

“Cost-Benefit Analysis: An Ethical Critique.” by Steven Kelman, from *AEJ Journal on Government and Society Regulation* (January/February 1981) PP. 33—40. Reprinted with permission of the American Enterprise Institute for Public Policy Research, Washington, D.C.  
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## Cost-Benefit Analysis: An Ethical Critique (with replies) \*

**Steven Kelman**

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At the broadest and vaguest level, cost-benefit analysis may be regarded simply as systematic thinking about decision-making. Who can oppose, economists sometimes ask, efforts to think in a systematic way about the consequences of different courses of action? The alternative, it would appear, is unexamined decision-making. But defining cost-benefit analysis so simply leaves it with few implications for actual regulatory decision-making. Presumably, therefore, those who urge regulators to make greater use of the technique have a more extensive prescription in mind. I assume here that their prescription includes the following views:

- (1) There exists a strong presumption that an act should not be undertaken unless its benefits outweigh its costs.
- (2) In order to determine whether benefits outweigh costs, it is desirable to attempt to express all benefits and costs in a common scale or denominator, so that they can be compared with each other, even when some benefits and costs are not traded on markets and hence have no established dollar values.
- (3) Getting decision-makers to make more use of cost-benefit techniques is important enough to warrant both the expense required to gather the data for improved cost-benefit estimation and the political efforts needed to give the activity higher priority compared to other activities, also valuable in and of themselves.

My focus is on cost-benefit analysis as applied to environmental, safety, and health regulation. In that context, I examine each of the above propositions from the perspective of formal ethical theory, that is, the study of what actions it is morally right to undertake. My conclusions are:

- (1) In areas of environmental, safety, and health regulation, there may be many instances where a certain decision might be right even though its benefits do not outweigh its costs.
- (2) There are good reasons to oppose efforts to put dollar values on non-marketed benefits and costs.
- (3) Given the relative frequency of occasions in the areas of environmental, safety, and health regulation where one would not wish to use a benefits-outweigh-costs test as a decision rule, and given the reasons to oppose the monetizing of non-marketed benefits or costs that is a prerequisite for cost-benefit analysis, it is not justifiable to devote major resources to the generation of data for cost-benefit calculations or to undertake efforts to “spread the gospel” of cost-benefit analysis further.

How do we decide whether a given action is morally right or wrong and hence, assuming the desire to act morally, why it should be undertaken or refrained from? Like the Moliere character who spoke prose without knowing it, economists who advocate use of cost-benefit analysis for public decisions are philosophers without knowing it: the answer given by cost-benefit analysis, that actions should be undertaken so as to maximize net benefits, represents one of the classic answers given by moral philosophers—that given by utilitarians. To determine whether an action is right or wrong, utilitarians tote up all the positive consequences of the action in terms of human satisfaction. The act that maximizes attainment of satisfaction under the circumstances is the right act. That the economists’ answer is also the answer of one school of philosophers should not be surprising. Early on, economics was a branch of moral philosophy, and only later did it become an independent discipline.

Before proceeding further, the subtlety of the utilitarian position should be noted. The positive and negative

consequences of an act for satisfaction may go beyond the act's immediate consequences. A facile version of utilitarianism would give moral sanction to a lie, for instance, if the satisfaction of an individual attained by telling the lie was greater than the suffering imposed on the lie's victim. Few utilitarians would agree. Most of them would add to the list of negative consequences the effect of the one lie on the tendency of the person who lies to tell other lies, even in instances when the lying produced less satisfaction for him than dissatisfaction for others. They would also add the negative effects of the lie on the general level of social regard for truth-telling, which has many consequences for future utility. A further consequence may be added as well. It is sometimes said that we should include in a utilitarian calculation the feeling of dissatisfaction produced in the liar (and perhaps in others) because, by telling a lie, one has "done the wrong thing." Correspondingly, in this view, among the positive consequences to be weighed into a utilitarian calculation of truth-telling is satisfaction arising from "doing the right thing." This view rests on an error, however, because it *assumes* what it is the purpose of the calculation to *determine*—that telling the truth in the instance in question is indeed the right thing to do. Economists are likely to object to this pointy arguing that no feeling ought "arbitrarily" to be excluded from a complete cost-benefit calculation, including a feeling of dissatisfaction at doing the wrong thing. Indeed, the economists' cost-benefit calculations would, at least ideally, include such feelings. Note the difference between the economist's and the philosopher's cost-benefit calculations, however. The economist may choose to include feelings of dissatisfaction in his cost-benefit calculation, but what happens if somebody asks the economist, "Why is it right to evaluate an action on the basis of a cost-benefit test?" If an answer is to be given to that question (which does not normally preoccupy economists but which does concern both philosophers and the rest of us who need to be persuaded that cost-benefit analysis is right), then the circularity problem reemerges. And there is also another difficulty with counting feelings of dissatisfaction at doing the wrong thing in a cost-benefit calculation. It leads to the perverse result that under certain circumstances a lie, for example, might be morally right if the individual contemplating the lie felt no compunction about lying and morally wrong only if the individual felt such a compunction!

