Ethics, Public Policy, and Technological Change

Rob Reich

Mehran Sahami

Head TA: Roberta Fischli

Housekeeping

- Friday sections will discuss privacy and a case study on facial recognition
- Sample philosophy papers available. Please use the many other resources.

Data Collection, Privacy, Civil Liberties: Tensions & Tradeoffs

1. Prelude: a pedagogical experiment
2. Approaches to Privacy
   - Notice and Consent, Terms of Service
   - Market Solutions to Privacy
   - Policy Solutions to Privacy
3. Privacy and Tensions with Other Values: Security, Safety, Innovation
4. Resolving Tradeoffs: the utilitarian approach and cost-benefit analysis

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Devices in the Classroom

Research on tech use in the classroom shows:

1. Writing by hand increases your retention and engagement

2. Using a laptop in classes decreases learning

   - standing temptation to multi-task
   - even if not distracted, worse conceptual learning as compared to handwriting

3. Distract others around you. Second-hand smoke effect

We'll be piloting a class experiment motivated by this research

Handwriting notes >
Typing notes >
AI summaries

Handwriting Increases Retention

Research Article

The Pen Is Mightier Than the Keyboard: Advantages of Longhand Over Laptop Note Taking

Pam A. Mueller[1] and Daniel M. Oppenheimer[2]
[1]Princeton University and [2]University of California, Los Angeles

Handwriting but not typewriting leads to widespread brain connectivity: a high-density EEG study with implications for the classroom


F. R. (Ruud) Van der Weel

Audrey L. H. Van der Meer*

Developmental Neuroscience Laboratory, Department of Psychology, Norwegian University of Science and Technology, Trondheim, Norway

Over a decade of research supports the idea that writing by hand increases retention… New brain data supports this!

Why? “[W]hen taking notes by hand, it’s often impossible to write everything down; **students have to actively pay attention** to the incoming information and process it—prioritize it, consolidate it and try to relate it to things they’ve learned before. This conscious action of building onto existing knowledge can make it easier to stay engaged and grasp new concepts.” (SciAm, 2024)

Digital Distraction

Digital distraction is when your focus shifts from an academic to a non-academic task. (Reducing focus and increasing cognitive load.)

Research shows how devices enable this: think about how many times you check your email, texts, social media, or browse the internet or texts during homework or class.

And it impacts those nearby! Research shows that regardless of where laptops are near the student, classroom laptop use negatively impacts learning. (Hall, 2020)

If you're curious, track how many times you switch between academic and non-academic tasks during lecture or homework.

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The Secondhand Smoke Effect

How nearby device use harms *your* learning

Perhaps the most compelling evidence concerns students who aren't using devices but sit near those who are.

Large Lectures Amplify Effects

1

Unavoidable Secondhand Effects

In a 100-person lecture hall, students cannot choose to sit away from all device users. The distraction externality becomes unavoidable.

2

Longer Presentations

Research shows handwriting advantages are more pronounced for pronounced for longer presentations.

3

Passive Learning Risk

Large lectures already tend toward passive reception. Active Active processing forced by handwriting counteracts this inherent inherent passivity.

4

Impossible Monitoring

Instructors cannot observe off-task behavior in large classes, classes, making policy-based approaches more practical than case-than case-by-case intervention.

Class Experiment: Tech-Free Zone

Starting today, the front row of the class will become our tech-free zone.

- No laptops, tablets, or AI note takers. [But dedicated, no internet digital notetaking via stylus is allowed; eg., ReMarkable tablet]
- Instructors aren't scary. If you want to take part in our experiment and learn more about your notetaking and (hopefully) learn more from the class, come join!
- And remember that we post all slides online, so no need to worry about catching every detail during class.

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Perspectives on Data Privacy

Data privacy often involves a balance of competing interests and values

- Why make data available for meaningful analysis?
  - For public goods
    - Auditing algorithmic decision-making for fairness
    - Innovation, eg., medical research and health care improvement
    - Protecting national security and personal safety
  - For private goods
    - Personalized advertising

- Why protect individual privacy?
  - Personal value of privacy and respect for individual
  - Freedom of speech and activity
  - Protect autonomy and self-determination
  - Prevent surveillance access from “adversaries”

Going Too Far?

What we commonly accept right now:

- The ability of social networks to connect you with who they think you want to connect with
- The power of recommendation systems to predict what you want
- The ability of advertisers to precisely target you
- Surrendering your data in return for convenience and free access to an app or website

These same technologies can be put to uses with less benign consequences:

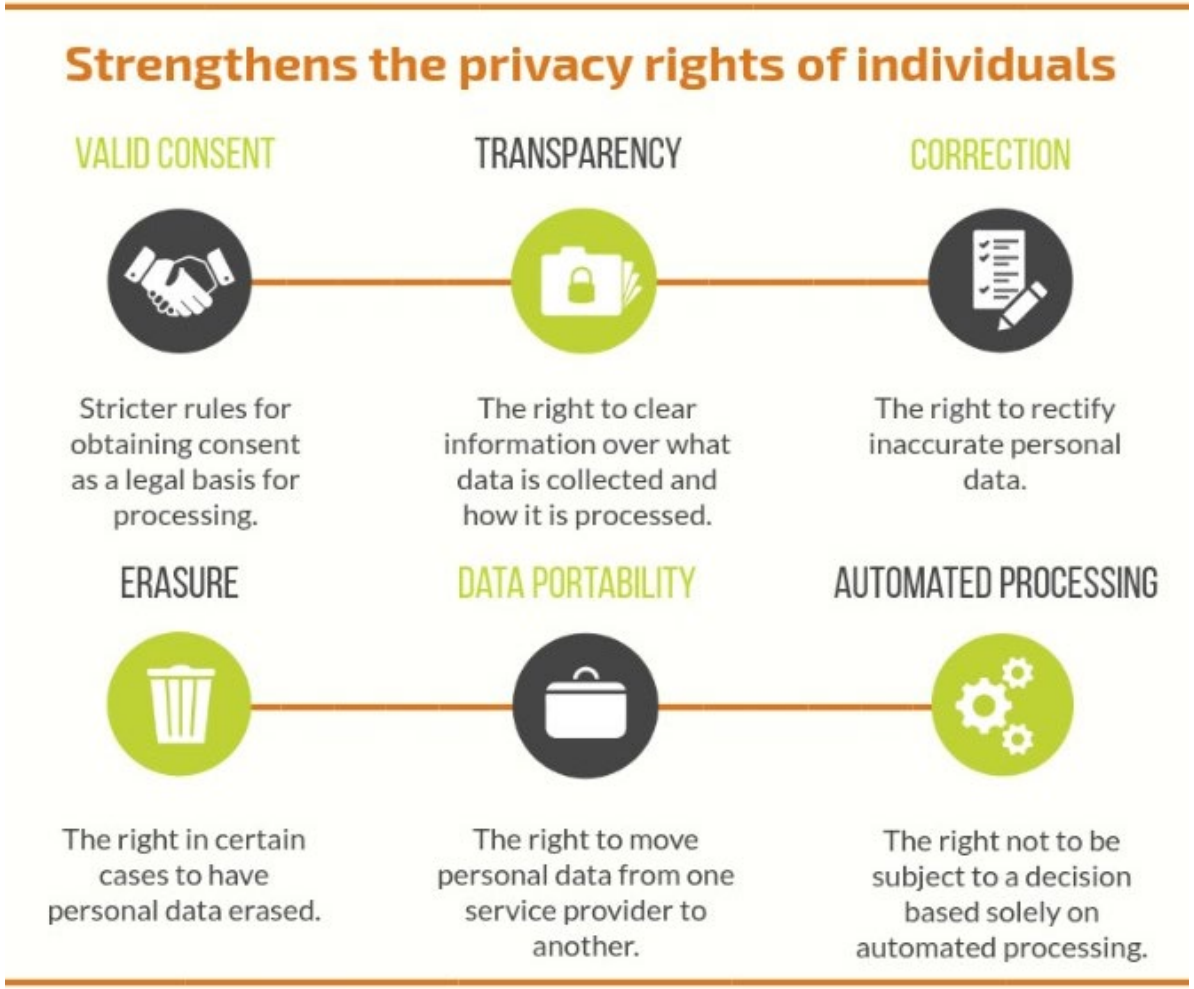
- Targeting in political campaigns (by candidates, foreign actors)
- Government surveillance (e.g. terrorism, immigration, etc.)

Can Technology Save Us?

What did we learn from Mehran?

