IN DEFENSE OF BATMAN: REPLY TO BRADLEY

BY GERALD LANG & ROB LAWLOR

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JOHN TAUREK ARGUED THAT, IN CONFLICT CASES, where we can save one group or another group of non-overlapping individuals but cannot save everyone, we should determine whom to save by flipping an unbiased coin, rather than simply saving the greater number.[1] We will subsequently refer to this principle as the "equal greatest chances" principle, or EGC principle. In response, a number of writers have defended the "saving the greater number" principle, or SGN principle.

In an interesting and ingenious article, Ben Bradley has outlined what he considers to be a decisive counterexample to the EGC principle.[2] We will argue that Bradley's argument is unsuccessful. That does not commit us to the EGC principle; our claim is only that the EGC principle can comfortably resist Bradley's critique of it. Furthermore, Bradley claims that his argument poses problems, not just for the EGC principle, but for any principle that deviates from the SGN principle in conflict cases. Our argument thus carries significant implications for anyone who is opposed to the SGN principle.

1. Bradley's Original Case

Bradley's argument relies on the claim that the EGC principle attaches significance to details about the timing of the decision of whom to rescue that ought, he suggests, to be deemed insignificant. Since this is so, he claims, the EGC principle must be false.

In Bradley's example – call it the *Original Case* – the Joker has captured three hostages: Alice, Bob and Carol.[3] At 12:00, he makes the following proposal to Batman, who is committed to the EGC principle:

> I am going to divide these three hostages randomly into two groups – a group of two and a group of one. I will let you determine which group you wish to save, and I will kill only the members of the other group. Indicate your decision by filling out this form, and checking the appropriate box. (Bradley 2009: 3)

As an adherent to the EGC principle, Batman will choose to save the larger group. This gives each of the hostages a two-thirds chance of being saved, as opposed to the 50 percent chance that they would have of being saved if Batman flipped a coin. So far, there is no discrepancy between the EGC principle and the SGN principle.

In the next stage of the story, the Joker randomly divides the three hostages into two groups: Alice and Bob are in the bigger group, while Carol is in the smaller group. So Batman's decision at 12:00 dictates that Alice and Bob are to be saved, and that Carol will not be saved. But here is the all-important twist. At 1:00, the Joker tells Batman that he has lost

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the form, and invites him to fill it out again. In contrast to the circumstances of his original decision, Batman is aware, at 1:00, of how the groups are composed.

Should Batman fill the form in as he had at 12:00, saving the larger group, or should he flip a coin to see which of the two groups – Alice and Bob, or Carol – should be saved? Bradley thinks that, as an advocate of the EGC principle, Batman will have to flip a coin at 1:00. Only by Batman's coin-flipping do all three parties, at this particular point, have an equal chance of being saved. But that is implausible, Bradley claims: If Batman favors the larger group at 12:00, then he cannot have good reason for flipping a coin at 1:00 simply because the Joker happens to have lost the form in the interim. Bradley remarks:

> This is a decisive counterexample against EGC. No plausible principle entails that Batman should fill out the form differently at 1:00. He knew at noon that this was one way things might turn out. By 1:00 he has gained no new information that could be relevant to his decision (Bradley 2009: 3).

Bradley's argument, we hold, does not refute the EGC principle. There are two responses available to defenders of that principle: the *Relevant Difference Response* and the *Prior Commitment Response*. The following sections will explore them.

2. The Relevant Difference Response

The Relevant Difference Response rejects Bradley's claim that "No plausible principle entails that Batman should fill out the form differently at 1:00." The central justification for the EGC principle, after all, is that we should show equal respect for *each* individual, and therefore give everyone the same chance of survival. This is precisely what Batman does at 12:00, and it is precisely what he does at 1:00. His decision changes because, due to the differences in the situations at 12:00 and 1:00, Batman's ways of equally respecting individuals at these two times are different.

Here, some may worry that Bradley's point is simply that there is not a morally relevant difference between Batman's choice at 12:00 and at 1:00, and that the Relevant Difference Response simply denies this. The worry, then, is that we just have a stalemate. What should defenders of the Relevant Difference Response say to break this stalemate?

