed and their relative weight determined."[2] Ronald Dworkin similarly argues that if we want to resolve conflicts between principles we have "to take into account the relative weight of each."[3] James Griffin thinks that if the resolution of conflicts between rights is not to be arbitrary, "one must know how to attach weight to them."[4]

Apparently philosophers often regard weighing, assignment of relative weights and looking for a right or proper balance as requirements for resolving many conflicts of values and tensions between competing human interests, ethical principles and moral demands. This reasonable belief presupposes that, in a given context, relative weights and right balances do exist and that they can be determined. In this essay I will investigate whether this assumption is plausible.

We are inclined to think that if we weigh two options, *A* and *B*, which represent competing values, there are three, and not more than three, possible outcomes: *A* outweighs *B*, *B* outweighs *A*, or *A* and *B* have equal weights. This entails that, if *A* does not outweigh *B*, and *B* does not outweigh *A*, *A* and *B* have equal weights. Inspired by ideas of some leading philosophers – especially John Broome, Ruth Chang and Joseph Raz – I hope to show that, in addition to the above three value relations, there is a fourth possibility, which means that *A* does not outweigh *B* and *B* does not outweigh *A*, while the weights of *A* and *B* are nevertheless not equal – not even roughly equal.[5] On the face of it, a so-called fourth value relation may seem incoherent, but there are strong arguments that make it plausible that this value relation does exist between many options that represent incommensurable values over a wide range of different amounts of these values.[6] The notion fourth value relation has been introduced by Ruth Chang and is further worked out in this paper.[7] I will investigate implications of the fourth value relation for the possibility to weigh values and value-based principles, especially with respect to questions of public decision-making, ethics and justice. The aim of this paper is to show that, where the fourth value relation applies, it seems implausible that we are capable of finding out or assigning determinate comparative weights and right balances. This may render the answer to the question 'what's the right thing to do?' indeterminable as far as this depends on weighing the competing options. It is worth emphasizing

[2] John Rawls, "Social unity and primary goods," in Amartya Sen and Bernard Williams (eds.), *Utilitarianism and Beyond* (Cambridge: Cambridge University Press, 1982), p. 161. John Rawls, *A Theory of Justice*; revised edition (Cambridge, Mass.: Harvard University Press, 1999), p. 37.

[3] Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1978), p. 26.

[4] James Griffin, *On Human Rights* (Oxford: Oxford University Press, 2008), p. 66.

[5] See John Broome, "Is Incommensurability Vagueness?" in Ruth Chang (ed), *Incommensurability, Incomparability, and Practical Reason* (Cambridge, Mass.: Harvard University Press, 1997), pp. 67–89; Ruth Chang, "The Possibility of Parity," in *Ethics* 112 (2002): 659–688; Ruth Chang, *Making Comparisons Count* (New York: Routledge, 2002); Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986).

[6] A definition of incommensurability is given in footnote 16.

[7] See Chang, "The Possibility of Parity"; Ruth Chang, *Making Comparisons Count*.

that it is not the aim of this essay to show that all examples of decision-problems mentioned are necessarily questions of weighing. The essay's claim applies to ethical issues and judicial decisions in which it seems plausible that weighing plays a significant role and cannot be avoided.

The structure of the paper is as follows. In section 2 I will discuss what is meant by relative weights, right balance, equivalence and equilibrium. In section 3 I will adduce arguments for the existence of the fourth value relation between many options that bear heterogeneous values or represent competing principles. In those cases it seems implausible that we can find out "how to attach weight to them"[8] and implausible that we are capable of determining comparative weights and right balances, because they do not seem to exist. I will apply John Broome's so-called standard-configuration to clarify the meaning of the fourth value relation and to show that it may really occur.[9] To support this view I will adduce what might be called the large improvement argument. It fundamentally differs in nature and consequences from the small improvement argument described by Chang and other philosophers.[10] The large improvement phenomenon can be explained as a sign of incomplete comparability (section 4). This sheds a new light on the nature of the fourth value relation. In section 5 I will try to show that where the fourth value relation applies, there is no determinate point of equilibrium or equivalence, so that there seems to be no determinate relative weights, right balances or right answers to the relevant conflicts of values over a wide range of different amounts of these values.

Dworkin rightly points out that if some judicial questions would be indeterminable and would not have a single right answer (not even in principle), justice would be seriously compromised, because it would mean that in those cases the judicial decision significantly depends on the judge's personal opinion, intuition and discretion. Dworkin does not believe in indeterminacy. He thinks that hard cases concern inconclusiveness rather than indeterminacy and that for each question of justice there is a single right answer, at least in principle. I will argue that this view ignores the possibility of the fourth value relation (section 6). In section 7 I will briefly discuss other possible solutions to the problem of conflicting values. In contrast to Dworkin's belief, this essay will conclude that, where the fourth value relation applies, it renders the answer to the question 'what's the right thing to do?' indeterminate as far as this answer depends on comparative weights of the alternatives.

2 Equivalence and Equilibrium

What is the right choice or right balance between two rival options if one option is better with respect to one value while the other is better with respect to another value? To make this question, and the possible answer to it, more concrete, let us take the following example of a weighing-procedure in the field of judicial decision-

[8] Using Griffin's words quoted above.

[9] See Broome, "Is Incommensurability Vagueness?".

[10] See Chang, "The Possibility of Parity"; Chang, *Making Comparisons Count*.

making.[11] Residents near Heathrow Airport made the claim against the British Government, that the flights and noise levels at night were an unjustifiable interference with their private lives. A Chamber of the European Court of Human Rights (ECHR) had to balance the economic interests of the nocturnal flights against the residents' privacy.[12] Somewhat simplified the question to be answered is: What is – in the given context and the concrete circumstances – the right choice between option *E* (more economic benefit and employment) and option *P* (more privacy for the residents)? The answer depends on which option is all things considered the weightier one, taking into account the relative importance of the competing values. Option *P* outweighs option *E* if (other things being equal) one of the following three conditions applies:

1) The *absolute weight* condition
   This condition is satisfied if (the relevant) privacy has absolute weight and is lexically prior to (the relevant) economic benefit. This means that any amount (however small) of (the relevant) privacy outweighs any amount (however large) of (the relevant) economic benefit.
2) The *relative weight* condition
   The relative weight of privacy in combination with *P*'s extra amount of privacy outweighs the relative weight of economic benefit in combination with *E*'s extra amount of economic benefit.[13]
3) The *significance/insignificance* condition
   The amount of privacy in *P* is significantly larger than in *E*, while the amount of economic benefit in *E* is only insignificantly (negligibly) larger than in *P*.