This error is revealing, however, because it begins to suggest a critique of utilitarianism. Utilitarianism is an important and powerful moral doctrine. But it is probably a minority position among contemporary moral philosophers. It is amazing that economists can proceed in unanimous endorsement of cost-benefit analysis as if unaware that their conceptual framework is highly controversial in the discipline from which it arose—moral philosophy.

Let us explore the critique of utilitarianism. The logical error discussed before appears to suggest that we have a notion of certain things being right or wrong that *predates* our calculation of costs and benefits. Imagine the case of an old man in Nazi Germany who is hostile to the regime. He is wondering whether he should speak out against Hitler. If he speaks out, he will lose his pension. And his action will have done nothing to increase the chances that the Nazi regime will be overthrown: he is regarded as somewhat eccentric by those around him, and nobody has ever consulted his views on political questions. Recall that one cannot add to the benefits of speaking out any satisfaction from doing "the right thing," because the purpose of the exercise is to determine whether speaking out *is* the right thing. How would the utilitarian calculation go? The benefits of the old man's speaking out would, as the example is presented, be nil, while the costs would be his loss of his pension. So the costs of the action would outweigh the benefits. By the utilitarians' cost-benefit calculation, it would be *morally wrong* for the man to speak out.

Another example: two very close friends are on an Arctic expedition together. One of them falls very sick in the snow and bitter cold, and sinks quickly before anything can be done to help him. As he is dying, he asks his friend one thing, "Please, make me a solemn promise that ten years from today you will come back to this spot and place a lighted candle here to remember me." The friend solemnly promises to do so, but does not tell a soul. Now, ten years later, the friend must decide whether to keep his promise. It would be inconvenient for him to make the long trip. Since he told nobody, his failure to go will not affect the general social faith in promise-keeping. And the incident was unique enough so that it is safe to assume that his failure to go will not encourage him to break other promises. Again, the costs of the act outweigh the benefits. A utilitarian would need to believe that it would be *morally wrong* to travel to the Arctic to light the candle.

A third example: a wave of thefts has hit a city and the police are having trouble finding any of the thieves. But they believe, correctly, that punishing someone for theft will have some deterrent effect and will decrease the number of crimes. Unable to arrest any actual perpetrator, the police chief and the prosecutor arrest a person whom they know to be innocent and, in cahoots with each other, fabricate a convincing case against him. The police chief and the prosecutor are about to retire, so the act has no effect on any future actions of theirs. The fabrication is perfectly executed, so nobody finds out about it. Is the *only* question involved in judging the act of framing the innocent man that of whether his suffering from conviction and imprisonment will be greater than the suffering avoided among potential crime victims when some crimes are deterred? A utilitarian would need to believe that it is

*morally right to punish the innocent man* as long as it can be demonstrated that the suffering prevented outweighs his suffering.

And a final example: imagine two worlds, each containing the same sum total of happiness. In the first world, this total of happiness came about from a series of acts that included a number of lies and injustices (that is, the total consisted of the immediate gross sum of happiness created by certain acts, minus any long-term unhappiness occasioned by the lies and injustices). In the second world the same amount of happiness was produced by a different series of acts, none of which involved lies or injustices. Do we have any reason to prefer the one world to the other? A utilitarian would need to believe that the choice between the two worlds is a *matter of indifference*.

To those who believe that it would not be morally wrong for the old man to speak out in Nazi Germany or for the explorer to return to the Arctic to light a candle for his deceased friend, that it would not be morally right to convict the innocent man, or that the choice between the two worlds is not a matter of indifference—to those of us who believe these things, utilitarianism is insufficient as a moral view. We believe that some acts whose costs are greater than their benefits may be morally right and, contrariwise, some acts whose benefits are greater than their costs may be morally wrong.