1. Anonymization is kind of dead end
2. Encryption has been pretty effective so far but
   - quantum computing may defeat the public key and
   - if we successfully encrypt, we lose other things we care about (e.g. the right of government agencies to access data to protect people's safety and security)
3. Differential privacy is limited in its application (protecting privacy in the context of statistical analysis and predictions)
4. Plus it is getting worse every day: digital trails, data aggregation, facial recognition, AI, etc.

Europe's Approach: GDPR



Far-Reaching and With Teeth

- Complete overhaul of data protection framework
- Applies across all member states of EU
- Applies to all organizations processing the data of EU residents – wherever those organizations are based
- Administrative penalties for breach of up to 4% of global revenue
- Data subjects have a right to bring actions (in their home state) and to receive damages if their rights have been breached

Facebook and GDPR

- Perhaps it will create pressure for regulatory convergence?

Commenting on the GDPR:

“We’re still nailing down the details on this, but it should directionally be, in spirit, the whole thing.”

Mark Zuckerberg to Reuters (April 2018)

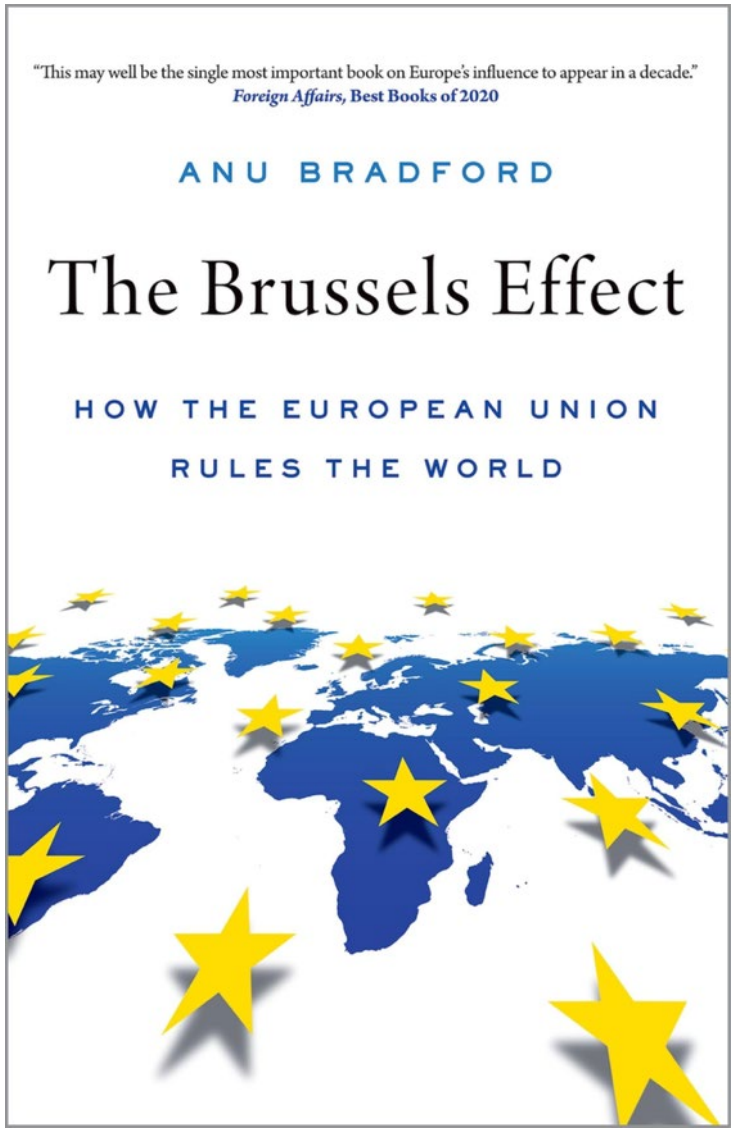
“We’re going to make all the same controls and settings available everywhere, not just in Europe.”

Mark Zuckerberg (in a call to clean up the prior comment)

The Brussels Effect

The “Brussels Effect” describes how EU regulation shapes behavior far beyond Europe.

- When the EU adopts strict rules, firms often comply globally, not just in Europe
- Why? Running multiple regulatory regimes is costly; the EU market is too large to ignore
- As a result, EU rules become de facto global standards
- GDPR illustrates this dynamic: many companies extend GDPR-style protections worldwide
- This is regulation by market power, not international agreement



Notice and Consent

More generally, the U.S. approach to data held by companies is based on a combination of disclosure and choice.

U.S. entities inform individuals of their respective information-flow practices and provide people with a choice to consent or not. Accept or reject our “terms of service.”

This approach has a broad appeal given:

1. A familiar conception of privacy as the right to control information about oneself
2. A commitment to notions of a competitive free market, in which people can go elsewhere if they don’t like the terms of service

The Reality of Notice and Consent

Key assumptions:

1. Individual preferences and choice
2. Marketplace provision of options
3. Social tradeoffs

The challenge of preferences:

- Difficult to measure
- Privacy paradox
- Context dependent
- Malleability
- Instability

Notice and Consent: In Practice

For the current light-touch approach to privacy regulation to work, three things must be true:

1. Individuals must be able to make informed, rational choices about the costs and benefits of different privacy policies
2. The market must be able to deliver a diversity of products with different privacy settings
3. We must be able to achieve the societal balance that we want between privacy and other values via a set of decentralized decisions

Are these things true in practice?

Measuring Preferences

How can you measure preferences regarding privacy and information sharing?

Three main approaches in social science:

1. Public opinion polls (stated preferences)
2. Examining privacy behaviors (revealed preferences)
3. Willingness to pay for privacy

1a. Surveying People

- **Fundamentalists** are generally distrustful of organizations that ask for their personal information, worried about the accuracy of computerized information and additional uses made of it, and are in favor of new laws and regulatory actions to spell out privacy rights and provide enforceable remedies…

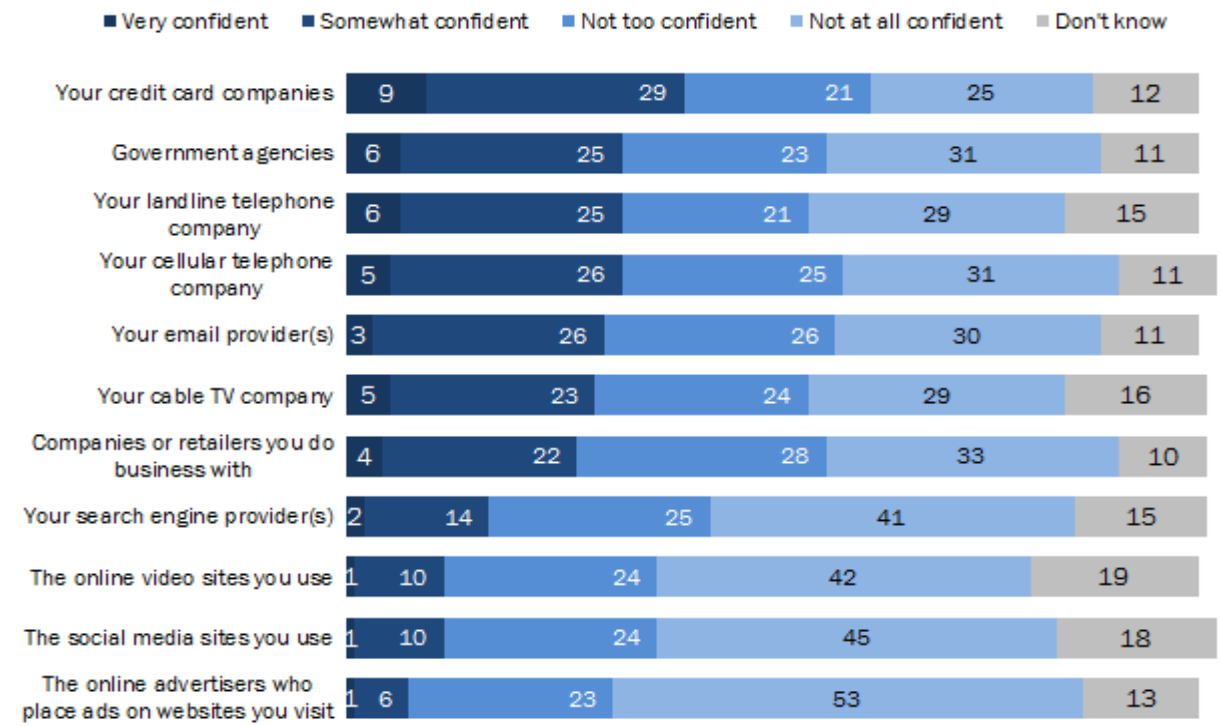
- **Pragmatists** weigh the benefits to them of various consumer opportunities and services, protections of public safety or enforcement of personal morality against the degree of intrusiveness of personal information sought and the increase in government power involved….

