

## THREE KINDS OF PRIORITARIANISM

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DEREK PARFIT'S 1991 Lindley Lecture "Equality or Priority?" has generated considerable discussion regarding the justification of priority to the worse-off. Parfit argued that prioritarianism provides the most plausible justification of priority to the worse-off. This justification was grounded in a person's lower absolute or nonrelational level of well-being.<sup>1</sup> But there are various ways of understanding prioritarianism.

The most common understanding of prioritarianism present in the literature is axiological. According to axiological prioritarianism, an outcome is better the larger the sum of weighted benefits it contains. The weight or value of a benefit is determined by its size and the absolute level of well-being of potential beneficiaries.<sup>2</sup> Because benefiting people matters more, the worse off these people are, according to Parfit, a smaller benefit for a worse-off person can produce greater moral value and do more to make the outcome better than a larger benefit for a better-off person.<sup>3</sup> This axiology is often coupled with a maximizing version of act consequentialism. According to this combined view, distributive acts are right if and only if they maximize the value of outcomes as described above. I will refer to this combined view as *teleological prioritarianism* or, in Parfit's terms, *telic prioritarianism*.<sup>4</sup>

- 1 I do not offer here an account of well-being or assume any method for its measurement, which may be a limitation of this paper. Furthermore, I will assume—as most other writers on the subject appear to do—that prioritarian judgments are made about a person's overall level of well-being. I will not consider whether prioritarianism should also be applied to particular dimensions of well-being. For the view that prioritarianism should be applied to both, see McKerlie, "Dimensions of Equality."
- 2 Parfit, "Equality or Priority?" 101; McKerlie, "Equality and Priority," 39; and Arneson, "Luck Egalitarianism and Prioritarianism," 343.
- 3 In describing a view as prioritarian, I exclude maximin accounts. Rabinowicz notes that maximin entails giving the *same*—i.e., absolute—priority to the worse-off no matter what their absolute levels or how much they stand to benefit ("Prioritarianism for Prospects," 13). This runs counter to the gradualist conception of prioritarianism in which benefiting people matters more, the worse off these people are.
- 4 Parfit once stated that telic prioritarianism was a view only about the goodness of outcomes ("Equality or Priority?" 101). I do not think that this was Parfit's considered view,

Some philosophers have criticized the fact that telic prioritarianism, as conceived by many of its proponents, applies both interpersonally and intrapersonally. According to Michael Otsuka, Alex Voorhoeve, and Marc Fleurbaey, this unrestricted form of prioritarianism is problematic.<sup>5</sup> Using cases involving risk, they argue that telic prioritarianism is insufficiently sensitive to prudential justifications such as expected utility maximization in one-person cases, thereby violating the unity of the individual, and it is inadequately sensitive to the existence of competing claims, thereby failing to fully respect the separateness of persons.

In response to these criticisms, some authors have developed deontological formulations of prioritarianism. According to deontic prioritarianism, the justification for priority to the worse-off should be grounded in something other than outcome value maximization. For deontic prioritaricians, the rightness of distributive acts cannot simply be deduced from axiology. The most prominent versions of deontic prioritarianism all maintain, in one form or another, that people's claims/complaints are what ultimately determines the rightness of acts.

For example, Andrew Williams has developed a form of deontic prioritarianism that does not apply intrapersonally.<sup>6</sup> The impetus for Williams's restriction originates from the contractualist framework within which he operates, a framework that has a long-standing tradition of distinguishing between principles that regulate the distribution of benefits and burdens within lives and across lives. Williams, inspired by Thomas Nagel, argues for a "Nagelian formulation of the Priority View" that grounds priority to the worse-off in a kind of unanimity of outcomes: that is, finding the outcome that is least unacceptable to the person to whom it is most unacceptable, where the acceptability of an outcome is determined in part by how well-off someone is. Grounding deontic prioritarianism in the unanimity of outcomes, Williams claims, provides a means for resolving interpersonal conflicts of competing claims that does not extend to intrapersonal conflict; in intrapersonal cases, one merely has a claim to have one's expected utility maximized, per Williams. By restricting the scope of his version of deontic prioritarianism to interpersonal cases only, Williams avoids the objections levied by Otsuka, Voorhoeve, and Fleurbaey against telic prioritarianism. Matthew Adler and Jacob Nebel likewise espouse restricted

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since he later described telic prioritarianism as prescribing to agents what they ought to do ("Another Defence of the Priority View," 402).

5 Otsuka and Voorhoeve, "Why It Matters That Some Are Worse Off Than Others" and "Equality versus Priority"; Otsuka, "Prioritarianism and the Separateness of Persons" and "Prioritarianism and the Measure of Utility"; Voorhoeve and Fleurbaey, "Egalitarianism and the Separateness of Persons" and "Equality or Priority for Possible People?"

6 Williams, "The Priority View Bites the Dust?"

versions of prioritarianism based on the idea that moral principles apply only to interpersonal conflict.<sup>7</sup>

Contractualist prioritarianism, however, represents just one version of deontic prioritarianism. The main aim of this paper is to present a case for a noncontractualist version of deontic prioritarianism. It is, according to Parfit, important to understand these distinctions: “Taxonomy, though unexciting, needs to be done. Until we have a clearer view of the alternatives, we cannot hope to decide which view is true, or is the best view.”<sup>8</sup>

The paper is structured as follows. Section 1 assesses several contractualist forms of deontic prioritarianism and argues that they are unsatisfactory. Section 2 argues that telic prioritarian impersonal value is unnecessary and inadequate to fully account for our moral thinking about priority to the worse-off. Section 3 describes one version of noncontractualist deontic prioritarianism and a potential rationale for it. The view is contrasted with contractualist and telic prioritarianism with respect to establishing the moral relevance of absolute levels, the motivation and justification for giving priority to the worse-off, and explaining reactive attitudes. The paper briefly discusses whether the rationale for this view can be developed in ways that also support egalitarianism or hybrid theories. Finally, I give reasons for applying noncontractualist deontic prioritarianism to whole lives as well as parts of lives, and I offer a partial defense against the criticism that this version of prioritarianism appears to be unrestricted. Section 4 concludes.