This does not mean that the question whether benefits are greater than costs is morally irrelevant. Few would claim such. Indeed, for a broad range of individual and social decisions, whether an act's benefits outweigh its costs is a sufficient question to ask. But not for all such decisions. These may involve situations where certain duties—duties not to lie, break promises, or kill, for example—make an act wrong, even if it would result in an excess of benefits over costs. Or they may involve instances where people's rights are at stake. We would not permit rape even if it could be demonstrated that the rapist derived enormous happiness from his act, while the victim experienced only minor displeasure. We do not do cost-benefit analyses of freedom of speech or trial by jury. The Bill of Rights was not RARGED. As the United Steelworkers noted in a comment on the Occupational Safety and Health Administration's economic analysis of its proposed rule to reduce worker exposure to carcinogenic coke-oven emissions, the Emancipation Proclamation was not subjected to an inflationary impact statement. The notion of human rights involves the idea that people may make certain claims to be allowed to act in certain ways or to be treated in certain ways, even if the sum of benefits achieved thereby does not outweigh the sum of costs. It is this view that underlies the statement that "workers have a right to a safe and healthy work place" and the expectation that OSHA's decisions will reflect that judgment.

In the most convincing versions of nonutilitarian ethics, various duties or rights are not absolute. But each has a *prima facie* moral validity so that, if duties or rights do not conflict, the morally right act is the act that reflects a duty or respects a right. If duties or rights do conflict, a moral judgment, based on conscious deliberation, must be made. Since one of the duties non-utilitarian philosophers enumerate is the duty of beneficence (the duty to maximize happiness), which in effect incorporates all of utilitarianism by reference, a nonutilitarian who is faced with conflicts between the results of cost-benefit analysis and nonutility-based considerations will need to undertake such deliberation. But in that deliberation, additional elements, which cannot be reduced to a question of whether benefits outweigh costs, have been introduced. Indeed, depending on the moral importance we attach to the right or duty involved, cost-benefit questions may, within wide ranges, become irrelevant to the outcome of the moral judgment.

In addition to questions involving duties and rights, there is a final sort of question where, in my view, the issue of whether benefits outweigh costs should not govern moral judgment. I noted earlier that, for the common run of questions facing individuals and societies, it is possible to begin and end our judgment simply by finding out if the benefits of the contemplated act outweigh the costs. This very fact means that one way to show the great importance, or value, attached to an area is to say that decisions involving the area should not be determined by cost-benefit calculations. This applies, I think, to the view many environmentalists have of decisions involving our natural environment. When officials are deciding what level of pollution will harm certain vulnerable people—such as asthmatics or the elderly—while not harming others, one issue involved may be the right of those people not to be sacrificed on the altar of somewhat higher living standards for the rest of us. But more broadly than this, many environmentalists fear that subjecting decisions about clean air or water to the cost-benefit tests that determine the general run of decisions removes those matters from the realm of specially valued things.

In order for cost-benefit calculations to be performed the way they are supposed to be, all costs and benefits must be expressed in a common measure, typically dollars, including things not normally bought and sold on markets, and to which dollar prices are therefore not attached. The most dramatic example of such things is human life itself; but many of the other benefits achieved or preserved by environmental policy—such as peace and quiet, fresh-smelling air, swimmable rivers, spectacular vistas—are not traded on markets either.

Economists who do cost-benefit analysis regard the quest after dollar values for nonmarket things as a difficult challenge—but one to be met with relish. They have tried to develop methods for imputing a person's "willingness to pay" for such things, their approach generally involving a search for bundled goods that *are* traded on markets and that vary as to whether they include a feature that is, *by itself*, not marketed. Thus, fresh air is not marketed, but houses in different parts of Los Angeles that are similar except for the degree of smog are. Peace and quiet is not marketed, but similar houses inside and outside airport flight paths are. The risk of death is not marketed, but similar jobs that have different levels of risk are. Economists have produced many often ingenious efforts to impute dollar prices to non-marketed things by observing the premiums accorded homes in clean air areas over similar homes in dirty areas or the premiums paid for risky jobs over similar nonrisky jobs.

These ingenious efforts are subject to criticism on a number of technical grounds. It may be difficult to control for all the dimensions of quality other than the presence or absence of the non-marketed thing. More important, in a world where people have different preferences and are subject to different constraints as they make their choices, the dollar value imputed to the non-market things that most people would wish to avoid will be lower than otherwise, because people with unusually weak aversion to those things or usually strong constraints on their choices will be willing to take the bundled good in question at less of a discount than the average person. Thus, to use the property value discount of homes near airports as a measure of people's willingness to pay for quiet means to accept as a proxy for the rest of us the behavior of those least sensitive to noise, of airport employees (who value the convenience of a near-airport location) or of others who are susceptible to an agent's assurances that "it's not so bad." To use the wage premiums accorded hazardous work as a measure of the value of life means to accept as proxies for the rest of us the choices of people who do not have many choices or who are exceptional risk-seekers.