Let us look at Carol, in particular. At 12:00, Carol has a two-thirds chance of being saved (because she has a two-thirds chance of being assigned by the Joker to the larger group). At 1:00, Carol has no chance of being saved if the SGN principle is applied (because she has already been assigned to the smaller group). The fact that Batman has reason to change his mind between 12:00 and 1:00 is therefore not an absurd or embarrassing feature of the EGC principle. At 1:00, Carol will not be treated with equal consideration, in fact, if Batman does *not* change his mind.

Bradley may be tempted to respond to this line of thought as follows: As soon as Batman decides, at 12:00, to favor the larger group, he

knows *that there will be someone* in the smaller group, even if he does not know whom that individual is. Why, then, should the revelation of this particular identifying information make any difference to what he should do at 1:00? Either he has already demonstrated equal concern for Carol, as well as for Alice and Bob, at 12:00, or he has not. If he has, then there is no reason for him to change his mind at 1:00. If he has not, it looks as though the wrong decision was made at 12:00.

In the following, we will argue that it is not absurd to think that the addition of the identifying information at 1:00 can make a genuine difference to what Batman should do at 1:00.

Imagine two separate worlds. In World 1, Batman is asked to choose only once, at 12:00, before the individuals have been assigned to groups. For the reasons already rehearsed, Batman will favor the larger group at 12:00. In World 2, Batman's choice is restricted to the choice he makes at 1:00, when the individuals have already been assigned to the groups. In World 2, Batman will flip a coin in order to determine which group should be saved. Individually, these claims seem to be unproblematic commitments of the EGC principle, tailored for different circumstances. Bradley holds, in effect, that these worlds cannot be *combined*: In the mixed world, World 3, in which aspects of World 1 are combined with aspects of World 2, Bradley holds that Batman cannot reasonably favor the larger group at 12:00 and then *also* favor equal chances at 1:00. But that is far from obvious. After all, at 12:00 Carol has a two-thirds chance of being saved. At 1:00, by contrast, she has *no* chance of being saved. This fact seems to constitute a morally relevant difference between Batman's choice at 12:00 and his choice at 1:00. If that is so, Batman ought to flip a coin at 1:00, even if, at 12:00, he ought to save the larger group. The only difference between Worlds 1 and 2 and World 3 is that Batman has two decision-making opportunities in World 3, but only one in the other worlds.

In the next section, we present an alternative explanation of why World 3 might be relevantly different. However, this explanation will not support Bradley's conclusion, and will not support the SGN principle.

3. The Prior Commitment Response

To pave the way, we start with a simpler conflict case. Imagine that the Joker has captured Alice and Bob – Carol is not involved in this case – and proposes to put one of them to death. Again, it is up to Batman whom gets to be saved. At 12:00, Batman flips a coin to see who is spared. The coin-flipping exercise favors Bob, and Batman fills out the form accordingly. But, again, the Joker loses the form, and at 1:00 Batman is invited to fill out a new form. Should Batman treat this as an entirely new exercise, and extend to both Alice and Bob an equal chance of being saved by flipping the coin again, or should he simply abide by the results of the earlier coin-flipping exercise?

A tempting reply is that Batman should abide by his original decision. But why? For this reason: At 12:00, two individuals are in danger,

and the result of the coin-flipping exercise is to exclude one of those individuals – Bob – from danger. If Batman were to flip a coin again at 1:00, ignoring the outcome of the earlier coin-flipping exercise, he would effectively be *reintroducing* Bob to the threat from which, at 12:00, Bob had already been exempted. Plausibly, the EGC principle should not countenance the *creation* of danger to individuals who have been previously exempted from danger by the operation of the EGC principle itself. Another way of putting this point is that, when Batman flips a coin at 12:00 and then indicates that Bob is to be saved, Bob effectively becomes a *bystander*. On this account, by flipping a coin again at 1:00, Batman would effectively be risking the redirection of an existing threat toward an innocent bystander.[4] If these thoughts are along the right lines, then Batman should not flip a coin at 1:00. He should simply reregister the decision he reached at 12:00.

The same basic lesson can be applied to the Original Case. At 12:00, it is decided, in effect, that whoever is assigned to the larger group is spared. These individuals turn out to be Alice and Bob. At 1:00, Batman should therefore not *reintroduce* Alice and Bob to the dangers from which, at 12:00, they had already been spared. This gives Batman a compelling reason for abiding by the original decision undertaken at 12:00. Thus, Bradley's argument does not show that we should reject the EGC principle in conflict cases. Rather, it shows that, in the Original Case, the EGC principle does not imply that Batman should flip a coin at 1:00, due to the prior commitment that he has incurred by the decision he makes at 12:00. The decision Batman makes at 12:00 has *already* satisfied the EGC principle. There is no need for him to make a further decision at 1:00.