### 1. CONTRACTUALIST PRIORITARIANISM

Contractualism attempts to justify principles and acts in accordance with some conception of unanimity. Nagel and Williams recognize that when there are conflicting interests, there cannot be complete unanimity regarding outcomes. Nonetheless, they maintain that we should seek to achieve its closest approximation. According to the Nagelian formulation of the Priority View, the relevant unanimity condition consists of finding the outcome that is least unacceptable from an individual point of view. “This means that any other

7 Adler, who also claims to be inspired by Nagel, argues for a version of prioritarianism that is grounded in fairness, and fairness applies only to interpersonal conflict, per Adler, *Well-Being and Fair Distribution*, ch. 5. Adler’s theory, however, can be understood as a version of axiological prioritarianism, which I discuss in section 2. Nebel has proposed a version of deontic prioritarianism to address risky nonidentity cases (“Priority, Not Equality, for Possible People”). Nebel’s account is framed in characteristic contractualist language of minimizing complaints and justifiability to others.

8 Parfit, “Equality or Priority?” 116.

alternative will be more unacceptable to someone than this alternative is to anyone.”<sup>9</sup> But this unanimity condition underdetermines the acceptability of an outcome. The mere goal of achieving unanimity of outcomes does not itself favor prioritarianism over egalitarianism, in which agents are concerned with how individuals fare relative to others.<sup>10</sup> We must assume that absolute levels already matter in order to determine the acceptability of an outcome in Williams’s Nagelian formulation of the Priority View. Yet if we assume that absolute levels already matter, the above unanimity condition presupposes the very feature of deontic prioritarianism in need of justification.

While Nagel’s contractualism emphasizes unanimity of outcomes, Thomas Scanlon’s version of contractualism attempts to find moral principles that no one can reasonably reject, thereby achieving unanimity of moral principles. According to Scanlon’s contractualist formulation of the Priority View, “the worse off people would be if they are not benefited, the stronger their reasons to reject principles that would deprive them of these benefits.”<sup>11</sup> Like the contractualism espoused by Nagel and Williams, Scanlon’s contractualism could be employed to argue for egalitarianism.<sup>12</sup> That either relative or absolute levels of well-being can serve as grounds for reasonable rejection has been suggested by Scanlon himself.<sup>13</sup> But a rationale that explains why absolute levels are morally relevant must be antecedently established in order for there to be a Scanlonian Contractualist Priority View.<sup>14</sup> A major issue here is that there may be ways of establishing this moral relevance that seem to obviate the need for a contractualist framework.<sup>15</sup>

- 9 Nagel, “Equality,” 123.
- 10 Benjamin Lange has also noted that Nagel’s contractualism is compatible with egalitarian and prioritarian readings (“Restricted Prioritarianism or Competing Claims?”).
- 11 Scanlon, “Replies,” 432.
- 12 See, for example, O’Neill, “Constructing a Contractualist Egalitarianism.”
- 13 Scanlon, “Contractualism and Utilitarianism,” 123, and *What We Owe to Each Other*, 226.
- 14 In “Contractualism and Justification,” Scanlon proposes that impersonal values can affect the *reasonableness* of rejection despite not being themselves grounds for rejecting principles, which must be personal. This modification allows consequentialists such as telic prioritarians to claim support from Scanlon’s contractualism.
- 15 Rahul Kumar, a proponent of Scanlonian contractualism, concedes that this theory provides no guidance on determining the relative importance of considerations or how to combine these considerations in order to reach a moral verdict. See “Reasonable Reasons in Contractualist Moral Argument,” 35–36. But contrary to Kumar, Scanlonian contractualism also fails to identify morally relevant considerations. Kumar proposes to use the following purported contractualist commitment as a test of moral relevance: “Can this kind of consideration be considered to be important for being able to live a rationally self-governed, meaningful life?” (“Reasonable Reasons in Contractualist Moral Argument,” 17). If so, then it is relevant for moral argument and cannot be reasonably rejected. However, what is gained

Another serious problem is whether contractualism can successfully support a version of deontic prioritarianism that purports to resolve conflicting claims. This problem is most evident in Parfit's restatement of Scanlon's formulation: "People have stronger moral claims, and stronger grounds to reject some moral principle, the worse off these people are."<sup>16</sup> Parfit did not elaborate on the relation of moral claims to reasonable rejectability. Either moral claims are grounds for the reasonable rejection of principles, or they are products of reasonable rejection.

The notion that moral claims are grounds for reasonable rejection raises several difficulties. First, moral claims provide moral reasons, yet Scanlon's contractualist procedure is supposed to tell us what moral reasons we have rather than presuppose them in the contractualist procedure. Second, moral claims provide agent-neutral reasons, but the grounds for reasonably rejecting principles in Scanlon's system are supposed to be personal or agent-relative. Third, if the worse-off have stronger moral claims prior to the reasonable rejection of principles, then what moral work is done by the notion of reasonable rejectability? The stronger moral claim of the worse-off person appears to be sufficient to settle the matter about what an agent ought to do in conflict cases involving two people. Clearly, strength plays an important and decisive role in contractualism since both Scanlon and Parfit appeal to the strength of reasons in determining what principles can be reasonably rejected. Contractualism, however, does not justify the moral importance of strength, since it depends on this notion to function. So what precludes the strength of claims from being a deciding factor amongst conflicting claims independently of reasonable rejectability?

On the other hand, suppose that moral claims result only from the reasonable rejection of principles. Some of Scanlon's remarks suggest this position, and Frances Kamm has interpreted Scanlon in this way.<sup>17</sup> If so, how can the better-off have competing moral claims? Parfit endorsed the idea that the better-off also have moral claims to a benefit when he introduced Claim Prioritarianism as a version of the Competing Claims View.<sup>18</sup> Suppose that when we ought to

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by claiming that a consideration cannot be reasonably rejected if it passes this test? It is *already* regarded as morally relevant *in virtue of* its importance for rational self-governance. Kumar's proposal faces a redundancy objection applied to the moral relevance of reasons. For discussion of the redundancy objection as applied to the moral wrongness of acts, see Ridge, "Saving Scanlon" and "Contractualism and the New and Improved Redundancy Objection"; Straton-Lake, "Scanlon's Contractualism and the Redundancy Objection"; and Suikkanen, "Contractualist Replies to the Redundancy Objections."