A second problem is that the attempts of economists to measure people's willingness to pay for non-marketed things assume that there is no difference between the price a person would require for *giving up* something to which he has a preexisting right and the price he would pay to *gain* something to which he enjoys no right. Thus, the analysis assumes no difference between how much a homeowner would need to be paid in order to give up an unobstructed mountain view that he already enjoys and how much he would be willing to pay to get an obstruction moved once it is already in place. Available evidence suggests that most people would insist on being paid far more to assent to a worsening of their situation than they would be willing to pay to improve their situation. The difference arises from such factors as being accustomed to and psychologically attached to that which one believes one enjoys by right. But this creates a circularity problem for any attempt to use cost-benefit analysis to determine *whether* to assign to, say, the homeowner the right to an unobstructed mountain view. For willingness to pay will be different depending on whether the right is assigned initially or not. The value judgment about whether to assign the right must thus be made first. (In order to set an upper bound on the value of the benefit, one might hypothetically assign the right to the person and determine how much he would need to be paid to give it up.)

Third, the efforts of economists to impute willingness to pay invariably involve bundled goods exchanged in *private* transactions. Those who use figures garnered from such analysis to provide guidance for *public* decisions assume no difference between how people value certain things in private individual transactions and how they would wish those same things to be valued in public collective decisions. In making such assumptions, economists insidiously slip into their analysis an important and controversial value judgment, growing naturally out of the highly individualistic microeconomic tradition—namely, the view that there should be no difference between private behavior and the behavior we display in public social life. An alternative view—one that enjoys, I would suggest, wide resonance among citizens—would be that public, social decisions provide an opportunity to give certain things a higher valuation than we choose, for one reason or another, to give them in our private activities.

Thus, opponents of stricter regulation of health risks often argue that we show by our daily risk-taking behavior that we do not value life infinitely, and therefore our public decisions should not reflect the high value of life that proponents of strict regulation propose. However, an alternative view is equally plausible. Precisely because we fail, for whatever reasons, to give life-saving the value in everyday personal decisions that we in some general terms believe we should give it, we may wish our social decisions to provide us the occasion to display the reverence for life that we espouse but do not always show. By this view, people do not have fixed unambiguous "preferences" to which they give expression through private activities and which therefore should be given expression in public decisions. Rather, they may have what they themselves regard as "higher" and "lower" preferences. The latter may come to the fore in private decisions, but people may want the former to come to the fore in public decisions. They may sometimes display racial prejudice, but support antidiscrimination laws. They may buy a certain product after seeing a seductive ad, but be skeptical enough of advertising to want the government to keep a close eye on it. In such cases, the use of private behavior to impute the values that should be entered for public decisions, as is done by using willingness to pay in private transactions, commits grievous offense against a view of the behavior of the

citizen that is deeply engrained in our democratic tradition. It is a view that denudes politics of any independent role in society, reducing it to a mechanistic, mimicking recalculation based on private behavior.

Finally, one may oppose the effort to place prices on a non-market thing and hence in effect incorporate it into the market system out of a fear that the very act of doing so will reduce the thing's perceived value. To place a price on the benefit may, in other words, reduce the value of that benefit. Cost-benefit analysis thus may be like the thermometer that, when placed in a liquid to be measured, itself changes the liquid's temperature.

Examples of the perceived cheapening of a thing's value by the very act of buying and selling it abound in everyday life and language. The disgust that accompanies the idea of buying and selling human beings is based on the sense that this would dramatically diminish human worth. Epithets such as "he prostituted himself," applied as linguistic analogies to people who have sold something, reflect the view that certain things should not be sold because doing so diminishes their value. Praise that is bought is worth little, even to the person buying it. A true anecdote is told of an economist who retired to another university community and complained that he was having difficulty making friends. The laconic response of a critical colleague—"If you want a friend why don't you buy yourself one"—illustrates in a pithy way the intuition that, for some things, the very act of placing a price on them reduces their perceived value.