It is worth emphasizing that if the first or third condition is satisfied, we can avoid the need of determining the values' relative weights and the need of actually weighing the options against each other in order to determine which option is the right or better one. However, these conditions are often not fulfilled. For instance, they do not seem to apply to the Heathrow example. This seems to mean that, in order to know whether *P* is the right or better option we cannot avoid weighing the options against each other in order to find out whether condition (2) is satisfied.[14] If

[11] I have chosen this example because I think it is a typical instance of conflicting values that requires us to weigh them against each other. Readers who do not agree may take other examples that, according to them, do require us to weigh conflicting values against each other, for instance, examples mentioned in section 3 or described by Broome. See Broome, *Weighing Goods*; Broome, *Ethics out of Economics*; Broome, *Weighing Lives*. As I argue in section 3, the arguments adduced with respect to the present example can be similarly adduced to other examples of conflicting values. See also footnote 29.

[12] Andrew Clapham, *Human Rights, A Very Short Introduction* (Oxford: Oxford University Press, 2007), chp. 6.

[13] 'Extra amount of privacy': the difference in amount of privacy between *P* and *E*. 'Extra amount of economic benefit': the difference in amount of economic benefit between *E* and *P*.

[14] One might object that, also if the first and third condition do not apply, a decision between the options need not always be a question of weighing. For instance, Henry Richardson, *Practical Reasoning about Final Ends* (Cambridge: Cambridge University Press, 1997), p. 304, has shown how, in some cases, competing options bearing incommensurable values may be reconciled by looking for, what he calls, "mutual fit," so that the need of weighing incommensurable values can be avoided. The present paper concerns decisions between options of which we assume that they cannot be completely reconciled or optimally realized together. For other possible objections see section 7.

so, we need to weigh the larger amount of privacy of option *P* against the larger amount of economic benefit of option *E*. This is possible if we, at least roughly, know the relative weights of the competing values.[15] Indeed, the comparative weights of two valuable options depend, not only on the amounts of the relevant values, but also on their relative weights (just as the comparative weights of two substances depend not only on their amounts but also on their specific gravity). We roughly know the relative weights of values, if we have at least a rough, intuitive idea of what might be called their equivalence relation: the amount of one value that is equivalent to a particular amount of the other value. Then we can substitute for the particular amount of the latter value the equivalent amount of the former value, so that we are capable of determining which option contains the larger overall amount of value and outweighs the other. Let us illustrate this with the Heathrow example. In order to know whether the larger amount of privacy of option *P* outweighs the larger amount of economic benefit of option *E*, we seem to need an, at least rough, idea of the relative weights of privacy and economic benefit. These relative weights depend on the equivalence relation of these values – the relation that indicates which amount of one value has equal weight as which amount of the other value. If, for instance, *P*'s extra amount of privacy is larger than the amount of privacy that is equivalent to (has equal weight as) *E*'s extra amount of economic benefit, *P* outweighs *E*. To explain it differently, we need to have a rough, intuitive or implicit idea about the point of equilibrium: the point where the extra amount of economic benefit has equal weight as the extra amount of privacy of option *P*. If option *E*'s extra amount of economic benefit exceeds this point of equilibrium, then option *E* outweighs option *P*. To explicate this in more general terms, take option *A*, which bears a significantly larger amount of value V_1 than option *B*, which, in turn, bears a significantly larger amount of value V_2 than option *A*. Assume that V_1 has no absolute weight and is not absolutely more important than (has no lexical priority to) V_2, and vice versa. Option *A* outweighs option *B*, if (other things being equal) the extra amount of V_1 in option *A* exceeds the point of equilibrium – the point where the extra amount of V_1 has equal weight as the extra amount of V_2 in option *B*.

The meaning of right balance can be explained in similar terms. To show this let us take another example: the tension between security and privacy in the National Security Agency (NSA) controversy in the USA. What does it mean if the Secretary of State John Kerry argues that we have to look for the right balance? It seems to mean that we have to look for the point of equilibrium – the point where the amount

[15] These relative weights (roughly) indicate how many times larger or smaller the weight of a particular amount of one value (V_1) is, compared to the weight of a particular amount of the other value (V_2). These (rough) cardinal relative weights should be distinguished from what might be called ordinal relative weights – relative weights in general terms (ranked on a list), such as more weight or less weight without indicating how many times larger or smaller the weight is. The distinction between cardinal relative weight and ordinal relative weight is similar to the distinction between cardinal and ordinal comparisons. In this paper the phrase relative weights is used in the sense of *cardinal* relative weights. As we will discuss below, ordinal relative weights of competing values are often insufficiently helpful to resolve decision problems similar to that concerning the Heathrow issue. Indeed, if the weight of privacy is expressed in ordinal instead of cardinal terms (say, privacy is more important than economic benefit) and we do not know how *much* more important privacy is, it is unclear whether a (somewhat) larger amount of privacy outweighs a (much) larger amount of economic benefit.

of security is in balance with the amount of privacy, so that an increase of the amount of one value at the cost of the other value causes an imbalance. Take a society in which the citizens have maximal privacy but a serious lack of security. If we put the large amount of privacy on one side and the small amount of security on the other side of an imaginary pair of scales, the latter shows an imbalance between the two values: the large amount of privacy tips the balance to the detriment of security. Suppose we gradually increase security at the cost of a gradual decrease in privacy until the amount of security and the amount of privacy reach the putative point of equilibrium – the point where the two values are supposed to be in balance. If we further increase the amount of security beyond this point of equilibrium, the pair of scales comes again into imbalance – now to the detriment of privacy. This way of thinking in terms of the right balance seems to presuppose the very existence of a point of equilibrium in the sense mentioned above. In the next section I will try to show that, between many options that bear heterogeneous incommensurable values, there exists a so-called fourth value relation.[16] In those cases it seems implausible that we can determine the equivalence and equilibrium between the relevant values for the simple reason that they do not seem to exist.