16 Parfit, *On What Matters*, 2:201.

17 Scanlon, *What We Owe to Each Other*, 169–70; and Kamm, "Owing, Justifying, and Rejecting," 328.

18 Parfit, "Another Defence of the Priority View," 437.

aid the worse-off, the worse-off person, *ex hypothesi*, has a moral claim generated by the reasonable rejection of a principle that would deprive this person of a benefit. The better-off person in this scenario apparently would not have a competing moral claim, since she could not, supposedly, reasonably reject the principle that would deprive her of a benefit by instead directly giving it to the worse-off person. If the worse-off and the better-off both have claims that compete against one another, then these claims seem to be prior to the reasonable rejection of principles. If this is right, then once again we must ask why the strength of claims cannot itself determine what an agent ought to do.<sup>19</sup>

Neither prioritarians nor egalitarians bolster their case by merely appealing to contractualism to defend their views. What is needed to support either of these views appears to lie outside of contractualism.<sup>20</sup>

## 2. TELIC PRIORITARIANISM

Telic prioritarians might think that they can do a better job than contractualists of accounting for the normativity of absolute levels by grounding their importance in the impersonal value of outcomes. I believe this strategy is flawed in several ways.

According to Nils Holtug, equal benefits can lead to states of affairs that differ in intrinsic value.<sup>21</sup> The difference in intrinsic value is not a value for anyone, although what is good for a person contributes to these intrinsic values. However, this impersonal value does not play a crucial role in the justification of priority to the worse-off, according to some remarks made by Parfit. Parfit argued that the concept *good* is not fundamental. When some event or act is described as good for someone or impersonally good, these senses of good have no independent

19 Nagel's system suffers from a similar defect: "Each individual with a more urgent claim has priority ... over each individual with a less urgent claim" ("Equality," 118). According to Nagel, some standard of urgency is necessary to order claims or, specifically, order the various needs and interests that ground claims. This standard of urgency will not be determined by Nagel's unanimity condition since the unanimity of outcomes presupposes this standard. It is the standard of urgency that appears to be doing the normative work of mediating conflicting claims.

20 Shlomi Segall has recently criticized Competing Claims Prioritarianism and Competing Claims Egalitarianism ("Equality or Priority about Competing Claims?"). His critiques differ from mine in several ways. His critiques largely center on considerations that are unique to risky nonidentity cases. Additionally, Segall attacks Nebel's version of Competing Claims Prioritarianism by invoking telic prioritarian impersonal outcome value. In contrast, my arguments criticize contractualism as such, both as a mechanism for resolving competing claims and with respect to establishing the normativity of absolute or relative levels of well-being.

21 Holtug, "Prioritarianism," 132.

normative force. These senses of good are merely briefer ways of signaling that there are other facts that give us reason to perform an act or to want an event to occur.<sup>22</sup> Hence, when telic prioritaricians claim that benefits to the worse-off have greater impersonal value, these claims have no independent normative force. The agent's reasons for action in this context are determined by a potential beneficiary's absolute level of well-being and the size of the benefit that can be provided.<sup>23</sup> It is, according to Parfit, simply the strength of reasons that determines what we ought to do.<sup>24</sup> If these reasons are what justifies giving priority to the worse-off, then appeals to impersonal value appear to be superfluous here.<sup>25</sup>

Parfit, moreover, seemed to abandon the idea that there is a "law" of diminishing marginal moral goodness of utility, which one might expect to apply universally.<sup>26</sup> That Parfit did not regard it as a universal law is implicit in his later discussion of population ethics, where he employed different ideas and principles.<sup>27</sup> Several authors have noted that telic prioritarianism implies the Repugnant Conclusion when applied to variable populations.<sup>28</sup> Roughly, there may be greater moral value in the existence of a large population of people with lives that are barely worth living than the existence of a smaller population of different people with high-quality lives. To my knowledge, Parfit never adequately explained why the aforementioned "law" should be barred from population ethics. It is not enough to claim that we need different principles when dealing with variable populations.<sup>29</sup> For there are intrapersonal analogues of the Repugnant Conclusion that pit quality of life against quantity of life.<sup>30</sup> Telic prioritarianism delivers a Repugnant Conclusion in such cases as well.<sup>31</sup>

22 Parfit, *On What Matters*, 1:39–42.

23 Parfit, "Another Defence of the Priority View," 402.

24 Parfit, *On What Matters*, 1:32–33.

25 Relatedly, when Parfit discussed the interpersonal aggregation of benefits, he sometimes appealed to reasons rather than the goodness of outcomes. Parfit claimed that reasons can be combined to produce a stronger set of reasons to act some way, specifically in a way that would benefit people most (*On What Matters*, 1:32).

26 Parfit mentioned this law in "Equality or Priority?" 106.

27 Parfit, "Can We Avoid the Repugnant Conclusion?" and "Future People, the Non-Identity Problem, and Person-Affecting Principles."

28 Holtug, *Persons, Interests, and Justice*, ch. 9; and Tännsjö, "Why Derek Parfit Had Reasons to Accept the Repugnant Conclusion." For a general discussion of prioritarianism and variable populations, see Brown, "Prioritarianism for Variable Populations."

29 Parfit simply asserted this in "Another Defence of the Priority View," 440.

30 Parfit, *Reasons and Persons*, 498; and Rachels, "Repugnance or Intransitivity."

31 Both Parfit and James Griffin have suggested that global preferences may offer a possible solution to the intrapersonal Repugnant Conclusion. According to Griffin, we cannot arrive at the welfare value of a life by simply totting up the goods and evils the life contains. We

Of course, telic prioritarianism is not the only view that implies the Repugnant Conclusion. Thus, the Repugnant Conclusion, it might be claimed, should not be used to discriminate between distributive theories.<sup>32</sup> If we have strong reason to endorse the law of diminishing marginal moral goodness of utility, then it might be argued that this gives telic prioritarianism an advantage over other distributive theories, and the basis for priority to the worse-off is secured.