The first reason that pricing something decreases its perceived value is that, in many circumstances, non-market exchange is associated with the production of certain values not associated with market exchange. These may include spontaneity and various other feelings that come from personal relationships. If a good becomes less associated with the production of positively valued feelings because of market exchange, the perceived value of the good declines to the extent that those feelings are valued. This can be seen clearly in instances where a thing may be transferred both by market and by non-market mechanisms. The willingness to pay for sex bought from a prostitute is less than the perceived value of the sex consummating love. (Imagine the reaction if a practitioner of cost-benefit analysis computed the benefits of sex based on the price of prostitute services.)

Furthermore, if one values in a general sense the existence of a non-market sector because of its connection with the production of certain valued feelings, then one ascribes added value to any non-marketed good simply as a repository of values represented by the non-market sector one wishes to preserve. This seems certainly to be the case for things in nature, such as pristine streams or undisturbed forests~ for many people who value them, part of their value comes from their position as repositories of values the non-market sector represents.

The second way in which placing a market price on a thing decreases its perceived value is by removing the possibility of proclaiming that the thing is "not for sale," since things on the market by definition are for sale. The very statement that something is not for sale affirms, enhances, and protects a thing's value in a number of ways. To begin with, the statement is a way of showing that a thing is valued for its own sake, whereas selling a thing for money demonstrates that it was valued only instrumentally. Furthermore, to say that something cannot be transferred in that way places it in the exceptional category—which requires the person interested in obtaining that thing to be able to offer something else that is exceptional, rather than allowing him the easier alternative of obtaining the thing for money that could have been obtained in an affinity of ways. This enhances its value. If I am willing to say "You're a really kind person" to whoever pays me to do so, my praise loses the value that attaches to it from being exchangeable only for an act of kindness.

In addition, if we have already decided we value something highly, one way of stamping it with a cachet affirming its high value is to announce that it is "not for sale." Such an announcement does more, however, than just reflect a preexisting high valuation. It signals a thing's distinctive value to others and helps us persuade them to value the thing more highly than they otherwise might. It also expresses our resolution to safeguard that distinctive value. To state that something is not for sale is thus also a source of value for that thing, since if a thing's value is easy to affirm or protect, it will be worth more than an otherwise similar thing without such attributes.

If we proclaim that something is not for sale, we make a once-and-for-all judgment of its special value. When something is priced, the issue of its perceived value is constantly coming up, as a standing invitation to reconsider that original judgment. Were people constantly faced with questions such as "how much money could get you to give up your freedom of speech?" or "how much would you sell your vote for if you could?", the perceived value of the freedom to speak or the right to vote would soon become devastated as, in moments of weakness, people started saying "maybe it's not worth *so much* after all." Better not to be faced with the constant questioning in the first place. Something similar did in fact occur when the slogan "better red than dead" was launched by some pacifists during the Cold War. Critics pointed out that the very posing of this stark choice—in effect, "would you *really* be willing to give up your life in exchange for not living under communism?" reduced the value people attached to freedom and thus diminished resistance to attacks on freedom.

Finally, of some things valued very highly it is stated that they are "priceless" or that they have "infinite value."

Such expressions are reserved for a subset of things not for sale, such as life or health. Economists tend to scoff at talk of pricelessness. For them, saying that something is priceless is to state a willingness to trade off an infinite quantity of all other goods for one unit of the priceless good, a situation that empirically appears highly unlikely. For most people, however, the word priceless is pregnant with meaning. Its value-affirming and value-protecting functions cannot be bestowed on expressions that merely denote a determinate, albeit high, valuation. John Kennedy in his inaugural address proclaimed that the nation was ready to “pay any price [and] bear any burden...to assure the survival and the success of liberty.” Had he said instead that we were willing to “pay a high price” or “bear a large burden” for liberty, the statement would have rung hollow.

An objection that advocates of cost-benefit analysis might well make to the preceding argument should be considered. I noted earlier that, in cases where various non-utility-based duties or rights conflict with the maximization of utility, it is necessary to make a deliberative judgment about what act is finally right. I also argued earlier that the search for commensurability might not always be a desirable one, that the attempt to go beyond expressing benefits in terms of (say) lives saved and costs in terms of dollars is not something devoutly to be wished.

In situations involving things that are not expressed in a common measure, advocates of cost-benefit analysis argue that people making judgments “in effect” perform cost-benefit calculations anyway. If government regulators promulgate a regulation that saves 100 lives at a cost of \$1 billion, they are “in effect” valuing a life at (a minimum of) \$10 million, whether or not they say that they are willing to place a dollar value on a human life. Since, in this view, cost-benefit analysis “in effect” is inevitable, it might as well be made specific.