4. Relevant Difference or Prior Commitment?

The Relevant Difference Response and the Prior Commitment Response both possess some initial promise, but they suggest different outcomes. Which of them should we be guided by?

To help us to explore these issues, imagine the *Laughing Case*: When Batman makes his choice at 12:00, the Joker tears up the form, laughs in Batman's face and reveals that he had already assigned the individuals to their groups.[5] In the Laughing Case, it should be obvious that Batman's choice at 12:00 fails to remove anyone from harm's way. Even if Batman takes himself to have made a choice at 12:00, the Joker pays no heed to it. Batman may as well have made no choice at all.

We believe that different cases require different answers. In Bradley's Original Case, the Prior Commitment Response provides the better response. Batman's task is to save individuals whom the Joker endangers, not to *contribute* to that endangerment. In the Laughing Case, the Relevant Difference Response is the better option, precisely because there is no prior commitment.

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[4] See also Frowe (2007).

[5] We thank Daniel Elstein, in particular, for suggesting this case, and for discussion of it.

5. Avoiding an Uncomfortable Conclusion

We stated at the beginning that Bradley considers his argument to be conclusive against *any* departure from the SGN principle. We have disputed Bradley's argument by suggesting that Batman's refusal to change his mind at 1:00 in the Original Case can be explained by the Prior Commitment Response instead. This reasoning keeps the EGC principle, as well as more pluralist positions, in play as rivals to the SGN principle.[6]

Furthermore, there is also reason to believe that the Prior Commitment Response does a *better* job than the SGN principle of explaining why Batman should not change his mind at 1:00. Bradley concedes that if his argument is extended to certain other cases, it will deliver results that some will find "uncomfortable" (Bradley 2009: 9). Bradley presents a variation of the Original Case, which we will call the *Sore Throat Case*:[7]

> Suppose Alice, Bob and Carol all have sore throats. The Joker gives Batman the following choice at noon: "I will randomly choose two of the hostages to put on opposite sides, left and right. One of those two will be killed, and the other will live. The third will live no matter what. You must decide, now, by filling out this form, whether to save the person on the left ("Lefty") or the person on the right ("Righty"). If you save Righty, I'll cure the third's sore throat." (Bradley 2009: 10).

At 12:00, due to this narrow sore-throat-curing advantage, Batman favors "Righty," who then turns out to be Bob. Because Righty is favored, Carol's sore throat will be cured. "Lefty" is Alice, who is condemned to be killed. Joker then loses the form, as before. What should Batman do at 1:00?

Bradley thinks that Batman has no reason to change his mind in the Sore Throat Case. And Bradley also thinks that curing someone's sore throat should serve as a tiebreaker in any case in which we could either save one life or could save one life and cure a sore throat. Bradley is prepared to live with these consequences because, on his view, opponents of the SGN principle cannot supply a convincing alternative explanation of why Batman should not change his mind at 1:00. One major advantage of the Prior Commitment Response is that it permits opponents of the SGN principle to provide such an explanation without having to embrace the uncomfortable conclusion that curing Carol's sore throat outweighs the value of flipping a coin, which would give Alice a chance of survival. Thus we believe that our account is not merely an alternative explanation, but actually a better explanation of why Batman should not change his mind at 1:00.[8]

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[6] For examples of a pluralist account, see Lang (2005) and Lawlor (2006).

[7] Bradley is here pursuing a disagreement with Frances Kamm. See Kamm (1998).

[8] The material in this discussion note has been extracted from a longer paper that was presented by the authors at the ISUS XI Conference, Lucca, Italy, June 2011; the Society of Applied Philosophy Conference, University of Manchester, July 2011; and the Centre of Ethics and Metaethics seminar, University of Leeds, October 2011. It received very helpful comments on each of those occasions. We thank, in particular, Ian Carter, Thomas Douglas, Daniel Elstein, Nir Eyal, Helen Frowe, Ulrike Heuer, Iwao Hirose,

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