However, I see neither a strong reason to endorse this “law” nor a reason to regard impersonal value maximization as a convincing basis for priority to the worse-off. The goal of maximizing impersonal value is not necessary to justify priority to the worse-off, nor does it adequately account for all that is significant in our moral deliberations about aiding the worse-off. When we think about what motivates us to give priority to the worse-off—for those so inclined—the morally salient consideration appears to be not the value of a potential state of affairs but simply the condition or plight of the worse-off. As Hilary Greaves has noted, axiology does not capture the greater sense of urgency and empathetic distress that arises when one contemplates priority to the worse-off.<sup>33</sup> Nor, one might add, does axiology adequately account for certain reactive attitudes. The worse-off have reason to feel indignation or resentment when their plight is ignored, but such attitudes seem to be in the first instance directed at what the agent fails to acknowledge about *them* rather than what the agent fails to produce, for a failure to produce does not in itself

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should instead defer to a person's preference about the kind of life, taken as a whole, he or she wants to live. In conjunction with regarding such global preferences as basic, Griffin proposes a discontinuity in values such that no amount of one kind of value can outweigh any amount of another kind of value (*Well-Being*, 35–36, 86–88). Yet Griffin's analysis of another case undermines the above response. He rejects a holistic evaluative approach as a basis for preferring a life with overall high quality to a longer life with overall lower quality (*Well-Being*, 355). According to holism, the value of the whole is greater than the sum of the values of parts. When considering whether to live a life of seventy years of good quality or a nearly identical life of eighty years with the last ten years of life of poor quality, Griffin maintains that the ten extra years of low-quality life have positive value and count in favor of choosing the longer life even if the life of seventy years, taken as a whole, seems to be a better life. One might say that the local interest in living the ten extra years of bad life that is still worth living competes with and apparently outweighs the global interest in living a shorter life of only good quality, if Griffin is correct. In Griffin's example, if a global preference for the shorter life of higher overall quality is rational, then rational global preferences need not track greater lifetime well-being, and an agent is not rationally required to maximize well-being within his or her life. If an agent rationally ought to have a global preference for the longer life with overall lower quality, then the intrapersonal Repugnant Conclusion looms.

32 Holtug, *Persons, Interests, and Justice*, ch. 9.

33 Greaves, “Antiprioritarianism,” sec. 5.2.

justify these attitudes. Similar claims apply to an agent's reason to feel remorse or regret for failing to aid the worse-off.

It might be argued that a claims-based axiological prioritarianism can answer these criticisms about motivation and reactive attitudes by appealing to the satisfaction or violation of individual claims. According to this view, the better-off and the worse-off have claims to morally valuable outcomes in which they are benefited.<sup>34</sup> This would link an agent's obligation to maximize the moral value of outcomes with the claims of potential beneficiaries in those outcomes.

But are distributive claims necessary for someone's welfare gain to contribute to the moral value of an outcome according to this model? Suppose that *B* is worse off than *C*, and each person stands to benefit equally from our resource. *B*'s claim to our resource is therefore stronger than *C*'s claim, and satisfaction of *B*'s claim would yield the greatest moral value. Now imagine the same case with the addition of *D*: *D* is as well-off as *C*, and *D* would gain a significant amount of pleasure if *C* is benefited. Perhaps *D* is infatuated with *C* but is indifferent to *B*. Our resource would not in any direct way benefit *D*. If *C* is aided, *D*'s welfare gain apparently would contribute to the moral value of this outcome, and this outcome's moral value, we can suppose, would be greater than the moral value of the outcome in which *B*'s claim is satisfied, which is still the strongest individual claim. It does not seem plausible, however, to maintain that *D* has a claim to what happens to *C* or that *D* himself has a claim to being indirectly benefited.<sup>35</sup> That one's well-being gain might contribute to the most morally valuable outcome, according to the weighted sum of benefits, does not itself render one a claimant to the outcome nor entitle one to feel indignation or resentment when an agent decides not to bring about this outcome. If there is to be perfect alignment between respecting the claims of individuals and maximizing morally valuable outcomes, what justifies the view that only benefits to claimants contribute to the moral value of outcomes, thereby excluding *C*'s potential welfare gain? It is unlikely that axiology can provide the necessary rationale. If so, then the strategy of explaining reactive attitudes and the motivation for priority to the worse-off by linking moral value maximization with respecting individual claims seems to fail.

34 Adler, *Well-Being and Fair Distribution*, ch. 5; Holtug, "Prioritarianism: Ex ante, Ex post, or Factualist Criterion of Rightness?"; and Adler and Holtug, "Prioritarianism."

35 For discussion of indirect benefits and the moral significance of directly needing a resource we have to distribute, see Kamm, *Mortality, Mortality*, 1:106–10.

## 3. NONCONTRACTUALIST DEONTIC PRIORITARIANISM

All of the above versions of prioritarianism take the condition of the worse-off to be a necessary ingredient in the justification of priority to the worse-off. Telic and contractualist prioritaricians believe that something more is needed. They appeal to impersonal value maximization or the satisfaction of some unanimity condition in order to supply what they think is missing: a deeper, systematic justification of priority to the worse-off. However, these theorists simply assume that absolute levels are morally important. The consequentialist and contractualist frameworks do not validate this intuition and are themselves problematic. Can noncontractualist deontic prioritaricians provide a deeper rationale beyond simply asserting that the worse-off have stronger claims to a benefit, and there are stronger reasons to aid them?

Deontologists have often invoked the separateness of persons as an important fact about the lives of persons that ought to govern interpersonal relations. But for reasons enumerated by several authors, this approach to justifying priority to the worse-off is beset with difficulties. Dennis McKerlie argued that even if we concede that the separateness of persons supports the objection to balancing benefits and harms across lives as done within a single life and the objection to aggregating benefits and/or harms across lives—i.e., the objections raised by Nagel and Rawls against utilitarianism—there is no clear path from these objections to priority to the worse-off.<sup>36</sup> The objection to aggregation does not imply priority to the worse-off. The objection to balancing, if it is not to exclude priority to the worse-off, must be interpreted in a way that presupposes its legitimacy. David Brink has raised similar worries about the role assigned to the separateness of persons in justifying priority to the worse-off.<sup>37</sup> And Shlomi Segall has argued that the separateness of persons may not be able to help us decide between distributive theories since it can be interpreted in ways that exclude virtually all of them.<sup>38</sup> It does not appear, then, that the separateness of persons offers support for priority to the worse-off in general and prioritarianism in particular. The fact that people live separate lives does not itself determine what aspects of a person's life, taken separately, is of moral importance.<sup>39</sup>

36 McKerlie, "Egalitarianism and the Separateness of Persons"; Nagel, *The Possibility of Altruism*; and Rawls, *A Theory of Justice*.