This argument misconstrues the real difference in the reasoning processes involved. In cost-benefit analysis, equivalencies are established in *advance* as one of the raw materials for the calculation. One determines costs and benefits, one determines equivalencies (to be able to put various costs and benefits into a common measure), and then one sets to toting things up—waiting, as it were, with bated breath for the results of the calculation to come out. The outcome is determined by the arithmetic; if the outcome is a close call or if one is not good at long division, one does not know how it will turn out until the calculation is finished. In the kind of deliberative judgment that is performed without a common measure, no establishment of equivalencies occurs in advance. Equivalencies are not aids to the decision process. In fact, the decision-maker might not even be aware of what the “in effect” equivalencies were, at least before they are revealed to him afterwards by someone pointing out what he had “in effect” done. The decision-maker would see himself as simply having made a deliberate judgment; the “in effect” equivalency number did not play a causal role in the decision but at most merely reflects it. Given this, the argument against making the process explicit is the one discussed earlier in the discussion of problems with putting specific quantified values on things that are not normally quantified—that the very act of doing so may serve to reduce the value of those things.

My own judgment is that modest efforts to assess levels of benefits and costs are justified, although I do not believe that government agencies ought to sponsor efforts to put dollar prices on non-market things. I also do not believe that the cry for more cost-benefit analysis in regulation is, on the whole, justified. If regulatory officials were so insensitive about regulatory costs that they did not provide acceptable raw material for deliberative judgments (even if not of a strictly cost-benefit nature), my conclusion might be different. But a good deal of research into costs and benefits already occurs—actually, far more in the U.S. regulatory process than in that of any other industrial society. The danger now would seem to come more from the other side.

### *Replies to Steven Kelman*

From James V. DeLong, Vice President at the  
National Legal Center for the Public Interest

Steven Kelman’s “Cost-Benefit Analysis—An Ethical Critique” presents so many targets that it is difficult to concentrate one’s fire. However, four points seem worth particular emphasis:

(1) The decision to use cost-benefit analysis by no means implies adoption of the reductionist utilitarianism described by Kelman. It is based instead on the pragmatic conclusion that any value system one adopts is more likely to be promoted if one knows something about the consequences of the choices to be made. The effort to put dollar values on noneconomic benefits is nothing more than an effort to find some common measure for things that

are not easily comparable when, in the real world, choice must be made. Its object is not to write a computer program but to improve the quality of difficult social choices under conditions of uncertainty, and no sensible analyst lets himself become the prisoner of the numbers.

(2) Kelman repeatedly lapses into “entitlement” rhetoric, as if an assertion of a moral claim closes an argument. Even leaving aside the fundamental question of the philosophical basis of those entitlements, there are two major problems with this style of argument. First, it tends naturally toward all-encompassing claims.

Kelman quotes a common statement that “workers have a right to a safe and healthy workplace,” a statement that contains no recognition that safety and health are not either/or conditions, that the most difficult questions involve gradations of risk, and that the very use of entitlement language tends to assume that a zero-risk level is the only acceptable one. Second, entitlement rhetoric is usually phrased in the passive voice, as if the speaker were arguing with some omnipotent god or government that is maliciously withholding the entitlement out of spite. In the real world, one person’s right is another’s duty, and it often clarifies the discussion to focus more precisely on who owes this duty and what it is going to cost him or her. For example, the article posits that an issue in government decisions about acceptable pollution levels is “the right” of such vulnerable groups as asthmatics or the elderly “not to be sacrificed on the altar of somewhat higher living standards for the rest of us.” This defends the entitlement by assuming the costs involved are both trivial and diffused. Suppose, though, that the price to be paid is not “somewhat higher living standards,” but the jobs of a number of workers?

Kelman’s counter to this seems to be that entitlements are not firm rights, but only presumptive ones that prevail in any clash with nonentitlements, and that when two entitlements collide the decision depends upon the “moral importance we attach to the right or duty involved.” So the above collision would be resolved by deciding whether a job is an entitlement and, if it is, by then deciding whether jobs or air have greater “moral importance.”

I agree that conflicts between such interests present difficult choices, but the quantitative questions, the cost-benefit questions, are hardly irrelevant to making them. Suppose taking X quantity of pollution from the air of a city will keep one asthmatic from being forced to leave town and cost 1,000 workers their jobs? Suppose it will keep 1,000 asthmatics from being forced out and cost one job? These are not equivalent choices, economically or morally, and the effort to decide them according to some abstract idea of moral importance only obscures the true nature of the moral problems involved.