- The **Unconcerned** are generally trustful of organizations collecting their information, comfortable with existing procedures and not in favor of new privacy laws or regulations.

1b. Surveying Institutions

Few express confidence that their records will remain private and secure

% of adults who express varying levels of confidence that the records of their activity maintained by various companies and organizations will remain private and secure



Source: Survey conducted August 5, 2014-September 2, 2014. Refused responses are not shown.

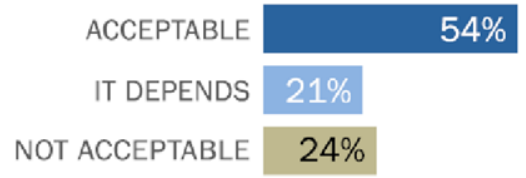
PEW RESEARCH CENTER

1c. Surveying Scenarios

% of adults who would find these different scenarios acceptable or not acceptable

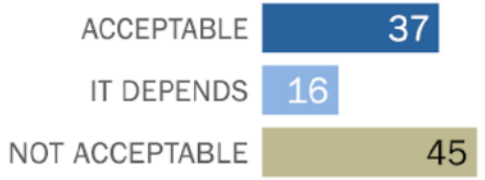
Office surveillance cameras

Several co-workers of yours have recently had personal belongings stolen from your workplace, and the company is planning to install high-resolution security cameras that use facial recognition technology to help identify the thieves and make the workplace more secure. The footage would stay on file as long as the company wishes to retain it, and could be used to track various measures of employee attendance and performance.



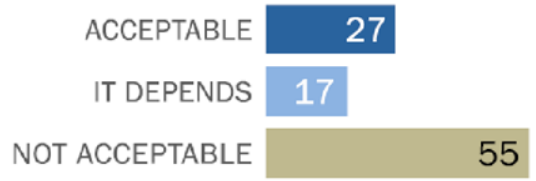
Auto insurance

Your insurance company is offering a discount to you if you agree to place a device in your car that allows monitoring of your driving speed and location. After the company collects data about your driving habits, it may offer you further discounts to reward you for safe driving.



Smart thermostat

A new technology company has created an inexpensive thermostat sensor for your house that would learn about your temperature zone and movements around the house and potentially save you on your energy bill. It is programmable remotely in return for sharing data about some of the basic activities that take place in your house like when people are there and when they move from room to room.



2. Measuring Behavior

Welcome to the Privacy Paradox

Why we say we care about privacy but act like we don’t.

Pizza over privacy!

Susan Athey, Stanford Economics

The Core Disconnect

What We Say

"Privacy is extremely important to me"

"I'm very concerned about my data"

What We Do

- Share personal data for free pizza
- Accept default settings without reading
- Choose convenience over protection

3. Willingness to Pay

- Another strategy is to estimate how much people value privacy in monetary terms.
- One study estimated that students would be willing to pay between $30 and $44 to use a website that protected against improper access and secondary use of their data.
- But these estimates do not seem stable:
  - An experiment offered gift cards to people at a mall $10 for an anonymous gift card and $12 for one that was trackable.
  - They were all offered the opportunity to trade.
  - 50% of those who got the anonymous card kept it; only 9% of those who got the trackable card switched
  - People value privacy more when they have it than when they do not

3. Willingness to Pay

(A) $10
Anonymous

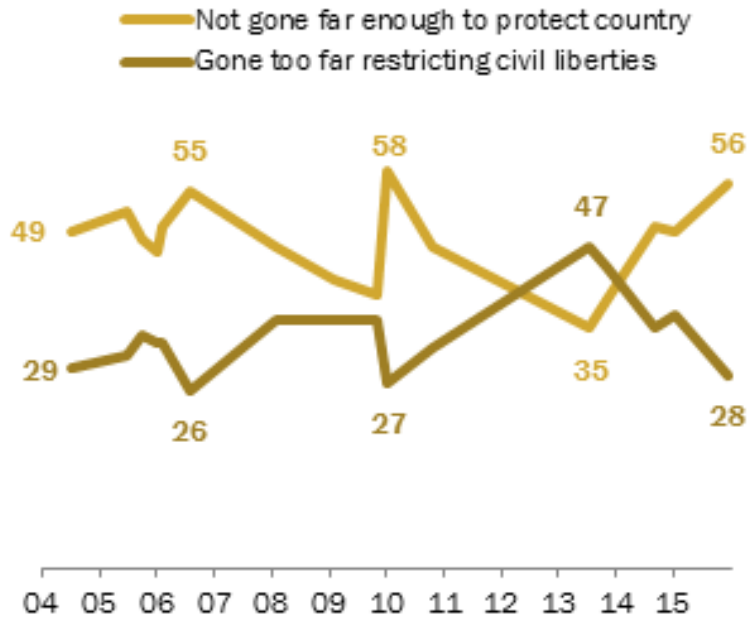
(B) $12
Trackable

50% with (A) kept it, but only 9% with (B) traded

Preferences Depend on Context

Public's shifting concerns on security and civil liberties

Bigger concern about govt anti-terrorism policies? (%)



Source: Survey conducted Dec. 8-13, 2015.
Don't know responses not shown.

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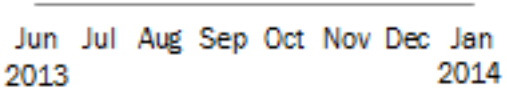
Post-Snowden, increased opposition to gov't surveillance

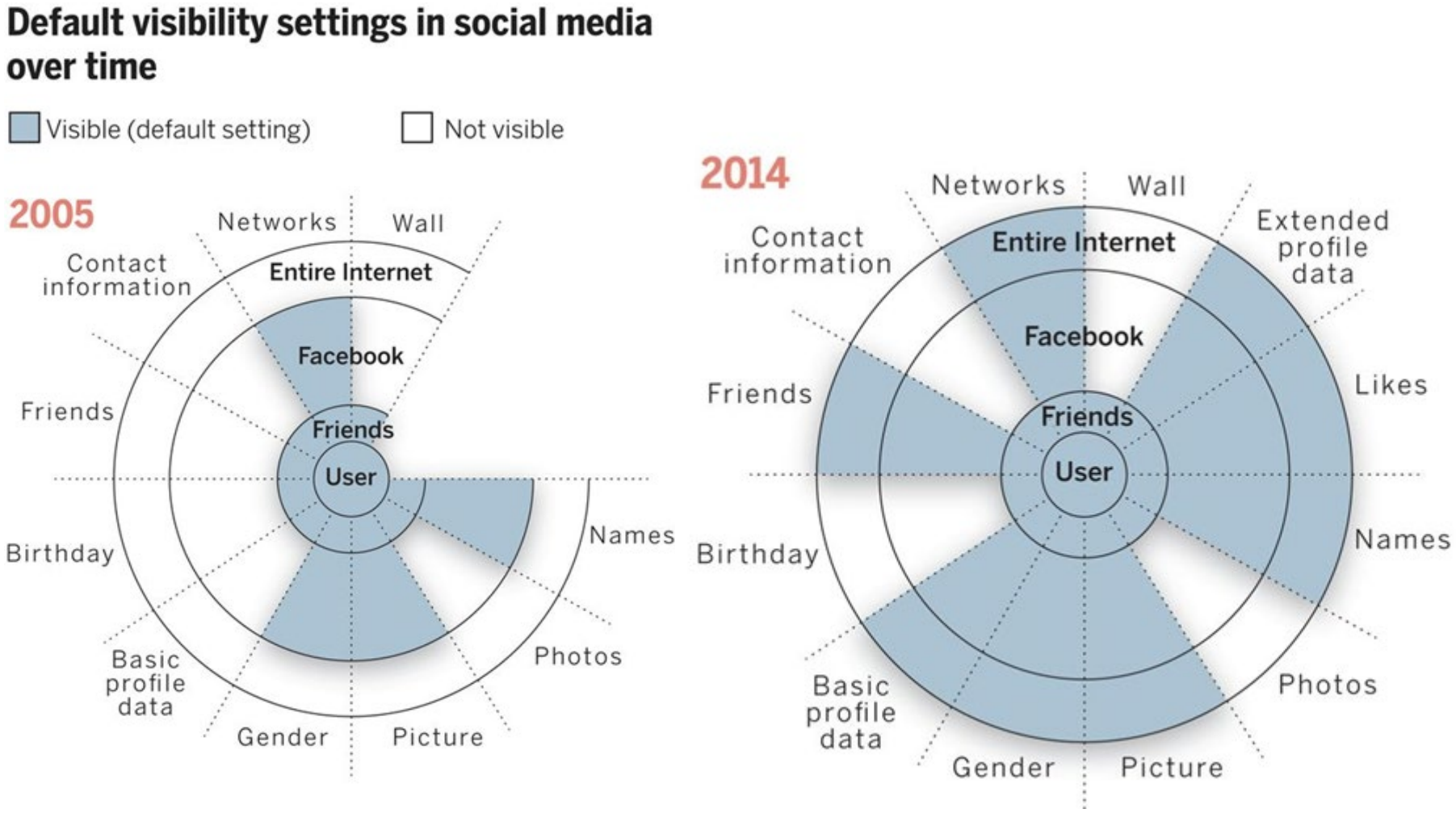
The government's collection of telephone and internet data as part of anti-terrorism efforts



Survey conducted Jan 15-19, 2014.