3 The Fourth Value Relation

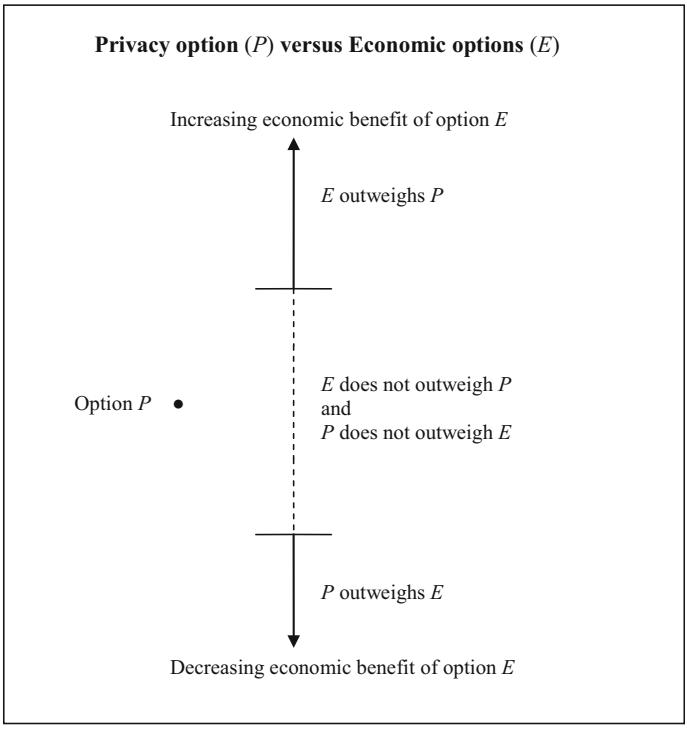
There is a fundamental, but often unnoticed or insufficiently recognized, difference between weighing objects on a material pair of scales and weighing options bearing heterogeneous values. The pair of scales metaphor conceals this difference and may confuse our thinking about the distinct character of weighing competing values and conflicting interests. What is this difference? If we weigh two physical objects *A* and *B* on a material pair of scales, there are three – and not more than three – possible outcomes: *A* outweighs *B*, *B* outweighs *A* or *A* and *B* have equal weights. This entails that if neither object outweighs the other, they must have equal weights. By contrast, if *A* and *B* are options representing different values or interests, there is a fourth possibility, characterized by the negation of the above three value relations: it is not true that *A* outweighs *B*, not true that *B* outweighs *A*, and not true that *A* and *B* have (roughly) equal weights. Following Chang, I call this the fourth value relation.[17] It entails that, although *A* does not outweigh *B* and *B* does not outweigh *A*, *A* and *B* have *not* (roughly) equal weights. On first thoughts, this seems impossible. Indeed, if neither option outweighs the other, the logical consequence seems to be that they

[16] Two values are incommensurable if and only if they have different dimensions that cannot be reduced to one dimension so that their amounts cannot be measured and compared on a common cardinal scale of units of value.

[17] Chang calls this fourth value relation parity (see Chang, *The Possibility of Parity*). There is a difference between Chang's explanation of the fourth value relation and the conception of the fourth value relation defended in the present paper. Chang understands the fourth value relation as imprecise cardinal equality – a value relation within the domain of complete comparability (see Chang, *Making Comparisons Count*, p. 145). In this paper I defend the thesis that the fourth value relation under consideration excludes equality, including imprecise equality or rough equality. This is emphasized in the phrase 'not even rough equality,' which suggests that the fourth value relation concerns incomplete comparability (see section 4, below).

have equal, or at least roughly equal, weights (as in the case of weighing physical objects). However, in this section I will argue that the fourth value relation applies to many options that represent heterogeneous values and interests. This entails that in those cases a level of equivalence or equilibrium, even a rough one, is lacking. As we will see, that is why relative weights and right balances between those values do not exist, because a (rough) equivalence relation and a point of (rough) equilibrium between these values are lacking: no amount of one value is (roughly) equivalent to any amount of the other, and there is not any impartial or objective point of equilibrium between the two values in the above-mentioned sense.[18]

To clarify the meaning of the paradoxical fourth value relation and to show that this relation may really occur, let us return to the Heathrow example. The judges had to weigh the residents' right to privacy against the economic interest of the night flights. Let us again call the option that protects the residents' privacy option *P* and the option that allows the night flights in favour of the economic interest and employment option *E*. Broome's so-called standard configuration can be used to compare privacy option *P* with a chain of different economic options *E* in which the economic benefit increases in upward direction (see the standard configuration below).[19]



[18] Objective and impartial in the sense of inter-subjective, non-subjective and not crucially dependent on personal preferences, predilections and merely personal intuitions or opinions. See also footnote 41.

[19] See John Broome, "Is Incommensurability Vagueness?".

In all options E, economic welfare is larger than in option P. In the lower part of the chain of economic options, the economic interest of the night flights is supposed to be very small. Along the chain in upward direction the economic interest of the night flights gradually increases. In the upper part of the chain, the economic benefit of the flights is very large. Let us suppose that here the economic options E have more weight than the privacy option P, because, in those options E the economic interest is enormously large while the loss of privacy is relatively small. Conversely, in the bottom part of the chain, the economic options E have less weight than option P because, in this part, the options E have a very small, insignificant and virtually negligible economic advantage compared to option P, while the loss of privacy is significant. Between the upper and lower part, there seems to be a range (indicated by the broken line) where not any option E definitely outweighs option P or where option P definitely outweighs any option E. Unlike in the case of physical objects on a material pair of scales, this need not mean that, in this range, P and E have equal weight, not even roughly equal weight. This can be shown by the so-called large improvement argument and other supporting arguments.

Elaborating on the Heathrow example, let us take an economic option E_1, which, compared to privacy option P, represents a significant economic advantage (for instance, regional economic growth and decrease of unemployment by 3%, other things being equal). Suppose that E_1 does not (definitely) outweigh P, and that P does not (definitely) outweigh E_1. This does not mean that E_1 and P must have (roughly) equal weight. This can be shown as follows. Take an option E_2 in which the economic advantage of the night flights is considerably improved compared to option E_1 (for instance, regional economic growth and decrease of unemployment by 6 % instead of 3 %, other things being equal). It is quite well possible that option E_2 does still always not (definitely) outweigh the relevant privacy of the residents around Heathrow Airport. Indeed, the privacy concerns an important human value (and to some extent a human right), which will not easily (if at all) be outweighed by a large increase in economic benefit, even if (as we supposed above), before the large improvement, the economic benefit is already so significant that it is not (definitely) outweighed by the relevant privacy. However, the conclusion that E_2 does not (definitely) outweigh P is possible and not irrational only if E_1 has not (roughly) equal weight as P. Indeed, if E_1 would have (roughly) equal weight as P, and we largely increase the economic benefit, and consequently the weight, of E_1 (in the above example we increased the economic benefit from the nocturnal flights by 100 %), then E_2 must be significantly weightier not only than E_1 but also than P. However, this transitivity does not occur because we have concluded that E_2 does not definitely outweigh P. In those cases Raz speaks of the failure of transitivity.[20] The conclusion that neither E_1 nor E_2 outweighs P cannot be reconciled with the belief that E_1 and P have (roughly) equal weight. Call this the large improvement argument.