37 Brink, "The Separateness of Persons, Distributive Norms, and Moral Theory."

38 Segall, "Sufficientarianism and the Separateness of Persons."

39 Nagel subsequently realized that if the objection to balancing were based on the difference between intrapersonal and interpersonal compensation, then this objection would not defeat utilitarianism, for utilitarians need not deny that there is such a difference, nor are they necessarily guilty of extending the principle of individual choice to the social case,

Despite the lack of support from the doctrine of separateness, we need not see persons as mattering less. To the contrary, noncontractualist deontic prioritarianism affirms the importance of persons and the corresponding moral concern they are owed. We do not show proper concern for persons when we ignore an important facet of their condition, that is, when we treat their absolute level of well-being as an insignificant aspect of their lives. Such disregard expresses that how things are with a person count for nothing.<sup>40</sup> This in turn sends the message that *persons matter less*. A person's absolute level of well-being has normative import because responding to this fact is what is required to value persons appropriately.

The central idea behind noncontractualist deontic prioritarianism is that the moral importance of a person's absolute level of well-being is grounded in the value of the person. This is a natural extension of the idea espoused by several philosophers that a person's well-being matters because the person matters.<sup>41</sup> For if a person's well-being matters because the person matters, then it is reasonable to think that an essential aspect of a person's well-being also matters because the person matters. Ignoring absolute levels in our distributive decisions involves, I submit, a failure to respect the value of persons in virtue of failing to count an aspect of their condition made relevant by this value.<sup>42</sup>

This line of thought finds support in some of Harry Frankfurt's remarks on respect: "Failing to respect someone is a matter of ignoring the relevance of some aspect of his nature or of his situation. The lack of respect consists in the circumstance that some important fact about the person is not properly

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as they rely on a different fundamental principle ("Equality," 120). Otsuka and Voorhoeve seem to miss or ignore this point ("Equality versus Priority").

- 40 This phrasing mirrors Harry Frankfurt's remarks in another context. See Frankfurt, "Equality and Respect."
- 41 See, for example, Anderson, *Value in Ethics and Economics*; Velleman, "A Right of Self-Termination?"; and Darwall, *Welfare and Rational Care*.
- 42 One anonymous reviewer has questioned whether we must appeal to the special value associated with being a person in the above argument. Perhaps the properties/capacities that constitute personhood can themselves ground the normativity of a person's welfare and absolute level of well-being. Some considerations count in favor of appealing directly to the value of persons. We know that persons are valuable. But there is disagreement about the criteria for personhood and which criteria constitute the value of persons. There is also disagreement about whether these properties/capacities matter in themselves. For example, Jeff McMahan has argued that persons may matter in a special way because they have certain capacities, but it does not follow that they matter because their capacities matter (*The Ethics of Killing*, 479). If McMahan were correct, we could not claim that a person's well-being matters because her capacities matter. These disagreements need not first be resolved in order for the value of persons to play a justificatory role.

attended to or is not taken appropriately into account.”<sup>43</sup> Respecting the value of persons requires acknowledging that how things are with a person is morally important.<sup>44</sup> Denial of the relevance of absolute levels for distributive decisions expresses that persons are of lesser importance because how they are doing is deemed to be of no consequence. Valuing a person demands, in part, valuing his or her well-being, and valuing a person’s well-being appropriately, in turn, includes a concern for the person’s well-being level.

Some authors might object that I misunderstand what respect for persons involves. Stephen Darwall, for example, has denied that the normativity of welfare is grounded in an individual’s value as a person.<sup>45</sup> According to Darwall, the attitude that is appropriate to have toward persons as such is respect, an attitude that is responsive to persons being rational agents. Having a value that makes one—and one’s well-being—worthy of care or concern and having a value that makes one worthy of respect are distinct, according to Darwall. Connie Rosati also sharply distinguishes between respect for persons and concern for them and their welfare.<sup>46</sup>

There are two possible replies. First, one might concede a sharp distinction between the attitude of respect on the one hand and the attitude of care or concern for individuals and their well-being on the other. Nonetheless, appreciating the value that makes a person worthy of care or concern involves attending to an aspect of the person’s welfare—namely, her absolute level. The normativity of a person’s absolute level would still depend on a prior value of the person, even if it is not her value as a person as such. Agents fail to show proper concern for persons when they ignore their absolute levels.

43 Frankfurt, “Equality and Respect,” 12. For a critique of Frankfurt’s account of respect for persons, see Raz, “On Frankfurt’s Explanation of Respect for People”. Raz instead proposes that disrespect for persons consists in a denial that persons are of value in themselves. In response, Frankfurt denies that respect for persons is in any important way connected with the value of persons (“Reply to Joseph Raz”). Yet Frankfurt’s account does connect with the value of persons, albeit in a manner not exactly captured by Raz’s account. We might fail to respect persons, for example, not because we deny that they are of value in themselves, but rather because we regard persons as having lesser value or a lower moral status than they in fact have. This illustrates “the circumstance that some important fact about the person is not properly attended to or is not taken appropriately into account.”

44 The notion that respect for persons includes a concern for how lives go is suggested in Scanlon, *What We Owe to Each Other*, 104. Similarly, McMahan has argued that concern for a person’s good is a component of respecting persons (*The Ethics of Killing*, 482–83).

45 Darwall, *Welfare and Rational Care*, 14–15; and Darwall, “Reply to Feldman, Hurka, and Rosati,” 644–45.

46 Rosati, “Darwall on Welfare and Rational Care,” 625–26.

Second, Darwall has overstated the distinction between respect for persons and concern for them and their well-being. Darwall seems to think that because care or concern is an appropriate attitude to have with regard to sentient creatures who are not plausibly regarded as persons, care and concern have nothing to do with the value persons have qua persons.<sup>47</sup> However, it does not follow from this that the value of persons as such plays no role in grounding the normativity of a person's welfare or in shaping the kind of concern owed. In fact, Darwall's conception of recognition respect renders the attitude of respect appropriate in matters concerning a person's welfare. As Darwall has noted, "recognition respect lights up the person's dignity as a person and the constraints on relating to him."<sup>48</sup> Human persons are embodied rational beings whose lives can go better or worse, and surely this fact constrains how we may relate or act toward them. And according to Darwall, "the sort of regard involved in recognition respect is a regard for a fact or feature as having some weight in deliberations about how one is to act."<sup>49</sup> The fact that the lives of persons can go better or worse is a fact meriting weight in our deliberations about how we are to act and thus qualifies attention to absolute levels as a form of recognition respect. Finally, Darwall has maintained that by distinguishing respect for persons from care and concern for them, he follows Kant's conception of respect. But Kant attempted to derive a duty to promote the ends and happiness of others from his second formulation of the categorical imperative—the Formula of Humanity.<sup>50</sup> Kant suggested that furthering the ends of others is a way of contributing to their happiness, which in turn suggests that Kant regarded our rational agency as at least partly constitutive of our well-being.<sup>51</sup> As such, Kant arguably did not see respect for persons as completely divorced from a concern for their well-being.