PEW RESEARCH CENTER/USA TODAY

Preferences are Malleable



The Challenge with Preferences

- They are difficult to measure
- They do not correlate with behavior
- They are context dependent, malleable
- They are unstable

- This is a problem for models of consumer choice
  - A market model depends on individuals being able to choose the products that have the features they most want

- Note: this is **also** a problem for democratic politics
  - One job of politicians is to represent the preferences of the public

A Competitive Marketplace?

Image: Flickr, CC BY 2.0

So What Do We Do?

- Hard to agree on a definition of privacy
- Technical solutions address only part of the challenge
- We are trying to balance a set of competing interests and values

Is this a problem for…

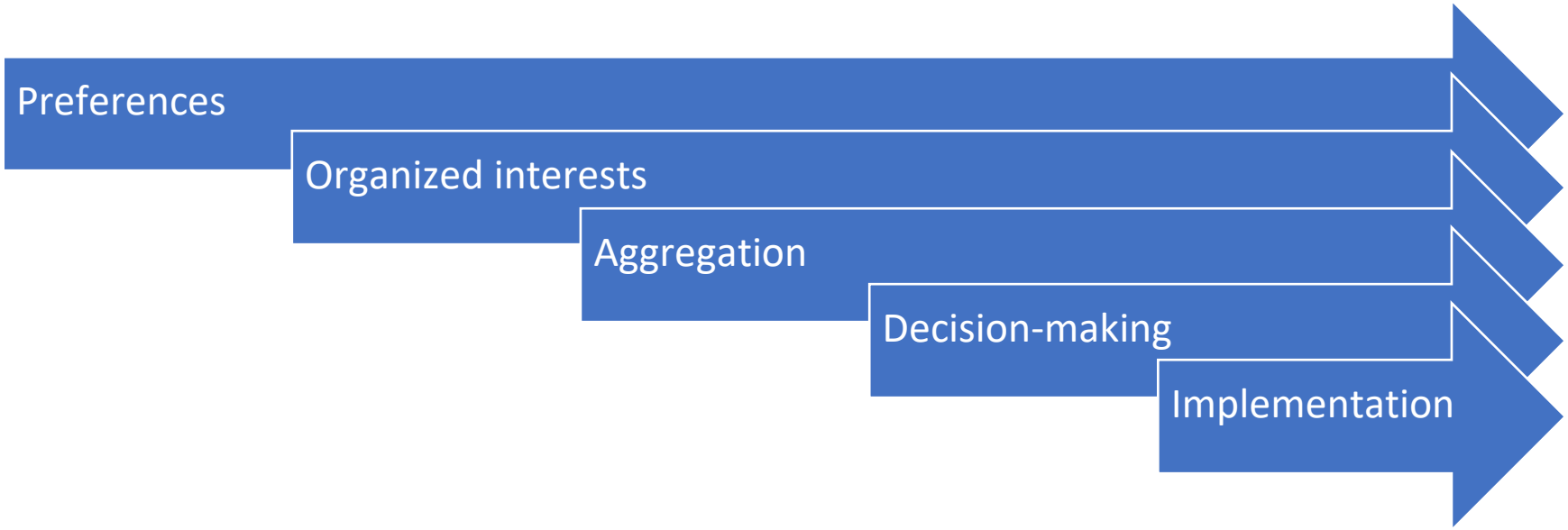
Generating Hypotheses

Why does Europe adopt more a more assertive regulatory approach, while the United States relies on self-regulation and privacy self-management?

- Different values (as a function of experience, constitution, etc.)
- Pressure from organized interests, groups
- Partisan and electoral competition
- Bureaucratic interests

Breaking Governance Down

How are policies adopted in a democracy? It requires thinking about:



The Role of Organized Interests

So if policy choices are unlikely to reflect some aggregate assessment of what the public wants, what do they reflect?

What kinds of interest groups organize to influence the policy process on data privacy? What do you think they want?

Corporations

Image: Intel Website

States and Municipalities

CCPA	GDPR
Requires consent from individual	Has a legitimate interest component
Wide definition of personal information	Defines PII and sensitive information
Allows for opt-out	Defaults for opt-in
Fines up to millions of dollars	Fines up to millions of dollars
Private right to action, class suits	Public complaint to enforcement agency

CALIFORNIA CONSUMER PRIVACY ACT OF 2018

Image: Flickr, CC BY 2.0

Should the US Become More Like Europe?

- Supporters of notice and consent “see regulatory protection of privacy as interfering with the fundamentally benign trajectory of information technologies and the benefits they unlock” and argue that individuals should be able to make their own self-interested decisions about what to disclose

- Others argue that “regulatory intervention may be needed to balance the interests of the subjects of data against the power of commercial entities and governments holding that data”

- Where do you come down?

But GDPR is Far from Perfect

- The critics say that GDPR:
  - Has strengthened the largest companies, and penalized small and medium sized businesses
  - Is cost prohibitive to comply with
  - Threatens innovation and research
  - Has not generated greater trust online
  - Increases the power of government under the pretense of protecting the consumer
  - Doesn’t incentivize private sector innovation to protect privacy

Source: Testimony of Roslyn Layton, U.S. Senate Judiciary Committee, March 2019

A case against the General Data Protection Regulation

BROOKINGS

Niam Yaraghi
June 11, 2018

By limiting the capability of Facebook to collect and use such data, GDPR effectively limits the ability of consumers to pay for such services with their private information. . . .
Without collecting extensive data on users and their preferences, Google will not be able to provide its users with tailored and highly relevant results.

How Far Do Pop-Ups Get Us?

Image: Flickr, CC BY 2.0

An Honest Take

Are individuals up to the challenge of navigating privacy in the information age?

Social scientists are skeptical (Acquisti et al 2015). Lawyers are concerned (Solove 2013). Information scientists doubt it (Nissenbaum 2011). Why?

1. People are uncertain about their preferences
2. Preferences are context dependent
3. Privacy preferences can be manipulated
4. Privacy self-management does not scale well
5. People cannot factor in aggregation
6. People cannot anticipate harm

Alternatives?

1. Comprehensive privacy regulation, but the challenge is that this denies people the freedom to make choices (paternalism)
    - It is not always clear how to trade off privacy and data use
    - There are social benefits to data aggregation and benefits

2. Improving privacy self-management through:
    - Opt-in consent rather than opt-out consent
    - Managing privacy globally rather than locally
    - Shift to managing downstream use
    - Codify basic privacy norms about what is not acceptable

The Time for Debate is Now

If bipartisan cooperation can be achieved on anything, comprehensive privacy legislation is the low-hanging fruit.

A super majority of registered voters want a federal bill from Congress.

Time to do your homework!

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Tradeoffs

1. Privacy vs. national security
2. Privacy vs. personal safety
3. Privacy vs. innovation

Rival Values?

Privacy versus **National Security?**

Does national security override concerns about privacy?

Privacy vs. Security?

Apple vs the FBI:

Should the government be able to compel Apple to unlock the iPhone of a suspected terrorist?

In Apple Debate on Digital Privacy and the iPhone, Questions Still Remain

By Eric Lichtblau

March 28, 2016

WASHINGTON — A furious legal battle over digital privacy in the age of the iPhone ended on Monday with no clear winner — only lingering questions over what will happen the next time the government tries to force Apple to help break into one of its own phones.

The Justice Department on Monday announced that it had gotten what it wanted most immediately in the case of the San Bernardino terrorist attack: a way to unlock the iPhone used by one of the shooters to determine what evidence it might hold, even without Apple's assistance.

But that development forestalls a court ruling on the bigger legal questions that have been so hotly debated since the case erupted last month when a judge in California ordered Apple to unlock the phone used by Syed Rizwan Farook.

The legal debate in that state offered what many legal analysts saw as a powerful test case for the Justice Department to establish its position. But that verdict will now have to wait for another day.

Source: Eric Lichtblau (March 28, 2016), "In Apple Debate on Digital Priacy and the iPhone, Questions Still Remain, The New York Times

Privacy vs. Security?