(3) Kelman also develops the concept of things that are “specially valued,” and that are somehow contaminated if thought about in monetary terms. As an approach to personal decision making, this is silly. There are many things one specially values—in the sense that one would find the effort to assign a market price to them ridiculous—which are nonetheless affected by economic factors. I may specially value a family relationship, but how often I phone is influenced by long-distance rates. I may specially value music, but be affected by the price of records or the cost of tickets at the Kennedy Center.

When translated to the realm of government decisions, however, the concept goes beyond silliness. It creates a political grotesquerie. People specially value many different things. Under Kelman’s assumptions, people must, in creating a political coalition, recognize and accept as legitimate everyone’s special value, without concern for cost. Therefore, everyone becomes entitled to as much of the thing he specially values as he says he specially values, and it is immoral to discuss vulgar questions of resource limitations. Any coalition built on such premises can go in either of two directions: It can try to incorporate so many different groups and interests that the absurdity of its internal contradictions becomes manifest. Or it can limit its membership at some point and decide that the special values of those left outside are not legitimate and should be sacrificed to the special values of those in the coalition. In the latter case, of course, those outside must be made scapegoats for any frustration of any group member’s entitlement, a requirement that eventually leads to political polarization and a holy war between competing coalitions of special values.

(4) The decisions that must be made by contemporary government indeed involve painful choices. They affect both the absolute quantity and the distribution not only of goods and benefits, but also of physical and mental suffering. It is easy to understand why people would want to avoid making such choices and would rather act in ignorance than with knowledge and responsibility for the consequences of their choices. While this may be understandable, I do not regard it as an acceptable moral position. To govern is to choose, and government officials—whether elected or appointed—betray their obligations to the welfare of the people who hired them if they adopt a policy of happy ignorance and nonresponsibility for consequences.

The article concludes with the judgment that the present danger is too much cost-benefit analysis, not too little. But I find it hard to believe, looking around the modern world, that its major problem is that it suffers from an excess of rationality. The world’s stock of ignorance is and will remain quite large enough without adding to it as a matter of deliberate policy.

From Robert M. Solow, Institute Professor of  
Economics Emeritus at the Massachusetts  
Institute of Technology

I am an economist who has no personal involvement in the practice of cost-benefit analysis, who happens to think that modern economics underplays the significance of ethical judgments both in its approach to policy and its account of individual and organizational behavior, and who once wrote in print:

It may well be socially destructive to admit the routine exchangeability of certain things. We would prefer to maintain that they are beyond price (although this sometimes means only that we would prefer not to know what the price really is).

You might expect, therefore, that I would be in sympathy with Steven Kelman's ethical critique of cost-benefit analysis. But I found the article profoundly, and not entirely innocently, misleading. I would like to say why.

First of all, it is not the case that cost-benefit analysis works, or must work, by "monetizing" everything from mother love to patriotism. Cost-benefit analysis is needed only when society must give up some of one good thing in order to get more of another good thing. In other cases the decision is not problematical. The underlying rationale of cost-benefit analysis is that the cost of the good thing to be obtained is precisely the good thing that must or will be given up to obtain it. Wherever he reads "willingness to pay" and balks, Kelman should read "willingness to sacrifice" and feel better. In a choice between hospital beds and preventive treatment, lives are traded against lives. I suppose it is only natural that my brethren should get into the habit of measuring the sacrifice in terms of dollars forgone. In the typical instance in which someone actually does a cost-benefit analysis, the question to be decided is, say, whether the public should be taxed to pay for a water project—a context in which it does not seem far-fetched to ask whether the project will provide services for which the public would willingly pay what it would have to give up in taxes. But some less familiar unit of measurement could be used.

Let me add here, parenthetically, that I do agree with Kelman that there are situations in which the body politic's willingness to sacrifice may be badly measured by the sum of individuals' willingnesses to sacrifice in a completely "private" context. But that is at worst an error of technique, not a mistaken principle.

Second, Kelman hints broadly that "economists" are so morally numb as to believe that a routine cost-benefit analysis could justify killing widows and orphans, or abridging freedom of speech, or outlawing simple evidences of piety or friendship. But there is nothing in the theory or the practice of cost-benefit analysis to justify that judgment. Treatises on the subject make clear that certain ethical or political principles may irreversibly dominate the advantages and disadvantages capturable by cost-benefit analysis. Those treatises make a further point that Kelman barely touches on: since the benefits and the costs of a policy decision are usually enjoyed and incurred by different people, a distributional judgment has to be made which can override any simple-minded netting out. In addition, Kelman's point that people may put different values on the acquisition of a good for the first time and on the loss of a preexisting entitlement to the same good is not exactly a discovery. He should look up "compensating variation" and "equivalent variation" in a good economics textbook.

