

Values, Well-Being and Compensation

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Structure of the talk

- I. Two contexts of compensation:
 - Cost-benefit analysis
 - Rectificatory justice
- II. Monetary compensation and environmental damage
- III. The limits of monetary compensation:
 1. Refusals to accept monetary compensation.
 2. Reasons for the limits.
 - Constitutive incommensurability
 - Theory of welfare
 - The limits of the compensatory theory of justice

Cost-benefit analysis

Kaldor-Hicks compensation test:

- How are we to say whether a reorganization of production, which makes A better off, but B worse off marks an improvement in efficiency?... [A] perfectly objective test...enables us to discriminate between those reorganizations which improve productive efficiency and those which do not. If A is made so much better off by the change that he could compensate B for his loss, and still have something left over, then the reorganization is an unequivocal improvement. (Hicks, 1981, p.105)

Kaldor-Hicks

- Kaldor-Hicks compensation test: a situation A is an improvement over B if the gains are greater than the losses, so that the gainers could compensate the losers and still be better off.
- Consequentialist, forward-looking.

Rectificatory justice

- Other terms: corrective justice; compensatory justice
- Normally understood as backward looking. 'Righting a wrong' that has been committed. Compensation required for rectification of a wrong.

Three articulations

- A. A. Restoration of equality: ‘the judge tries to restore this unjust situation to equality’ (Aristotle *Nicomachean Ethics* Book V.4)
- B. Restoration of the *status quo ante*: ‘to provide the “full and perfect equivalent” [Justice Brewer, 1893] of what was lost and so to restore completely the *status quo ante*’ (Goodin, 1991, p145)
- C. Restoration of a previous level of well-being:
- Justice requires that victims be made ‘as well off as they would be now if those wrongs had not been done’ (Sher, 2005, 181)
 - *B* [the transgressor] is obliged...to transfer resources to *A* [the transgressed] adequate to make *A* at least as well-off as before the transgression occurred’ (Lomasky, 1991, p.27)
- C is central to the appeal to the use of economic measures of compensation.

Compensation, economics and welfare

- Something fully compensates a person for a loss if and only if it makes him no worse off than he otherwise would have been; it compensates person X for Y 's action A if X is no worse off receiving it, Y having done A , than X would have been without receiving it if Y had not done A . (In the terminology of economists, something compensates X for Y 's act if receiving it leaves X on at least as high an indifference curve as he would have been, without it, had Y not so acted.) (Nozick, 1974, p.57)
- Measuring the appropriate level of compensation for a loss is a question of finding that monetary value that would leave a person at least as well-off as they would have been without that loss.

Monetary compensation and environmental damage

1. The neo-classical economist's problem: the absence of markets in environmental goods. Preferences for environmental goods are not 'revealed in market transactions' (Arrow et. al. 1993).
2. The solution: Construct prices for environmental goods by ascertaining what individuals would pay for them were there a market.
 - Hedonic pricing: Inference from some proxy good in the market such a property values an estimate a price for environmental goods
 - Travel-cost: Inference from costs incurred by individuals to use an environmental amenity to estimate a values
 - Contingent valuation: By asking individuals how much they would be willing to pay for a good or accept in compensation for its loss in a hypothetical market.

The limits of monetary compensation

A. Refusals to accept monetary compensation.

B. The reasons for the limits:

1. Constitutive incommensurability. Can all relations and commitments be caught in monetary valuations?
2. The theory of welfare. What is it to make a person 'at least as well-off' as they would have otherwise been?
3. The limits of the compensatory theory of justice. What is required to 'right a wrong'?

Refusals to accept monetary compensation.

- From a person in the Narmada Valley in western India on being displaced as a result of the Sardar Sarovar Dam, to the Chief Minister of the state government.

‘You tell us to take compensation. What is the state compensating us for? For our land, for our fields, for the trees along our fields. But we don’t live only by this. Are you going to compensate us for our forest?...Or are you going to compensate us for our great river – for her fish, her water, for vegetables that grow along her banks, for the joy of living beside her? What is the price of this? ...How are you compensating us for fields either – we didn’t buy this land; our forefathers cleared it and settled here. What price this land? Our gods, the support of those who are our kin – what price do you have for these? Our adivasi (tribal) life – what price do you put on it?’ (Brava Mahalia (1994) ‘Letter from a Tribal Village’ *Lokayan Bulletin* 11.2/3, Sept-Dec.)
- Refusals of South Korean and Taiwanese ‘comfort women’ to accept financial compensation from the Asian Women’s Fund.