White Supremacists move to Signal and Telegram

Very limited capacity to monitor what happens on end-to-end encrypted platforms.

Is 100% privacy the right trade-off?

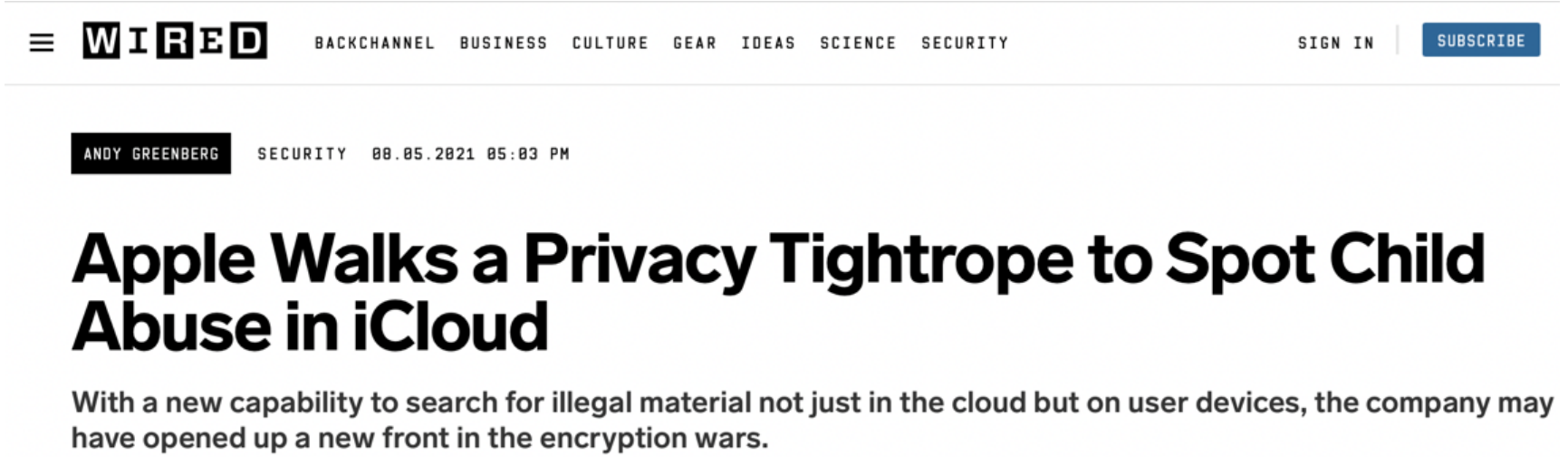
Millions Flock to Telegram and Signal as Fears Grow Over Big Tech

The encrypted messaging services have become the world's hottest apps over the last week, driven by growing anxiety over the power of the biggest tech companies and privacy concerns.

Source: Jack Nicas, Mike Isaac and Sheera Frenkel (Jan. 13, 2021), "Millions Flock to Telegram and Signal as Fears Grow Over Big Tech," New York Times

Images from the public domain

Privacy vs. Personal Safety?



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Apple Walks a Privacy Tightrope to Spot Child Abuse in iCloud

With a new capability to search for illegal material not just in the cloud but on user devices, the company may have opened up a new front in the encryption wars.

Source: Andy Greenberg (Aug. 2021), “Apple Walks a Privacy Tightrope to Spot Child Abuse in iCloud,” WIRED.

Privacy vs. Innovation?

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All Those 23andMe Spit Tests Were Part of a Bigger Plan

CEO Anne Wojcicki wants to make drugs using insights from millions of customer DNA samples, and doesn't think that should bother anyone.

By Kristen V Brown

November 4, 2021, 2:00 AM PDT

Source: Kristen V Brown (November 2021), "All Those 23andMe Spit Tests Were Part of a Bigger Plan," Bloomberg.
Image: Drew Hays, Unsplash (Unsplash licensing agreement)

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Utilitarianism

Sum up all the values of all the pleasures on the one side, and those of all the pains on the other. The balance, if it be on the side of pleasure, will give the good tendency of the act upon the whole, with respect to the interests of that individual person; if on the side of pain, the bad tendency of it upon the whole.

Jeremy Bentham

Jeremy Bentham's Auto-Icon attends a 2013 University of College London Meeting

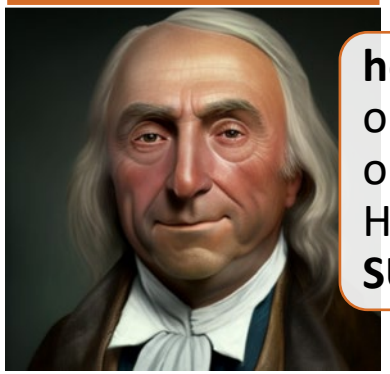
Utilitarianism

What is Utilitarianism? a *general theory of what is valuable* and of *right action*.

1. A Theory of the Good?

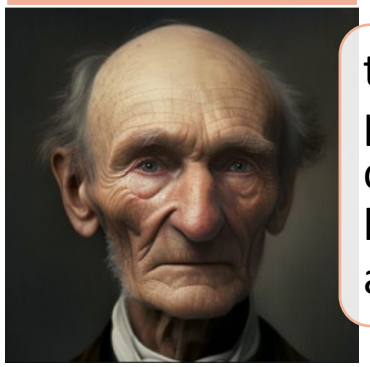
A **Theory of what is valuable**: happiness (and only happiness) is intrinsically good.

Bentham



hedonistic view. Only pleasure or happiness is intrinsically good; only pain intrinsically bad. Happiness is constituted by **SUBJECTIVE** experiences.

J. S. Mill



there are higher and lower pleasures. Happiness is constituted by enjoyment of higher pleasures. An **OBJECTIVE** account.

Images (Top to Bottom): Lorenzo Manuali, Generated by MidJourney AI, "Jeremy Bentham, hyperrealistic, smirk, photorealism, beautiful"; Lorenzo Manuali, Generated by MidJourney AI, "John Stuart Mill, beautiful, hyperrealistic, photorealism"

Utilitarianism

What is Utilitarianism? a *general theory of what is valuable* and of *right action*.

2. A **Theory of the Right**

The right action is that action, of all available alternatives, that produces the **greatest net balance of happiness.**

Image: Lorenzo Manuali, Generated by MidJourney AI, “Jeremy Bentham jumping up and down with unfettered glee, photorealism, beautiful ”

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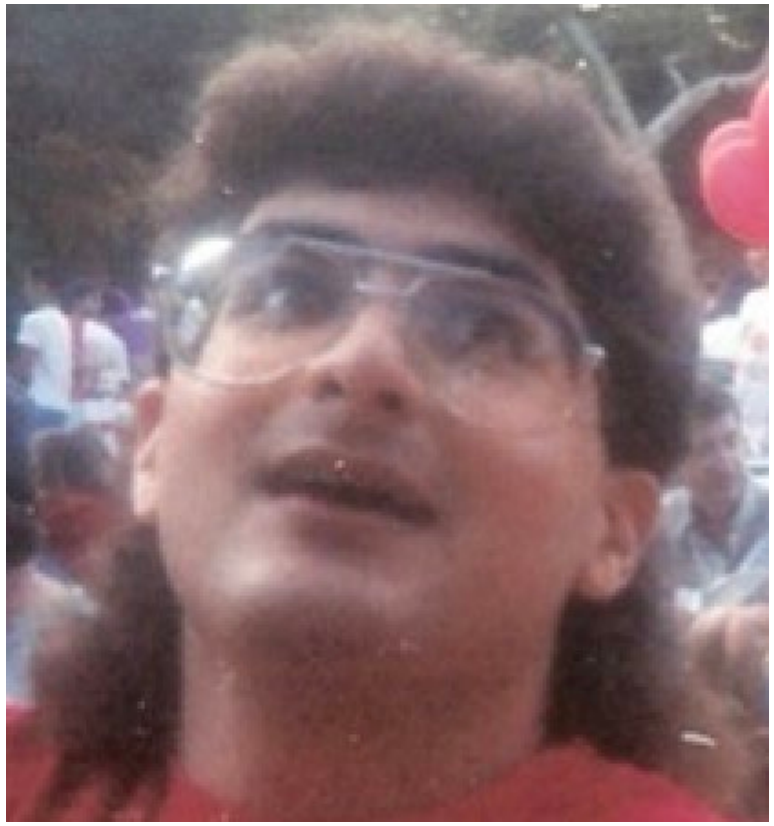


Image: Courtesy of Mehran Sahami

Utilitarianism

A *general theory of what is valuable* and of *right action*.

1. A Theory of the Good

A theory of what is valuable: happiness (and only happiness) is intrinsically good.