Third, Kelman ends by allowing that it is not a bad thing to have a modest amount of cost-benefit analysis going on. I would have supposed that was a fair description of the state of affairs. Do I detect a tendency to eat one's cost-benefit analysis and have it too? If not, what is the point of all the overkill? As a practical matter, the vacuum created by diminished reliance on cost-benefit analysis is likely to be filled by a poor substitute for ethically informed deliberation. Is the capering of Mr. Stockman more to Mr. Kelman's taste?

From Gerard Butters, Assistant Director for Consumer  
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In his article, Steven Kelman argues against the increased use of cost-benefit analysis for regulatory decisions involving health, safety, and the environment. His basic contention is that these decisions are moral ones, and that cost-benefit analysis is therefore inappropriate because it requires the adoption of an unsatisfactory moral system.

He supports his argument with a series of examples, most of which involve private decisions. In these situations, he asserts, cost-benefit advocates must renounce any moral qualms about lies, broken promises, and violations of human rights.

We disagree (and in doing so, we speak for ourselves, not for the Federal Trade Commission or its staff). Cost-benefit analysis is not a means for judging private decisions. It is a guide for decision making involving others, especially when the welfare of many individuals must be balanced. It is designed not to dictate individual values, but to take them into account when decisions must be made collectively. Its use is grounded on the principle that, in a democracy, government must act as an agent of the citizens.

We see no reason to abandon this principle when health and safety are involved. Consider, for example, a proposal to raise the existing federal standards on automobile safety. Higher standards will raise the costs, and hence the price, of cars. From our point of view, the appropriate policy judgment rests on whether customers will value the increased safety sufficiently to warrant the costs. Any violation of a cost-benefit criterion would require that consumers purchase something they would not voluntarily purchase or prevent them from purchasing something they want. One might argue, in the spirit of Kelman's analysis, that many consumers would want the government to impose a more stringent standard than they would choose for themselves. If so, how is the cost-safety trade-off that consumers really want to be determined? Any objective way of doing this would be a natural part of cost-benefit analysis.

Kelman also argues that the process of assigning a dollar value to things not traded in the marketplace is rife with indignities, flaws, and biases. Up to a point, we agree. It *is* difficult to place objective dollar values on certain intangible costs and benefits. Even with regard to intangibles which have been systematically studied, such as the "value of life," we know of no cost-benefit advocate who believes that regulatory staff economists should reduce every consideration to dollar terms and simply supply the decision maker with the bottom line. Our main concerns are twofold: (1) to make the major costs and benefits explicit so that the decision maker makes the trade-offs consciously and with the prospect of being held accountable, and (2) to encourage the move toward a more consistent set of standards.

The gains from adopting consistent regulatory standards can be dramatic. If costs and benefits are not balanced in making decisions, it is likely that the returns per dollar in terms of health and safety will be small for some programs and large for others. Such programs present opportunities for saving lives, and cost-benefit analysis will reveal them. Perhaps, as Kelman argues, there is something repugnant about assigning dollar values to lives. But the alternative can be to sacrifice lives needlessly by failing to carry out the calculations that would have revealed the means for saving them. It should be kept in mind that the avoidance of cost-benefit analysis has its own cost, which can be gauged in lives as well as in dollars.

Nonetheless, we do not dispute that cost-benefit analysis is highly imperfect. We would welcome a better guide to public policy, a guide that would be efficient, morally attractive, and certain to ensure that governments follow the dictates of the governed. Kelman's proposal is to adopt an ethical system that balances conflicts between certain unspecified "duties" and "rights" according to "deliberate reflection." But who is to do the reflecting, and on whose behalf? His guide places no clear limits on the actions of regulatory agencies. Rather than enhancing the connections between individual values and state decisions, such a vague guideline threatens to sever them. Is there a common moral standard that every regulator will magically and independently arrive at through "deliberate reflection"? We doubt it. Far more likely is a system in which bureaucratic decisions reflect the preferences, not of the citizens, but of those in a peculiar position to influence decisions. What concessions to special interests cannot be disguised by claiming that it is degrading to make explicit the trade-offs reflected in the decision? What individual crusade cannot be rationalized by an appeal to "public values" that "rise above" values revealed by individual choices?