Insofar as it is plausible to consider well-being in some distributive decisions—a view I find intuitively appealing but do not defend in this paper—my aim here is simply to provide a rationale for why agents are justified in regarding absolute levels of well-being as part of what is morally relevant for such

47 Adler has mysteriously claimed that there are no moral reasons regarding the treatment of nonhuman animals partly because of the claim that norms must be justifiable to a community of persons who can engage in normative reasoning, and nonhuman animals are not members of this community (*Well-Being and Fair Distribution*, 449–50). This is a *non sequitur*. Subjects that govern themselves by norms must have certain capacities, but it does not follow from this that the *objects of normative concern*, which give us reasons for action, must possess the same capacities. The realm of moral reasons is not exhausted by the claims of persons.

48 Darwall, "Reply to Feldman, Hurka, and Rosati," 644.

49 Darwall, "Two Kinds of Respect," 41.

50 Kant, *Groundwork of the Metaphysics of Morals*, 4:430.

51 Similarly, Connie Rosati ("Personal Good") argues that agency is partly constitutive of our personal good.

distributive decisions. This moral relevance is grounded in the more fundamental value of persons and the way it is appropriate to value persons. In contrast, whichever unanimity condition is used in a Contractualist Priority View, it must either presuppose such moral relevance or rely on the kind of rationale I have introduced. But once we have a rationale in place, the contractualist machinery is no longer needed.

Contrary to a goal of impersonal value maximization, the notion of recognition respect provides a credible way of understanding the motivation to give priority to the worse-off and why certain reactive attitudes are warranted. The greater sense of urgency and empathetic distress we feel for the worse-off is engendered by our appreciation of the condition of the worse-off, which we recognize as mattering because persons matter. Accordingly, the worse-off have reasons to feel resentment or indignation, and agents have reason to feel remorse or regret in choosing not to aid them, when and because there is inadequate recognition of an important aspect of the lives of the worse-off.

Of course, there may be constraints on the appropriateness of such reactive attitudes. Someone who is worse off because of fully informed and deliberate choices this person made may not have sufficient reason to feel resentment or indignation when a distributor opts to aid a better-off person to a comparable degree. Clearly, the claim that a person's absolute level matters does not imply that it is the only consideration that matters or that it supersedes all other considerations. Noncontractualist deontic prioritarrians can acknowledge that a person's responsibility may have bearing on distributive decisions. I have bracketed questions about responsibility for the sake of simplicity. Presumably, there are cases in which the interests of persons are at stake, yet these people are not responsible for their condition. That the account I have described can explain a range of reactive attitudes in distributive contexts does not entail that it will account for all of them without added complexity.<sup>52</sup>

Relatedly, the greater sense of urgency and empathetic distress we feel for the worse-off appear to have its limits. There may be no sense of urgency or empathetic distress when choosing to confer a benefit on one of two very well-off people who differ in levels of well-being.<sup>53</sup> Should noncontractualist deontic prioritarianism apply only in those circumstances in which a sense

52 A person's absolute level of well-being is often the result of both informed, deliberate choices and factors beyond a person's control, when persons are viewed as temporally extended agents. This view of persons—as opposed to a timeslice view—makes it difficult to ignore the connection between rational agency and well-being. How these components combine to determine a person's responsibility in a given context lies beyond the scope of this paper.

53 For a version of this objection to prioritarianism, see Crisp, "Equality, Priority, and Compassion."

of urgency or empathetic distress is appropriate? If so, this would imply that there is some threshold level of well-being under which deontic prioritarianism is applicable but beyond which it has no jurisdiction. This threshold might correspond with the level of well-being at which a reasonable agent equipped with nonpathological emotional capacities—e.g., they are not sociopaths—no longer feels empathetic distress. However, noncontractualist deontic prioritarians need not be committed to this view. Concern for each person's level of well-being is grounded in a concern for each person, or put another way, a concern for each person dictates a concern for each person's level of well-being. A person's level of well-being does not, it seems to me, become irrelevant simply because this person has a high level of well-being. Thus, while a sense of urgency and empathetic distress on the part of a distributor demarcates an important class of cases, the justification that noncontractualist deontic prioritarians offer in support of priority to the worse-off outstrips the presence of such reactive attitudes. However, this outstripping does not imply that the above rationale plays no role in explaining these reactive attitudes, as these are ultimately responses to persons and their condition. A full complement of emotional responses need not accompany evaluation of the condition of persons at every possible level of well-being in order for all levels to warrant consideration in distributive deliberation.

The reader likely will have observed that I have criticized telic prioritarianism's commitment to impersonal value, yet noncontractualist deontic prioritarians are also committed to a value that is not a value for anyone. But the value at the heart of noncontractualist deontic prioritarianism is not an outcome value that is to be maximized. As Parfit noted, the value of persons is not a kind of goodness.<sup>54</sup> It is a moral status that defines the ways in which we may treat persons.<sup>55</sup> According to noncontractualist deontic prioritarianism, persons assume a central role in our distributive deliberations as opposed to a merely instrumental role in light of what can be produced.<sup>56</sup>

54 Parfit, *On What Matters*, 1:240.

55 Parfit, *On What Matters*, 1:243–44. For a similar view of moral status, see Kamm, *Mortality, Mortality*, vol. 2; and Kamm, *Intricate Ethics*.