2. A Theory of the Right

The right action is that action, of all available alternatives, that produces the **greatest net balance of happiness.**

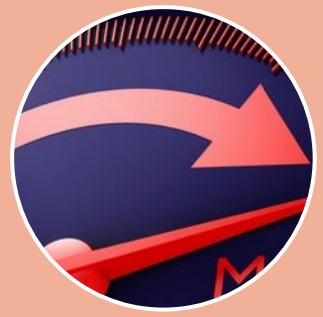
Utilitarianism

Utilitarianism has four core elements

Consequentialism: right and wrong to be determined by an action's consequences, real world states of affair. Intentions unimportant.

Hedonism: what matters most fundamentally is pleasure and pain; or happiness.

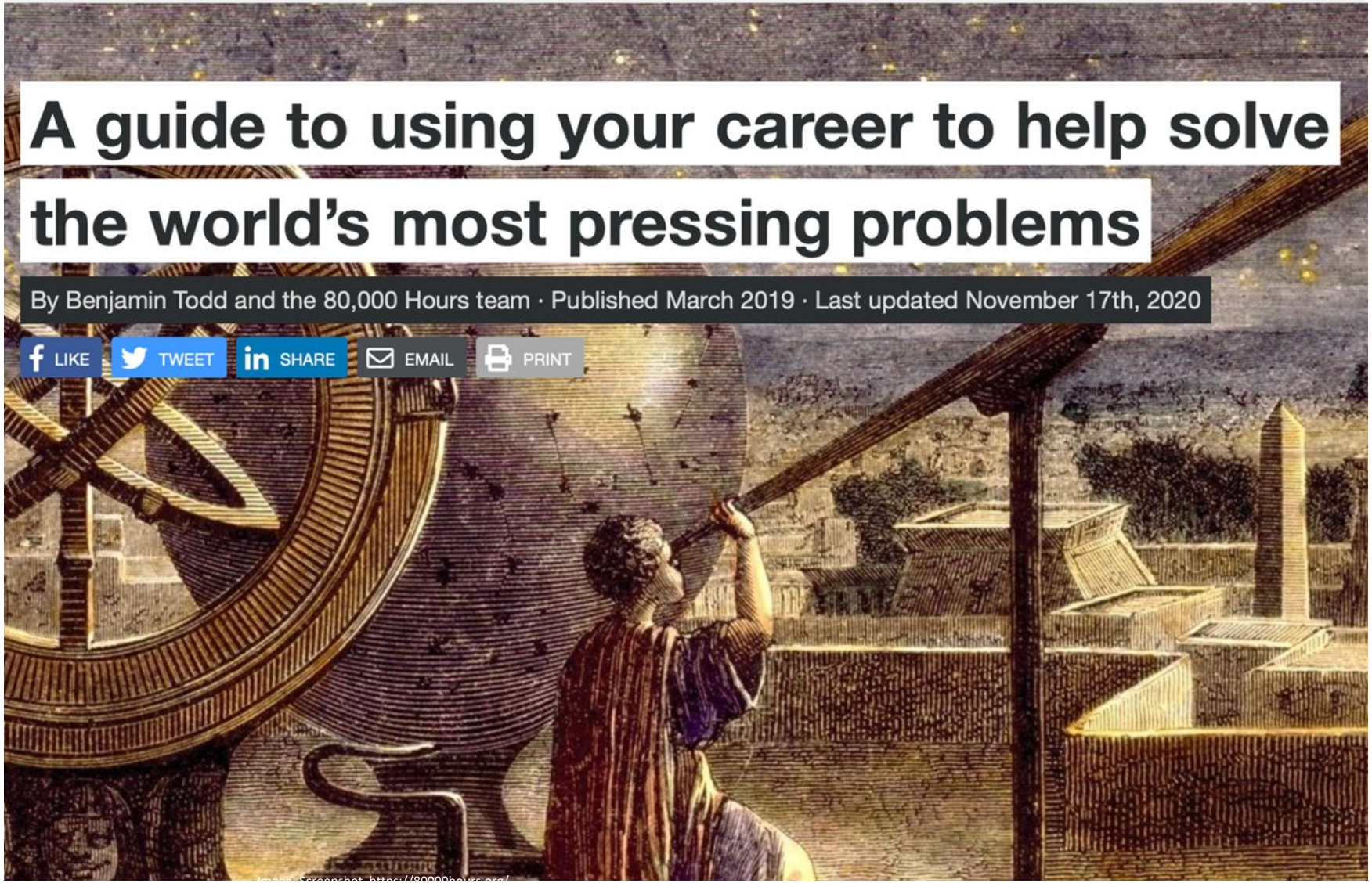
Impartiality: each person counts in the utilitarian calculation, and each person counts equally.



Aggregation: objective function is to maximize is the total sum of happiness.

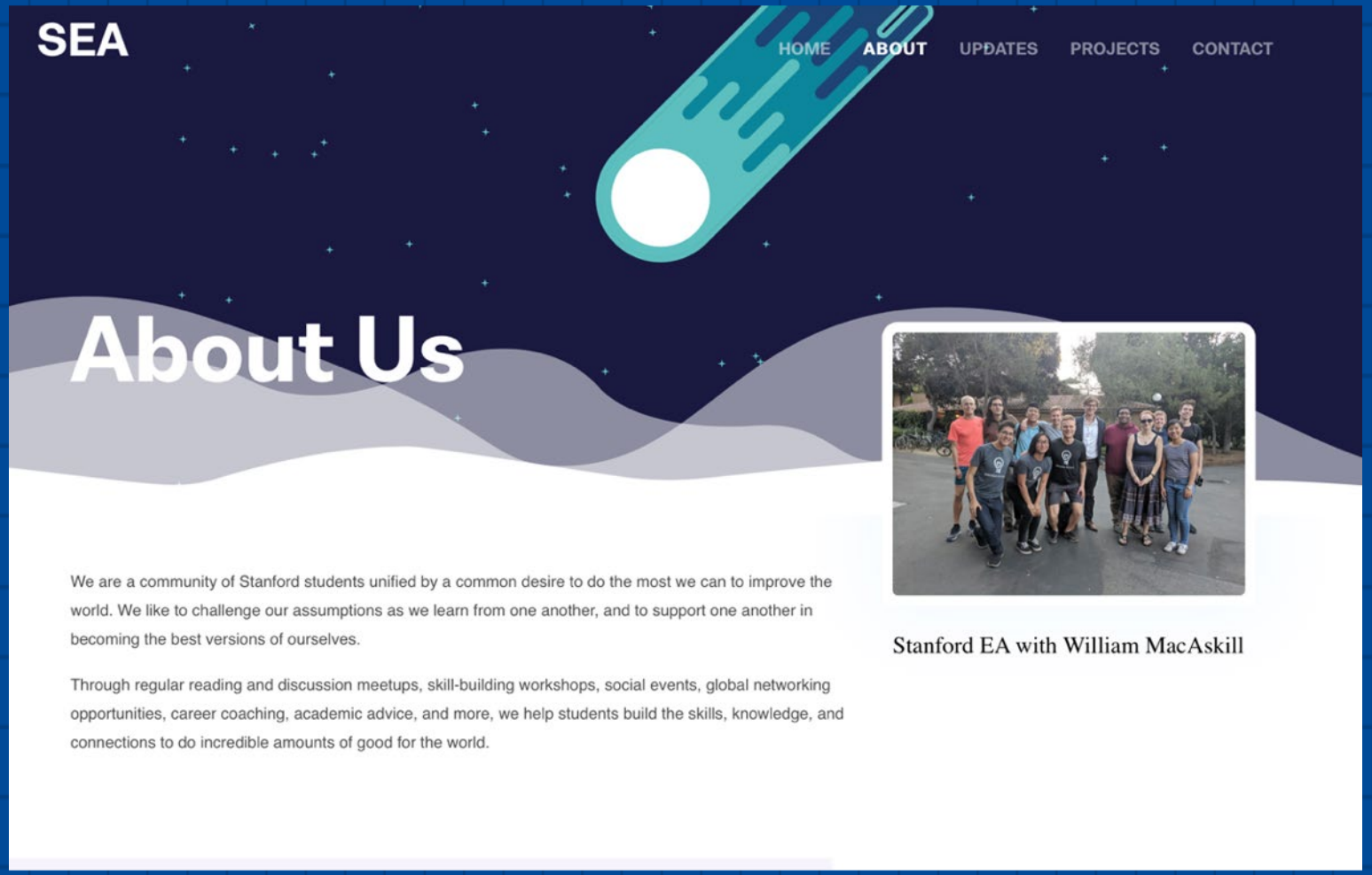
A guide to using your career to help solve the world's most pressing problems