Protests at contingent valuation

- ‘it's a totally disgusting idea, putting a price on nature. You can't put a price on the environment. You can't put a price on what you're going to leave for you children's children...It's a heritage. It's not an open cattle market.’ (Respondent to a contingent valuation, in Burgess et.al. 1995)

1. Constitutive incommensurability

Can all welfare-relevant relations and commitments be caught in monetary valuations?

Early willingness to pay survey (Herodotus)

- When Darius was king of the Persian empire, he summoned the Greeks who were at his court and asked them how much money it would take for them to eat the corpses of their fathers. They responded they would not do it for any price. Afterwards, Darius summoned some Indians called Kallatai who do eat their parents and asked in the presence of the Greeks...for what price they would agree to cremate their dead fathers. They cried out loudly and told him to keep still. (Herodotus *Histories* 3.38)

Constitutive incommensurability

1. Price is not a neutral measuring device and acts of buying and selling are not like exercises in the use of a tape measure. Acts of exchange are social acts with social meanings.
2. Certain kinds of social relation and evaluative commitments are constituted by particular kinds of shared understanding which are such that they are incompatible with market relations.
 - Social loyalties, for example, of kinship and a way of life, are constituted by a refusal to treat them as commodities that can be bought or sold. To accept a price is an act of betrayal, to offer a price is an act of bribery.
 - Similarly ethical value-commitments are also characterised by a refusal to trade.

Protests to monetary valuation of environmental goods

- Environments are expressive of social relations between generations. They embody in particular places our relation to the past and future of communities to which we belong. An environment matters because it expresses a particular set of relations to one's children, that would be betrayed if a price were accepted upon it.
- Individuals have ethical commitments to environmental goods.
- Money is not a neutral measuring rod for comparing the losses and gains in different values. Values cannot all be caught within a monetary currency.

2. Theory of welfare

- What is it to make a person ‘at least as well-off’ as they would have otherwise been?
- The supposition that monetary compensation is widely possible is based upon a particular model of welfare that underpins neo-classical economics.
- Welfare consists in the satisfaction of preferences. A person is at least as well-off in a new situation *A* relative to another situation *B* if *A* is at least as preferred as *B*.

Preference satisfaction and ubiquitous substitutability

- Smooth continuous indifference curves of economic textbooks built on the assumption that for a marginal loss in one good there is a marginal gain in another which leaves the agent at the same level of preference satisfaction.
- If welfare is a matter of preference satisfaction, then goods become substitutable for each other if total preference satisfaction levels remain unchanged.
- A welfare loss in one dimension of goods can be compensated for in a gain in another provided the overall level of preference satisfaction is sustained.
- For a loss on one dimension of valued goods - say of a place - there are gains in other dimensions which can compensate for that loss. Given this account there will be a sum of money that can be paid for a good such that a marginal welfare loss on one dimension of goods can be compensated for by gain in others so that total welfare remains unchanged or better still improved.
- If we reject this preference satisfaction account of well-being then there is no reason to assume that goods will be substitutable in this way.

Objective state account of well-being

Preferences and needs

- Difference in the logic of the concepts of 'preference' and 'need'.
 - A sentence of the form 'a needs x' is extensional i.e. if a needs x, and x is y, then it follows that a needs y. From 'Joseph needs glucose', and 'glucose is C₆H₁₂O₆' we can infer 'Joseph needs C₆H₁₂O₆'.
 - A sentence of the form 'a prefers x to z' is intensional i.e. it is not the case that if a prefers x to z and x is y that it follows that a prefers y to z'. From 'Oedipus prefers to marry Jocasta to any other woman in Thebes' and 'Jocasta is Oedipus's mother', we cannot infer 'Oedipus prefers to marry his mother to any other woman in Thebes'.
- Whether or not a person needs something depends on the objective condition of the person and the nature of the object, its capacities to contribute to the flourishing of a person.
- Whether a person prefers one object to another depends rather upon the nature of the person's beliefs about the objects.