56 Because noncontractualist deontic prioritarianism is not concerned with impersonal outcome value maximization, it might avoid the Repugnant Conclusion. The value of persons does not give us reason to produce as much of this value as possible. Nor is there a directive to create new persons *for the sake of* maximizing total well-being or impersonal value, for such a directive inappropriately views persons as mere containers of well-being and subordinates the person to a value that itself depends on the value of the person. Maximizing total (weighted) well-being is not a good that provides us with independent reason to bring it about for its own sake, so it is unclear why an agent should prefer a world containing many lives that are barely worth living to a world containing a smaller number

Now, egalitarians might make similar claims about the ways in which we should view persons in distributive deliberation. And someone might object that the rationale for noncontractualist deontic prioritarianism can be usurped by egalitarians. Egalitarians might insist that relative levels of well-being are not insignificant aspects of human lives, and we must attend to them if we are to show proper concern for persons. Persons, being of equal value and owed equal moral concern, should, other things equal, have lives that go equally well, egalitarians might argue. Extrapolation of the rationale in this way may even help us better understand why some egalitarians maintain that comparative fairness is the basis of relational egalitarianism.<sup>57</sup> If this were right, then my proposal for justifying priority to the worse-off seems to fall into the same camp with contractualism in terms of support for both prioritarianism and egalitarianism.

It is worth noting the distinction between pure prioritarianism and mixed or hybrid prioritarian views. Pure prioritarians subscribe to two theses.<sup>58</sup> According to the positive thesis, absolute levels of well-being are morally important. According to the negative thesis, relative levels of well-being are morally irrelevant. While all prioritarian views must accept the positive thesis, mixed or hybrid views might reject the negative thesis.<sup>59</sup> The rationale for noncontractualist deontic prioritarianism can be viewed as support for the positive thesis. It does not, however, tell us to adopt the negative thesis. In contrast, contractualism does not support the positive thesis. Contractualism does not itself determine whether absolute levels, relative levels, or both are of moral importance.

While the rationale I have provided for priority to the worse-off might be developed in ways that support egalitarianism or a hybrid view, there are some considerations that suggest that the rationale speaks more strongly in favor of a concern for absolute levels of well-being. First, absolute levels are indicative of how things are with someone and reflect how a person is doing, whereas inequality is necessarily parasitic on information about absolute levels in order to be similarly informative. Second, absolute levels represent an essential aspect

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of different people with lives of high quality. For discussion of how the practical standpoint and the conception of ourselves as moral agents from that standpoint can be used to resist the Repugnant Conclusion, see Mulgan, "Two Parfit Puzzles."

57 For discussion of the relation between fairness and inequality, see Temkin, "Equality, Priority, or What?" The reformulated rationale seems to explain why inequality might be thought to raise concerns about comparative fairness better than Temkin's claims about the impersonal value of outcomes.

58 The framing of pure prioritarianism that follows parallels Paula Casal's conception of sufficientarianism as containing positive and negative theses. See Casal, "Why Sufficiency is Not Enough."

59 For the possibility of mixed views, see Casal, "Why Sufficiency is Not Enough"; O'Neill, "Priority, Preference, and Value"; and Parfit, "Another Defence of the Priority View."

of each person's well-being, an aspect the appreciation of which is called for by our recognition of the value of each person, whereas it is not an essential aspect of a person's well-being that someone else may or may not have the same level of well-being. These considerations suggest that my defense of priority to the worse-off does not equally support prioritarianism and egalitarianism, even if it can be developed in ways to support a concern for both absolute and relative levels.<sup>60</sup> Because a main objective of this paper is to develop a rationale for the normativity of absolute levels, the possibility of a mixed or hybrid view will not be considered here, and I will continue to focus on the simpler formulation of the rationale that is articulated in noncomparative terms.

Noncontractualist deontic prioritarianism, I have claimed, leads us to assign a central role to persons in our distributive deliberations as opposed to a merely instrumental or subsidiary role in light of what can be produced. A person-centered approach to distributive ethics, some have argued, should focus exclusively on complete lives. Nagel, for example, argued that distributive principles apply only to whole lives, a claim he seemed to think follows from the unity of life and the possibility of intrapersonal compensation.<sup>61</sup> Following Nagel, Adler has also wielded the concepts of intrapersonal compensation and the unity of life in support of a lifetime approach to distributive ethics.<sup>62</sup> Williams and Nebel have not indicated any divergence from Nagel on this matter.<sup>63</sup> In contrast, some telic prioritarians such as Parfit and McKerlie have argued that we should also give priority to those who are worse off at particular times.<sup>64</sup> While there seems to be room for reasonable disagreement here, noncontractualist deontic prioritarians might endorse a concern for both whole lives and parts of lives.

Persons are temporally extended beings with temporally extended well-being. Each person has connected experiences and psychological states over the

60 I thank an anonymous reviewer for prompting me to clarify my position on the relation between the rationale for noncontractualist deontic prioritarianism and possible support for hybrid views.

61 Nagel, "Equality," 120.

62 Adler, *Well-Being and Fair Distribution*, ch. 6.

63 Williams, "The Priority View Bites the Dust?"; and Nebel, "Priority, Not Equality, for Possible People."

64 Parfit, "Equality or Priority?" and "Another Defense of the Priority View"; McKerlie, "Priority and Time," "Dimensions of Equality," and *Justice Between the Young and the Old*. For critiques of telic prioritarianism and its possible temporal applications, see Tännsjö, "Utilitarianism or Prioritarianism?"; and Andric and Herlitz, "Prioritarianism, Timeslices, and Prudential Value." These critiques target telic prioritarianism's claims about the impersonal value of outcomes—claims that are not made by deontic prioritarians.

course of his or her life.<sup>65</sup> Persons are also agents whose agency unites the various parts of our lives through plans, principles, intentions, commitments, ideals, etc.<sup>66</sup> Our agency plays a role in creating and shaping our diachronic interests or temporally extended personal good.<sup>67</sup> And persons do seem to care about the quality of our lives taken as a whole; each person wants to have lived a good life, however that is defined.<sup>68</sup> These considerations suggest that agents should adopt a global perspective when evaluating a person's life. A person's complete life seems to be especially relevant with respect to certain distributive contexts. One such context involves life-or-death decisions.<sup>69</sup> A prioritarian argument can be offered for giving a stretch of life of comparable quality and quantity to a younger person rather than to an older person when only one person can live. A general preference for the younger in lifesaving contexts seems plausible, but I do not see how it can be justified by views that take moments or parts of life as the sole units of distributive concern.