The large improvement argument shows that if E_1 does not outweigh P, and vice versa, this does not automatically mean that E_1 and P have (roughly) equal weight. However, this does also not necessarily mean the opposite: namely, that E_1 and P do *not* have (roughly) equal weight. If we would conclude that improved E_2 is weightier

[20] Raz, *The Morality of Freedom*, chp. 13.

than P, then there is no failure of transitivity, and no reason to think that E_1 and P do not have equal weight. Now the question becomes whether this conclusion is more plausible than the former one. To be able to deny the large improvement argument, one must assume the existence of a (rough) level of equivalence between fundamentally disparate and incommensurable values: in the example under consideration this means the assumption that a particular amount of economic benefit is equivalent to, and can be substituted by, or traded-off with, a particular amount of the relevant privacy. Given the essential heterogeneity, the fundamentally different dimensions, the incommensurability of these values, and the special status and importance of human privacy, the existence of a level of equivalence and determinate substitution rate are not very plausible.[21] Let us call this the incommensurability argument. While the large improvement argument shows that it is quite well possible and not irrational to conclude that E_1 and P have not (roughly) equal weight, the incommensurability argument renders this conclusion more plausible than the conclusion that E_1 and P are (roughly) equivalent.[22]

If the large improvement argument and the related incommensurability argument are cogent, they make it plausible that it is not true that E_1 and P are equally good or have equal weight, not even roughly equal weight.[23] Because it is not true either that

[21] Cf. Ross, *The Right and the Good*, p. 154, who similarly argues that it is unintelligible how any amount of a particular value could be equal in value to any amount of a fundamentally different, incommensurable value. In his *Ethics* (Penguin Books, 1978), Aristotle succinctly summarizes the problem: "Without commensurability, no equality" (p. 185). Only strict trichotomists assume the existence of a level of equivalence between heterogeneous values. In Chang, *Incommensurability, Incomparability and Practical Reason* only one of the 13 contributors, Donald Regan, adheres to the trichotomy thesis (the thesis that there are only three positive value relations: better than, worse than, and equally good as). It is true that, although the other 12 contributors do not believe in the existence of a *precise* level of equivalence, this does not yet mean that they do not believe in *rough* equivalence either. However, Chang and Derek Parfit (see his *On What Matters*, Oxford: Oxford University Press, 2011), two leading philosophers in the relevant field, recognize that, what they call impreciseness may be very large, which entails the absence of even rough equality and the presence of the large improvement phenomenon. One might argue that reducing disparate values to a common measure, for instance, intrinsic value – as proposed by Fred Feldman – could resolve the relevant problem because it could assume the existence of equivalence in intrinsic value. See Feldman, "Adjusting Utility for Justice: A Consequentialist Reply to the Objection from Justice," *Philosophy and Phenomenological Research* 60 (1995): 567–585. However, this approach is equally susceptible to the claims made in the present essay, because it does not resolve the problem of measuring and comparing amounts of conflicting incommensurable values if we cannot make use of a single one-dimensional cardinal scale. Unlike the common measure of pleasure of classical utilitarianism, the common measure of intrinsic value is complex and multifaceted instead of simple and one-dimensional. This creates a problem if the relevant disparate values clash as in the examples mentioned in this essay.

[22] Below I will adduce two additional arguments to further support this claim.

[23] The argument for the existence of the large improvement phenomenon is analogous to, and borrowed from, the argument for the existence of a small improvement phenomenon. See Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), pp. 430–431; Griffin, "Incommensurability: What's the problem?" in Chang, *Incommensurability, Incomparability, and Practical Reason*, pp. 262–263, fn. 11; and Griffin, *Well-Being* (Oxford: Clarendon Press, 2002), chapter 6; Chang, "The Possibility of Parity," pp. 659–688. Still the latter phenomenon should be clearly distinguished from the former one, because the two phenomena are signs of different things, which have considerably different consequences for practical reason. A small improvement phenomenon is a sign of imprecise comparability and imprecise or rough equality. The large improvement phenomenon, by contrast, is a sign of what might be called incomplete comparability and entails the absence of any, even imprecise, level of equivalence. See section 4.

E_1 has more weight or less weight than P, the value relation between E_1 and P is an example of the fourth value relation as defined in the beginning of section 3. Thus, if the large improvement and incommensurability arguments are cogent, it is plausible that fourth-value-relations exist and that they apply to a wide range of different amounts of value (in the case under consideration, a large range of different amounts of economic benefits, indicated by the broken line in the above standard configuration).

To further explain, illustrate and underpin these claims I will apply Broome's standard-configuration to another example, inspired by Erik Nord's empirical study with respect to weighing need (concern for the worst-off patients) against efficiency (maximization of benefit from medical treatment) in the allocation of scarce health care resources.[24] Suppose we have to choose between two rival health care policies, A and B. Policy A has more concern for the worst-off patients, while policy B yields more individual and total health benefit. Policy A is the standard option, which is compared with a chain of policies B in which the larger health benefit further increases upwardly. Let us assume that the policies B in the lower part of the chain are worse than the standard, because there the health benefit is only trivially larger than that of policy A while it has no special concern for the worst-off. Let us further assume that, in the upper part of the chain, B is better than A, because (although it has no special concern for the worst-off) there it produces vastly more individual and aggregate health benefit than A. Between the upper and lower part of the chain there is a zone in which it is unclear whether B is better or worse than A. In this zone, let us consider a policy B_1 that yields a significantly larger total health benefit than policy A (1000 versus 500 QALYs), see *Table* 1.[25] A is better with respect to concern for the worst-off patients, while B_1 is better with respect to health benefit. Which policy is overall better? Suppose (we conclude that) B_1 is overall neither better nor worse than A. Analogous to our discussion about the Heathrow example, we can argue that this does not (or, at least, need not) mean that both policies are (roughly) equally good. Take a considerably improved policy B_2, which yields a much larger total health benefit than policy B_1: 2000 instead of 1000 QALYs (see *Table* 1).