Needs and thresholds

- Non-instrumental or categorical need is a threshold concept in way that the concept of preference is not.
- Non-instrumental needs are those conditions that are a necessary for a flourishing life, the absence of which would be said to harm the person (Wiggins, 1991).
- For example, a person needs a certain amount of water, food and shelter, and also certain social relations if they are to flourish at all.
- A feature of such non-instrumental needs is that there are thresholds such that if a person goes below or above them her well-being will suffer. One can have too much or too little of a particular good.

Plural goods and objective states

- If we move from a preference or desire satisfaction account of well-being to objective state accounts limits to substitutability between different goods become more pronounced.
- Consider an objective list account of well-being which includes an irreducible plurality of components to what makes life go well.
- For example: Nussbaum's version of the central human functional capabilities, where these are broadly categorised under different headings:

Part of the list of capabilities

- Bodily Health. Being able to have good health, including reproductive health; to be adequately nourished; to have adequate shelter...
- Practical Reason. Being able to form a conception of the good and to engage in critical reflection about the planning of one's life...
- Affiliation. Being able to live with and toward others...Having the social bases of self-respect and non-humiliation; being able to be treated as a dignified human being...
- Other species: Being able to live with concern for and in relation to animals, plants and the world of nature.
(Nussbaum ,2000, pp.78-80)

The limits of substitutability

- If there is an irreducible plurality to these different human functional capacities, there is no reason to expect a ubiquitous substitutability between different goods with respect to welfare.
- It is not the case that for a loss of good under one heading, say bodily health, there is a gain in other, say practical reason, that leaves the person's well-being unchanged.
- There is, as people say in every day parlance, no substitute for good health, for good friends, for particular places and environments.
- A loss in one dimension can only be properly addressed by the provision of goods in that dimension.
- There is no reason to assume that a loss in one dimension can be compensated for by a gain in another. This point underpins quite rational refusals of compensation.

Limits of substitution over dimensions

Narmada dam: A person facing eviction from the place in which the life of their community has been lived for generations, facing the disintegration of that community can properly respond by saying that there is no good in other dimensions that can compensate for that loss.

- The loss of basic goods in the dimension of affiliation cannot be compensated for by a gain in other dimensions.
- There is no sum of money that can be offered that would maintain their level of welfare.

Constitutive incommensurability and welfare: Empirical observations.

1. Compensation offers to site potentially environmental damaging facilities (waste-treatment and waste-repositories) are sometimes interpreted as bribes. Offering financial compensation for siting such facilities does not improve acceptance and can even lower levels of support' (Frey et.al 1996)
 - Hosting a nuclear repository in Swiss town of Wolfenschiessen:
 - 50.9% willingness to accept without compensation
 - 24.6% willingness to accept with compensation
2. In-kind compensation which addresses particular public goods and dimensions of welfare can be acceptable where monetary compensation is not (Claro, 2007)
 - Sanitary land-fill in Santiago:
 - Public goods compensation > no compensation > monetary compensation.

3. The limits of the compensatory theory of justice

- What does rectificatory justice require?
- What is required to 'right a wrong'?
- Is 'righting a wrong' just a matter of restoring a level of well-being?
- 'Compensation by itself need not signal responsibility for injury, much less regret or atonement by those responsible.' (M. Urban Walker, 2006, 385)

‘Comfort women’:

- ‘Comfort women’: The refusal by many in South Korea and Taiwan to accept financial compensation from the Asian Women’s Fund.
 - It was not a Japanese state fund.
 - No official apology.
- Rectificatory justice requires the transgressor to act in ways that show acknowledgement of a wrong-doing.
- ‘Symbolic compensation’. Such compensation cannot be understood as a way of simply restoring a level of welfare – of making a person indifferent between the new state plus compensation and the prior level.

‘Pollution – transgression or transaction?’

‘Society regards and should regard pollution in the typical case as a social evil to be minimized, not as a social cost to be optimized.’ (Sagoff 2008 p.10)

Two framings of the problem

- Welfare-economic
- Ethical and political

Alternative approaches.

- Restorative justice:
 - Justice requires, through both material and symbolic means 'repair to relationships damaged by injustice – not to return to a state of affairs that existed before the injustice was done.' (Thompson, 2002, xix)
 - 'Compensation' is an expressive act of acknowledgement of a wrong and of atonement for it. It matters as part of redressing injury and injustice.
 - Expressive rationality: 'Practical reason demands that one's actions adequately express one's rational attitudes towards the people and things one cares about.' (Anderson 1993 p.18)
- Distributive justice