By Benjamin Todd and the 80,000 Hours team · Published March 2019 · Last updated November 17th, 2020



Effective Altruism

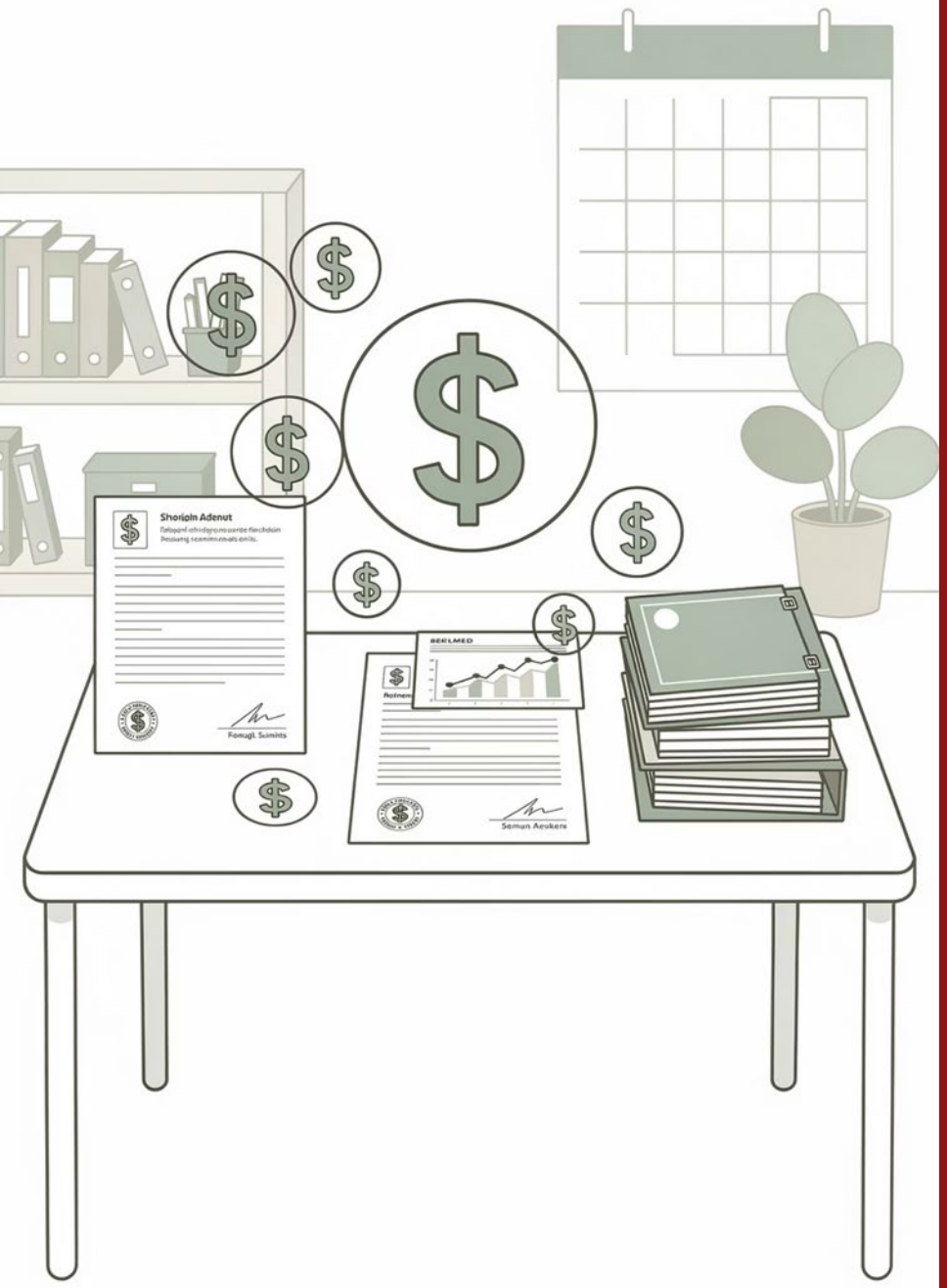
How to maximize the good you can do?



Agree?

Disagree?

Image: Screenshot, https://ea.stanford.edu/



Cost-Benefit Analysis

A systematic framework for evaluating policy decisions by weighing gains against losses

What Is Cost-Benefit Analysis?

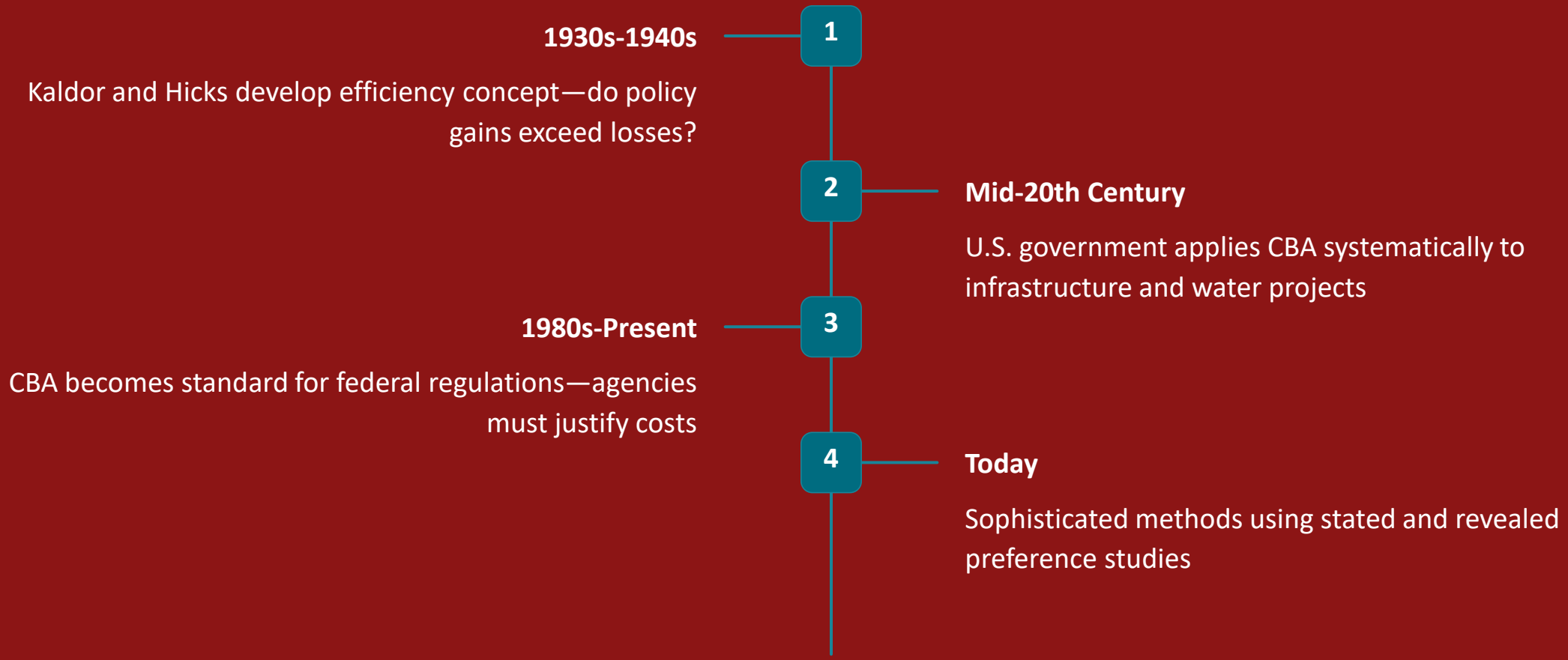
CBA systematically compares total expected costs against total expected benefits to guide decision-making.

Monetization
Converts costs and benefits into comparable dollar values

Core Question
Do gains exceed losses?

Applications
Government regulations, legal cases, private sector planning

Historical Evolution of CBA



CBA transformed moral policy questions from abstract philosophy into quantifiable, transparent analysis.

CBA and Utilitarianism

The Philosophical Foundation

Economics as applied utilitarianism—CBA is its primary tool for maximizing collective well-being.

> "The greatest good for the greatest number"

Equal Weight

Each person's well-being counts the same

Consequences

Judge actions by outcomes, not intentions

Impartiality

Examine consequences rigorously, setting aside biases

Welfarism

Contemporary economists identify as utilitarians or welfarists

CBA in Government Regulation

The Value of a Statistical Life (VSL)

Regulators use VSL (~$10M per life) to decide which rules to implement.

EPA Arsenic Example:

- **Option A:** 30 lives saved, $200M cost = +$100M net ✓
- **Option B:** 40 lives saved, $600M cost = -$200M net ✗

Whether strict or lenient, regulators implicitly value human life. CBA makes that valuation explicit.