Other things being equal, B_2 is considerably better than B_1. However, it is possible and not irrational to conclude that B_2 is again not (definitely) better than A. If this is true, then B_1 cannot be equally good – not even roughly equally good – as A. Indeed, if B_1 were (roughly) equally good as A, B_2 would be considerably better not only than B_1 but also than A. But this seems not the case. This failure of transitivity makes plausible that A is not roughly equivalent to B_1.

People who disagree with this large improvement argument must assume the existence of a (rough) level of equivalence between the fundamental heterogeneous values concern for the worst-off ('equity') and efficiency. This would mean that the (amount of) value of giving priority to the worst-off patients represented by policy A is equivalent to a particular amount of health benefit (efficiency): for instance, the

[24] See E. Nord, "The Trade-Off Between Severity of Illness and Treatment Effect in Cost-Value Analysis of Health Care," *Health Policy* 24 (1993): 227–238.

[25] Health benefit of 1 QALY means that the relevant medical treatment adds 1 quality adjusted life year to a patient's life.

Table 1 *Three policies with respect to allocation of scarce health resources*

Policy	Allocation criterion	Total health benefit (QALYs)
A	Priority to the worst-off patients	500
B_1	Maximization of health benefit	1000
B_2 (*improved* B_1)	Maximization of health benefit	2000

treatment of one seriously ill patient, which yields a health benefit of, say, 1 QALY, is overall equivalent to the treatment of one less seriously ill patient, which yields a health benefit of, say, 4 QALYs (relative weight of equity versus efficiency is then 4). Given the fundamental heterogeneity and incommensurability of these values, the existence of such a determinate level of equivalence seems not very plausible (the incommensurability argument).[26] If so, it is plausible that there is a wide range of rational indeterminability in which the assignment of determinate and impartial relative weights is impossible given the absence of any level of (rough) equivalence.

In addition to the large improvement argument and the incommensurability argument, there are still two other arguments that support the view that, in the relevant cases, a (rough) equivalence relation does not exist. I will successively adduce these arguments.

In Erik Nord's empirical study, by which the above example is inspired, different rational, well-informed people and medical professionals were asked how much treatment efficiency (aggregated benefit from treatment) they would want to sacrifice in order to give (some or complete) priority to the worst-off. The answers made it possible to deduce the relative weights they assigned to equity (concern for the worst-off) compared to efficiency (aggregate benefit from treatment). The respondents assigned considerably divergent relative weights to these competing values: the relative weights varied by a multiplicative factor of 70! Dan Brock, who refers to Nord's research and to similar studies, draws the following conclusion:

> "Most people and many theories of distributive justice have a concern both for maximising overall benefits with scarce health care resources *and* for helping the worst off or sickest, but there is a *large* range of indeterminacy regarding the proper tradeoff between these two concerns when they are in conflict."[27]

The considerably divergent relative weights and the connected large range of indeterminacy are in line with the large improvement phenomenon. They are difficult to explain in terms of the *small* improvement phenomenon and unavoidable imprecision. The same applies to other examples, for instance, the empirical study (similar to Nord's research) by Daniels and Sabin in which medical students applied considerably different relative weights to conflicting values related to the

[26] See also footnote 21 above.

[27] D. W. Brock, (2006) "Ethical Issues in the Use of Cost Effectiveness Analysis for the Prioritisation of Health Care Resources," in Anand, Peter and Sen (eds.), *Public Health, Ethics, and Equity*, pp. 201–223.

distribution of scarce health care resources.[28] We might call this line of reasoning (pointing at the empirical fact that equally rational and well-informed persons assign considerably different relative weights to the relevant heterogeneous and incommensurable values) the empirical argument.[29] Joseph Raz would give the following explanation.[30] In the relevant cases reason under-determines the choice. In other words, within the range of different relative weights (assigned by equally rational and well-informed persons) reason does not show that there is a (single) right relative weight (still less what the right relative weight could be). People who want to deny this, must assume that there is a (determinate and single) right relative weight between the relevant disparate values and that all rational and well-informed people who assign another relative weight are simply wrong. This seems not very plausible. We might call this argument (against the existence of a [determinate and single] right relative weight between incommensurable values) the argument from rational under-determination.

In sum, there are four interrelated arguments that support the existence of a fourth value relation (including the absence of a [rough] equivalence relation): the large improvement argument, the incommensurability argument, the empirical argument and the argument from rational under-determination. Neither argument conclusively demonstrates the non-existence of a rough equivalence relation between the relevant values, but taken together they seem to make it plausible.

Broome's standard configuration and the way of reasoning adduced in the Heathrow and health care examples can be applied to many other examples of conflicting or incompletely compatible values. We only need to replace the values privacy and economic benefit or equity and efficiency by other symmetrical values,[31] for instance, informational privacy and security in the NSA debate, welfare versus fairness in Rawls's aggregative-distributive dichotomy,[32] et cetera. In all these cases, the ranges of rationally under-determinable[33] weights are very wide, precisely because an impartial, non-subjective and rationally determinable right balance does not seem to exist. The wideness of the ranges of indeterminability is mirrored in the considerably divergent relative weights assigned to the same

[28] N. Daniels and J. Sabin, "Limits to Health Care: Fair Procedures, Democratic Deliberation, and the Legitimacy Problem for Insurers," *Philosophy & Public Affairs* 26 (1997): 303–350.

[29] Cf. also Rawls about weighing the two competing values of the aggregative-distributive dichotomy – efficiency versus equity – in the distribution of welfare: "[V]ery different weightings are consistent with these principles" (see Rawls, *A Theory of Justice*, p. 34). Interpersonal differences in the assignment of weights and disagreement about the right weights are, of course, not a demonstration of the absence of an impartially or objectively right answer, but, conversely, if it is true that such an answer does not exist or that reason under-determines the answer, it is obvious that rational disagreement about the right answer easily occurs.

[30] Raz, *The Morality of Freedom*.

[31] Two values are symmetrical if neither value is definitely more important than, or lexically prior to, the other.

[32] See Rawls, *A Theory of Justice*, pp. 32–34, 279.

[33] Rationally under-determinable in the sense that reason partly determines, but also largely under-determines, the weights. It determines which weights are rationally eligible but it does not determine which weight of the divergent rationally eligible weights is the right or better one. I borrow the notion rational under-determinability from Raz. See Raz, *The Morality of Freedom*.

competing values in the same context by different rational and well-informed people.

The absence of an equivalence relation or point of equilibrium is no problem if the absolute weight condition (lexical priority condition) or significance/insignificance condition is satisfied (see section 2): in those cases the heterogeneity of values does not pose problems in determining which option outweighs the other, because we can avoid the need of determining relative weights. But in other cases such as those under consideration in this essay, we seem to need at least a rough or implicit insight into the point of equilibrium in order to know whether a particular amount of one value outweighs, or is outweighed by, a particular amount of the other. However, when the fourth value relation applies, there is a wide range of under-determinability, in which the relevant claims have no determinate position with respect to their comparative worth or weight, if a (rough) point of equilibrium is lacking.[34]

4 Incomplete Comparability

If the large improvement argument is correct, it shows the possibility of a fourth value relation. However, it does not render this paradoxical value relation more intelligible. What is the explanation for the puzzling conclusion that, for two rival options *A* and *B*, it may be true that simultaneously (i) *A* is not better (or weightier) than *B*, (ii) *B* is not better (or weightier) than *A*, *and* (iii) *A* and *B* are not (roughly) equally good (or equally weighty)? A possible answer is that *A* and *B* are incomparable. In that case the puzzle would be resolved, because if the options are incomparable, it is evident that (i), (ii) *and* (iii) are true, for the simple reason that, otherwise, the options would not be incomparable. I think the large improvement phenomenon and the absence of any point of equivalence are signs that the relevant options are indeed, at least to some extent, incomparable – in line with the *Oxford English Dictionary* (*OED*) definition of this term: "without an *equal* in quality or extent." In order to be capable of comparing options *P* and *E* in the Heathrow example (that is, in order to be capable of determining whether the larger amount of privacy in *P* outweighs the larger amount of economic benefit in *E*) we seem to need a point of equilibrium or equivalence ("an equal in quality or extent"). But, as shown above, such an equivalence relation is lacking. This seems to make the options incomparable in the *OED* sense. I think, the name incomplete comparability is more correct than (complete) incomparability for the following reasons. First, the relevant options are to some extent comparable, namely, with respect to the two competing values separately. In the Heathrow example, *P* is better with respect to privacy, and *E* is better with respect to economic benefit. The problem of comparability seems to occur if we want to evaluate the options with respect to the two values taken together. But even then they need not be entirely incomparable. The reason is that incomparability on a cardinal scale does not necessarily exclude comparability on an ordinal scale, and the absence of an equivalence relation does

[34] Cf. Sen, "Incompleteness and Reasoned Choice," *Synthese* 140 (2004): 55, 56 and footnotes 27 and 28, p. 59.

not necessarily exclude the possibility to make ordinal comparisons.[35] For instance, if the increase in economic benefit is enormous and the decrease of privacy is very small, we seem to be capable of comparing *P* and *E* by making an ordinal instead of cardinal comparison: then, we do not seem to need a point of equivalence or equilibrium to be capable of concluding that an enormous increase of economic benefit outweighs a very small decrease of privacy. Thus, although in this case *P* and *E* can still always not be compared on a cardinal scale, they can be compared on an ordinal scale. Does something similar apply if the difference in privacy and the difference in economic benefit between the options are both large, as in cases in which the fourth value relation applies? To some extent it does, but only incompletely, because in those cases it is unclear how we can compare the options (that is, how we can determine whether the larger amount of privacy in *P* outweighs the larger amount of economic benefit in *E*) if a point of equivalence or equilibrium is lacking. Even if the options may, to some extent, be ordinally compared, the comparability remains incomplete. Why? Because the conclusion of the ordinal comparison is that *P* is not weightier than *E* and *E* is not weightier than *P*, while the improvement phenomenon shows that they have not (roughly) equal weight either. Again, this seems to be a sign that they are incompletely comparable. Thus, while some options of the full set of *P*'s and *E*'s can be compared, other options of this set are incompletely comparable. In other words, incompletely comparable options belong to a set of options that can only be incompletely ordered. This is another reason to speak of incomplete comparability instead of (complete) incomparability.

If this analysis is correct, it sheds a new light on the nature of the fourth value relation and its implications for practical reason. While Chang understands this relation as imprecise cardinal equality and calls it parity – a relation of equal standing as the three other value relations, within the domain of complete comparability – I show in this article that the fourth value relation is incompatible with any cardinal equality, whether imprecise or not, and that it is a sign of incomplete comparability.[36] This does not mean that there is no room for the possibility of imprecise cardinal equality and, more generally, for Parfit's imprecise comparability: it concerns the numerous values the amounts of which cannot be precisely measured, not even in principle, because they are to some extent vague. Compare Parfit:

[35] A cardinal scale measures (differences in) amounts of values in quantities of units of value. An ordinal scale is a ranking on a list (e.g. in terms of less value, more value, much more value, et cetera) without indicating how much the amounts of value differ in quantities of units of value.

[36] The implications for practical reason are as follows. I think Chang is right that, if two options are incomparable, the choice cannot be rationally justified. In line with this thought I think that, if two options are incompletely comparable, the choice can only be incompletely rationally justified (that is, partially justified in the sense that the chosen option is *not worse* than the non-chosen one, but not completely justified in the sense that the chosen option is *better* than, or at least *equally good* as, the non-chosen one). Chang, by contrast, believes that the choice between options to which the fourth value relation applies can be completely rationally justified, because she thinks that the relevant options are completely comparable. See Chang, 'Introduction,' in Chang (ed.), *Incommensurability, Incomparability, and Practical Reason.* See also Chang, "The Possibility of Parity" and her *Making Comparisons Count*, p. 145.

> Must it be true, of Proust and Keats, either that one was the greater writer, or that both were *exactly equally* as great? There could not be, even in principle, such precision.[37]

The cause of this imprecision is clear: the amounts of the value with respect to which we want to compare Proust and Keats – say, literary talent – are not precisely measurable and not precisely comparable (partly because of the different genres of Proust's and Keats's literature). Therefore, if Proust and Keats do not clearly differ in literary talent, this means that they are imprecisely equally good, in which case a small rather than large improvement phenomenon applies. Parfit's notion imprecise equality and Chang's notion parity conflate two distinct phenomena: one is real imprecise equality, the other incomplete comparability.[38] Imprecise comparability applies to many values the amounts of which cannot be exactly measured. It fundamentally differs from incomplete comparability to which the large improvement applies. The latter is not the result of the (nearly self-evident) imprecise measurability of the relevant values but of their heterogeneity, incommensurability and bi-directionality.[39] Griffin rightly argues that a small improvement phenomenon is no demonstration of incomparability: "It would show that two items were not precisely equal. But it does not show that they are not roughly equal, and rough equality is a form of comparability…"[40] As Parfit argues, imprecise equality is an imprecise version of the value relation equality. The fourth value relation under consideration in this paper, by contrast, is incompatible with any kind of equality.