Stated Preference

Surveys asking willingness to pay to eliminate mortality risks

Revealed Preference

Analyzing wage premiums workers receive for risky jobs

CBA in Companies: the Ford Pinto Case

Putting a Price on Life

Ford's internal CBA revealed how corporations decide whether safety improvements are "worth it."

Companies project lawsuit judgments to price human life—focusing on legal liability rather than moral duty.

01

Defect Identified
Fuel tank vulnerable to rear-end collisions

02

Cost Calculated
Fix cost: ~$11 per vehicle

03

Life Valued
Ford valued human life at ~$200,000

04

Decision Made
Cheaper to pay settlements than fix defect

Ford Pinto Fuel Tank

The Center for Auto Safety is the nation's premier independent, member driven, non-profit consumer advocacy organization dedicated to improving vehicle safety, quality, and fuel economy on behalf of all drivers, passengers, and pedestrians.

Core Challenges to Utilitarianism

1. Do we sum happiness over all living people only, or over all people into the indefinite future? (what discount rate should we apply to the unborn/future generations?)

Image: Pixabay, Pexels (Free to Use)

Core Challenges to Utilitarianism

2. Do we count the happiness or unhappiness of all sentient beings, or only humans?

(utilitarianism for animals?)

Image: Lorenzo Manuali, Generated by MidJourney AI, “an intelligent cow giving a lecture on utilitarianism”

Core Challenges to Utilitarianism

3. And of course:

How do we compare the happiness/unhappiness of one person to that of another?

The problem of **interpersonal comparison of utility**

Image: Powerpoint Suggestion

Core Challenges to Utilitarianism

4. What about the **distribution of risk and harm?**

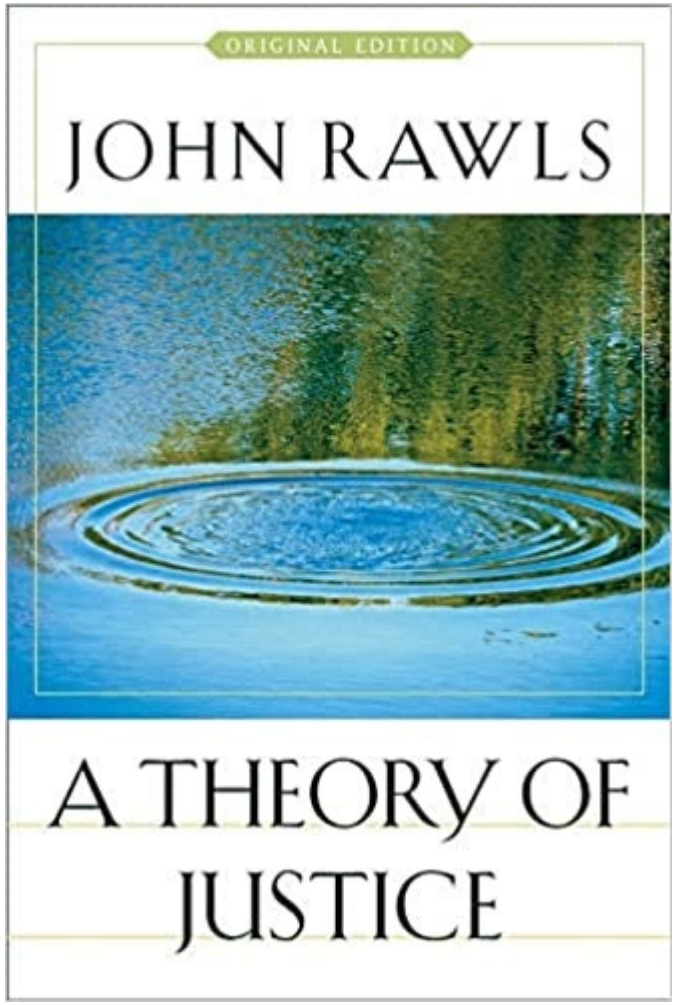
Is it permissible to impose increased risks/harms on some persons in order to deliver large gains for others?

Image: Wilfredo Rafael Rodriguez Hernandez, Public Domain (CC 0)

Core Challenges to Utilitarianism

4. Remember John Rawls?

A Theory of Justice provides an alternative to utilitarianism, which **"fails to take seriously the distinction between persons."**



Utilitarianism in Action: Moral Math?

- 5. Does Utilitarianism just reduce everything to moral math?
- Is that something we want?

Image: Lorenzo Manuali, Generated by MidJourney AI, “Cyborg Jeremy Bentham using a TI-84 calculator, Neo-Tokyo style digital art"

Utilitarianism in Action: Moral Math?

Ford wants to mass produce a cheap car called the Pinto. It skimps on a safety standard to do it. Ford knows the car is prone to exploding/catching fire and that people will die. Why did Ford not implement the safety standard?

Image: Lorenzo Manuali, Generated by MidJourney AI, “an exploding Ford Pinto, photorealism"

Utilitarianism in Action: Moral Math?

. . . Table 3 outlines the pertinent benefit and cost. The relevant benefits are those associated with the consequences of reduction in the frequency of fires in rollovers, while the presented costs relate to the incremental cost associated with meeting the specific static rollover aspects of the Standard.

Table 3

BENEFITS AND COSTS RELATING TO FUEL LEAKAGE ASSOCIATED WITH THE STATIC ROLLOVER TEST PORTION OF FMVSS 208

BENEFITS:

Savings – 180 burn deaths, 180 serious burn injuries, 2100 burned vehicles.

Unit Cost – $200,000 per death, $67,000 per injury, $700 per vehicle.

Total Benefit – 180x($200,000)+180x($67,000)+2100x($700) = $49.5 million.

COSTS:

Sales – 11 million cars, 1.5 million light trucks.

Unit Cost – $11 per car, $11 per truck.

Total Cost – 11,000,000x($11)+1,500,000x($11) = $137 million.

Images: E.S. Grush and C.S. Saunby, “Fatalities Associated with Crash Induced Fuel Leakage and Fires”

The World Cup Dilemma

Problems with Aggregation, Reprised

Suppose that Jones has suffered an accident in the transmitter room of a television station. Electrical equipment has fallen on his arm, and we cannot rescue him without turning off the transmitter for fifteen minutes. A World Cup match is in progress, watched by many people, and it will not be over for an hour. Jones's injury will not get any worse if we wait, but his hand has been mashed and he is receiving extremely painful electrical shocks. Should we rescue him now or wait until the match is over? Does the right thing to do depend on how many people are watching—whether it is one million or five million or a hundred million? It seems to me that we should not wait, no matter how many viewers there are, and I believe that contractualism can account for this judgment while still allowing aggregative principles of the kind defended above.

Source: T.M. Scanlon (1998), What We Owe to Each Other, Harvard University Press (Cambridge, MA)

Rob Reich: image generated via Midjourney, prompt: “a photo of millions of fervent soccer fans assembled outdoors watching the FIFA World Cup final on an enormous

Back to Square One: What is Privacy?

Privacy is a value that is necessary to protect our higher-order interest in autonomy and self-determination.

The claim of individuals to determine for themselves when, how, and to what extent information about them is shared with or communicated to others.

QUESTION: How should we institutionalize – or put into practice – this value? How should we balance it against other values?

Back to Square One: What is Privacy?

An **interest**? (one consideration among many; can be defeated by other values or rights?)

A **right**? (strong presumption against infringement)

A **constitutional right**? (ordinary lawmaking can't remove; sits above majoritarian decisionmaking)

An **inalienable constitutional right**? (ordinary lawmaking can't remove and right holder can't renounce – no notice and consent!)

A **fundamental human right**? (no government can remove/abridge)

Rival Values

What other values (or interests, or rights) might be in tension with privacy (however we construe it)?

1. National Security (e.g., terrorism)
2. Public Safety (e.g., crime)
3. Innovation
4. Convenience (please just let me doomscroll…)

Rival Values

- How should we balance privacy against security/public safety/innovation/convenience?
- What weight, under what circumstances, should we attach to these interests?
- Who should decide the framework?
- Who should decide who decides?

Scenario for Discussion

- Imagine you are a Member of Congress and you need to take a position on the following four issues in the privacy legislative debate:

1. Whether to require that companies seek “meaningful, informed” consent from users around how their data will be used
2. Whether to mandate that consumers “opt-in” for the collection of personal data by private companies
3. Whether to obligate companies to ensure that consumers can take their data with them if they wish
4. Whether to empower a new federal agency with responsibility for protecting and enforcing privacy rights

- What position would you take on each of these issues? How would you decide? How might your position depend on the part of the country you represent?
- What might be most challenging in making these ideas operational?