5 Absence of the Right Balance

If there is a wide range where the fourth value relation applies, there is no determinate point of equilibrium or equivalence, so that there seems to be no objectively and impartially right balance and right answer to the relevant conflicts of values over a wide range of different amounts of the relevant values.[41] The fact that

[37] Parfit, *Reasons and Persons*, pp. 430–432.

[38] Because incomplete comparability is a gradual phenomenon, there are cases of incomplete comparability that resemble cases of imprecise equality.

[39] Bi-directionality of two values: one option contains a larger amount of one value, while the other option contains a larger amount of the other value. Even if the amounts of these values were precisely measurable, this would not make any difference for their incomplete comparability.

[40] Griffin, "Incommensurability: What's the problem?" pp. 262–3, fn. 11.

[41] As mentioned above, objective and impartial are used in the sense of inter-subjective, non-subjective and not crucially dependent on personal preferences, predilections and merely personal intuitions or opinions. Individuals need not experience great difficulties in (intuitively and implicitly) assigning rough relative weights and to make a personal comparative assessment, dependent on their personal backgrounds, predilections and beliefs. However, as discussed above, where the fourth value relation applies, the options seem to be impersonally/objectively incompletely comparable. Compare the discussion of the phrase impersonally/objectively incommensurable in Broome, *Ethics out of Economics*, pp. 158–161, and Raz, *Engaging Reason: On the Theory of Value and Action* (Oxford: Oxford University Press, 2001): "… impersonally the conflicting considerations are incommensurate," p. 243. But even for individual persons the assignment of weights may be difficult because they too may regard the relevant options as being incompletely comparable. That is why, at different moments, the same individual may

an objectively right answer and an impartial method to assign comparative weights are lacking and that reason under-determines the choice renders it improbable that, in the relevant cases, consensus can be achieved by rational deliberation.[42] This means that the final choice runs the risk of being dependent on which person(s) happen(s) to take the decision. As we discussed above, this is also what empirical data and studies show: a wide range of inter-personally divergent relative weights assigned to pairs of competing heterogeneous values.[43] Rival decisions of equally rational and reasonable people and conflicting judgments by courts of justice may be the consequence of the existence of a fourth value relation.[44] In our Heathrow Airport example the Chamber of the European Court of Human Rights favoured the privacy of the residents, while the Grand Chamber put the Government in the right because of the putatively weightier economic interests (*Table 2*).[45] It is to be expected that, where the law and reason do not give unambiguous guidance and under-determine the decision – thus, where the fourth value relation applies and where a rationally determinable right balance does not exist – personal intuitions and beliefs may significantly influence the outcomes of the judges' judgments. This is confirmed by a large-scale empirical study amongst US judges: in the relevant cases their judgments and assessments of comparative weights may considerably differ and strongly depend on their political and ideological backgrounds.[46]

6 Inconclusiveness versus Indeterminacy

The above analysis, if correct, refutes the widely spread assumption that if two values, interests, ethical demands or requirements of justice, *A* and *B*, conflict, there are not more than three possible relative value relations: (i) *A* outweighs *B*, (ii) *B* outweighs *A,* or (iii) *A* and *B* have equal weights. An important and interesting example based on this assumption is the following. Dworkin believes that, at least in principle, there is a single correct answer to every legal question or question of

Footnote 41 continued
assign different weights to the same values in the same context. Of course, these intra-individual differences are less large than inter-individual differences (see Nord, "The Trade-Off Between Severity of Illness and Treatment Effect in Cost-Value Analysis of Health Care").

[42] The notion deliberation literally means weighing; *libra* is the Latin name for pair of scales. In other words, rational deliberation consists of rationally weighing the pros and cons and balancing competing reasons. Where reason under-determines the weights and the final decision, it is not to be expected that rational deliberation will lead to rational consensus.

[43] Again, interpersonal disagreement is, of course, not a demonstration of the absence of an impartially or objectively right answer, but, conversely, if it is true that such an answer does not exist or that reason under-determines the answer, it is obvious that rational disagreement about the right answer easily occurs.

[44] Cf. Clapham, *Human Rights*, p. 114: "There is plenty of room for different people, different judges even, to come to different conclusions.".

[45] Ibid., pp. 114–115.

[46] See Cass R. Sunstein, David Schkade, Lisa M. Ellman, and Andres Sawicki, *Are Judges Political? An Empirical Analysis of the Federal Judiciary* (Washington, D.C.: Brookings Institution Press, 2006).

Table 2 *Conflicting judgments about the right balance between privacy and economic interests in the Heathrow Airport trial*

	'Privacy outweighs economic interests' (n)	**'Economic interest outweighs privacy'** (n)	**Decision**
Chamber (n = 7)	5	2	in favour of residents
Grand Chamber (n = 17)	5	12	in favour of government

Source: Clapham, *Human Rights*, p. 115.

(n = number of judges)

justice.[47] He recognizes that justice concerns weighing principles. A principle provides a reason for deciding the case in a particular way, but it is not always a conclusive reason: it will have to be weighed against other principles in the system. Dworkin agrees that there are hard cases, which may lead to controversial judgments amongst judges. As he rightly points out, disagreement does not demonstrate that a single right answer does not exist. Disagreement may be the consequence of inconclusiveness – which means that a single right answer does exist but has not yet been conclusively found – as a result of the complexity of the issue and the great number of variables involved. Dworkin stresses that if some judicial questions would be indeterminable and would not have a single right answer (not even in principle), justice would be seriously compromised because it would mean that, in those cases, the judicial decision fundamentally and significantly depends on the judge's personal opinion, intuition and discretion. Dworkin rejects the idea of indeterminacy, because he finds it implausible that there may be "no decisive reason to take one side or the other…"[48] According to him it is not plausible that

> no matter how hard we look and think, we will not find any consideration or argument that would make the case on one side even marginally stronger than the case on the other…. [G]iven the complexity of the legal materials at hand, judges will, if they think long and hard enough, come to think that one side or the other has, all things considered and marginally, the better of the case.

Dworkin believes that – at least in principle, that is, for an ideal judge "of superhuman intellectual power", whom he calls Hercules – there is a single correct answer to every legal question. He continues that

> every judge will concede that some hard cases may in fact be ties, but no judge will suppose that they are all ties. The philosopher, to support his claim against their opinion, would have to produce arguments affirmatively establishing that all hard cases will lie *at the exact center of the scale* we imagined, and that claim is so implausible that it can be set aside at once [my emphasis].

[47] See Dworkin, *Taking Rights Seriously*, pp. 279–290; Dworkin, *A Matter of Principle* (Cambridge, Mass.: Harvard University Press, 1985), pp. 119–45; Dworkin, "Indeterminacy in law," in T. Honderich (ed.), *The Oxford Companion to Philosophy* (Oxford: Oxford University Press, 1995), p. 399.

[48] Dworkin, "Indeterminacy in Law," p. 399.

Still Dworkin recognizes the theoretical possibility of a tie judgment: the judgment that neither of the claims is stronger than the other.[49] He describes the nature of a tie as follows:

> We may conceive of a hard case as presenting, for each judge, a scale of confidence running from a left-hand point at which the judge is confident that the proposition favoring one claim is true, but progressively less confident, to a right-hand side with points representing progressively more confidence that the rival claim is true. Then the tie point is the *single point* at the centre of this scale… .

According to Dworkin, the probability of such a tie is very small. In this reasoning Dworkin supposes that the relevant scale is a sort of cardinal scale of strengths on which a single point ("the centre of this scale") represents the equal strength of two rival claims (or the equal goodness or weight of two options), which implies that marginal improvements on one side do tip the scale (as applies to a kitchen-scale). And because it is highly improbable that a particular case, even a hard case, "lies at the exact centre of the scale", it will be virtually always true that one claim is, at least marginally, stronger than the other. Dworkin's approach reveals that he assumes that, if neither of two options is weightier than the other, they have equal weight. However, this assumption ignores or overlooks the possibility of the fourth value relation, which means that neither option is weightier than the other, while they do not have equal, not even roughly equal, weight either.[50] If the large improvement phenomenon is true, it implies that, in the relevant cases, there is not a single point but a wide range where the scale does not tip. In this perspective a tie judgment is related to a wide range instead of a single point. In that case not only a marginal but also a large improvement does not tip the scale, contrary to what Dworkin supposes. If this analysis is correct, the possibility and prevalence of tie judgments (judgments in which is concluded that neither claim is weightier than the other) become plausible, precisely because such judgements do not concern a single point but a wide range.[51]

It is clear that these tie judgments make the impartial resolution to the relevant legal conflicts problematic, if not impossible, even in principle. Above we mentioned Dworkin's view that, in virtually all hard cases, the right answer, about which there is disagreement, is not indeterminable, but inconclusive, as a result of the complexity of the issue and the great number of variables involved. This view is made implausible not only by the above argumentation, but also by the fact that the decision problem under consideration does not decrease in uncomplicated thought experiments in which only two variables (competing values) play a role, and in which the *ceteris paribus* clause is applied.

[49] Dworkin, *Taking Rights Seriously*, pp. 286–287.

[50] Another example of ignoring or overlooking the fourth value relation can be found in P.E. Veel, "Incommensurability, Proportionality and Rational Legal Decision-Making," *Law and Ethics of Human Rights* 4 (2010): 178–228.

[51] Cf. Broome, *Ethics out of Economics*, chp. 9.

7 Other Solutions

One might object that conflicts of values, human interests and ethical principles may be resolved in other ways than by weighing them against each other, for instance, by trying to reconcile the relevant values,[52] to commensurate them (the utilitarian approach), or to construct a scheme of lexical priorities[53]; or by means of social choice and deliberative democratic procedures.[54] However, it is dubious whether reconciliation, commensuration and prioritization are possible and appropriate solutions to (all) the conflicts under consideration and whether social choice and deliberative democracy are capable of avoiding contrary, indeterminate, incomplete or incoherent directives where plural values conflict.[55] Moreover, this essay concerns the widespread and reasonable belief that many conflicts of values and ethical principles should be resolved by weighing them against each other.[56] In this essay I concentrate on these specific cases and address those theorists who believe in the importance and need of weighing in (at least some of) the conflicts under consideration.

8 Conclusion

Philosophers generally believe that many conflicts of values, human interests and ethical principles can and should be resolved by weighing them against each other and looking for the right balance.[57] They argue that if we want an impartial, non-arbitrary, non-subjective and rationally justified resolution of these conflicts, we must determine comparative weights. Still, it is unclear – and philosophers seldom indicate – how we can do that.[58] The present analysis shows that, where the fourth value relation applies, it is implausible that these weights can be determined or that they exist at all. This has important implications for the resolution of conflicts of

[52] See footnote 14.

[53] See Rawls, *A Theory of Justice.*

[54] See Amartya Sen, *The Idea of Justice* (Cambridge Mass.: The Belknap Press of Harvard University Press, 2009).

[55] See Martijn Boot, "The Aim of a Theory of Justice," *Ethical Theory and Moral Practice* 15 (2012): 7–21. There is no room for further substantiating these doubts. The objections to which they respond are not unimportant but, I think, less relevant in the context of the aim of this essay (see the next sentences).

[56] See the quotations in the introduction.

[57] See the introduction and footnote 1.

[58] G. A. Cohen has commented on this omission as follows: "Philosophers sometimes end their articles by saying this sort of thing: 'It is a task for future work to determine the weight of the consideration that I have exposed.' But nobody ever gets around to that further work. They wish they could, but they can't… Nobody knows how to balance different values against one another…" Cohen, "Rescuing Conservatism: A Defence of Existing Value," lecture presented at the University of Toronto (2008). Rawls is, to some extent, an exception (see Rawls, *A Theory of Justice*; see also R. Hardin, (2003) *Indeterminacy and Society* (Princeton and Oxford: Princeton University Press, 2003), chp. 7: 'Indeterminate Justice'). However, Rawls ranks the principles of justice according to a scheme of lexical priorities, which avoids, rather than resolves, the problem of relative weight assignment. The values under consideration in this essay are more or less symmetrical so that they do not lend themselves to a lexical ordering.

values in public decision-making, ethics and justice, because, in the relevant cases, it renders the answer to the question 'what's the right thing to do?' indeterminate as far as this answer depends on comparative weights of the alternatives.

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