Notwithstanding, proper recognition respect of persons requires acknowledging that persons have perspectives and occupy points of view, sometimes very different ones throughout the course of a life. Points of view regarding parts of a life have no less normative significance than the point of view that encompasses life as a whole. Connie Rosati's remarks in another context partly explain why: "Because our features affect the quality of our experiences, partly making them what they are for us, and because our features can change, there is no such thing as 'what the experience is like for me.' Rather, there is 'what the experience is like for me, given what I am like at time *T*.'"<sup>70</sup> From within these sub-lifetime points of view, a person's well-being at these times matters—and matters independently of their contribution to the total well-being contained in a life taken as a whole, even if they also can matter in virtue of this contribution.<sup>71</sup> Noncontractualist

65 Parfit once claimed that a psychological reductionist theory of personal identity should lead us to revise our conception of compensation and the scope of distributive principles (*Reasons and Persons*, 335–38). For a critique of Parfit's view, see Adler, *Well-Being and Fair Distribution*, ch. 6. Cf. Jeske, "Persons, Compensation, and Utilitarianism"; and Holtug, *Persons, Interests, and Justice*.

66 For more on the role of agency in determining personal identity and the unity of life, see Korsgaard, "Personal Identity and the Unity of Agency."

67 Velleman, "Well-Being and Time"; and Rosati, "Personal Good."

68 For further discussion of the concern for complete lives, see Griffin, *Well-Being*; Velleman "Well-Being and Time"; Kamm, *Morality, Mortality*, vol. 1; and Temkin, "Aggregation Within Lives."

69 See Kamm, *Morality, Mortality*, vol. 1, for detailed discussion.

70 Rosati, "Persons, Perspectives, and Full Information Accounts of the Good," 317.

71 David Velleman has argued that diachronic interests should not have lexical priority over synchronic interests ("Well-Being and Time").

deontic prioritarians might add that a concern for a person's absolute level during these periods should be included in our appreciation of a person's perspective and concern for the person's well-being during these periods.

The normativity of sub-lifetime levels can be further appreciated from the distributing agent's perspective. The greater sense of urgency we feel for aiding the worse-off is a response to the plight of the worse-off, which we recognize as mattering because they matter. Out of concern for them, we see their plight as something to be alleviated. But this sense of urgency is naturally directed to those who are presently worse off or those who will be worse off, for this is the plight that we can alleviate, i.e., we cannot alleviate a person's past plight. Similar claims apply to the empathetic distress we feel when we contemplate priority to the worse-off. This is not to say that we cannot feel empathetic distress regarding a person's past life. Yet our empathetic distress seems to be heightened when evaluating unfortunate circumstances that we can affect and seems to be dampened when confronted by a person's current good fortune despite his or her bad past.

Taken together, the reasons appreciated from the distributor's perspective and the perspective of a potential beneficiary support a time-specific moral concern. Such concern does not depend on any particular theory of personal identity nor presuppose that parts of lives are metaphysically distinct entities.<sup>72</sup> But if we ascribe distributive importance to sub-lifetime absolute levels, would not this conflict with the possibility of intrapersonal compensation and the unity of life?

Those who wish to apply deontic prioritarianism to parts of lives in addition to whole lives without denying that intrapersonal compensation has normative importance might argue that a person can fail to be adequately compensated in certain contexts. In some cases, there may not be a clear answer regarding a person's lifetime well-being. In other cases, the lack of adequate compensation does not reduce a person's lifetime well-being to an extent that enables lifetime prioritarianism alone to account for priority judgments.

For example, suppose someone has a substantial change in perspective or conception of the good over the course of a single life. Smith may have led the first part of his life as a religiously devout person and then the next part as an atheist. While religious, Smith enjoyed observing the strictures of his religion, but as an atheist, he counts such a life as positively harmful. Smith might reasonably protest that the "benefits" he enjoyed early in life cannot count as adequate compensation for the hardships he endures as an atheist. Yet counting them as harms does not seem quite right either since they were not viewed as such from Smith's earlier religious perspective; and from this early perspective,

72 McKerlie has made similar claims about his telic version of time-specific prioritarianism (*Justice Between the Young and the Old*, ch. 6).

what atheist Smith now regards as benefits might have been regarded as harms. What perspective should be adopted when assessing what counts as benefits or burdens for Smith and computing his lifetime well-being?<sup>73</sup> If we think that only Smith's perspective as an atheist should be used when determining what counts as benefits and burdens to him while an atheist, ignoring his earlier perspective as a religiously devout person, then we are making a time-specific normative judgment. It would be mysterious to then claim that we should ignore this judgment, i.e., demand that we focus only on Smith's complete life despite his change in perspective, whenever atheist Smith is involved in interpersonal conflict.

Another kind of case involves particularly bad periods of life. Robinson endures a period of agony after having lived a very good life. We can give a benefit of a given size to either Robinson or Wilson, who is not in agony but has lived a mediocre life. It seems intuitively compelling that we should aid Robinson. For the example to support a time-specific priority judgment, Robinson's lifetime well-being still must be greater than Wilson's. Yet Robinson's previous good life may not compensate for his agony. The idea here is that adequate compensation may not always be determined simply by the sum total of benefits minus burdens within a life. This idea is supported by common reactions to the intrapersonal Repugnant Conclusion. Most would not accept that the loss of some of the best things in life would be adequately compensated by an indefinitely long life that is barely worth living but promises greater lifetime well-being in aggregate. Perhaps something similar applies to very bad periods of life.

If these two examples are valid, then a general acknowledgement of the possibility of intrapersonal compensation does not preclude time-specific prioritarianism.

This line of argument seems to restrict time-specific prioritarianism to a limited number of cases. Time-specific prioritarians might desire more. Consider the following case:

Person	$T_1$	$T_2$
B	9	3
C	6	6

73 For an argument against using the ideal observer perspective for determining a person's good, see Rosati, "Persons, Perspectives, and Full Information Accounts of the Good." Alex Voorhoeve has argued that intrapersonal intertemporal conflicts would arise even if preferences were idealized, and preference change creates serious difficulties for determining a person's lifetime well-being if idealized preferences function as the measure of well-being ("Preference Change and Interpersonal Comparisons of Welfare").

*B* might be said to be compensated in the sense that he is not worse off overall than if he were at 6 in each temporal period, that is, he is not worse off than if he had not had the advantage in  $T_1$  and the disadvantage in  $T_2$ .<sup>74</sup> If we can distribute 1 unit of well-being to either *B* or *C* at  $T_2$ , *B*'s compensation and lifetime well-being suggests that we should be indifferent.

However, to deliberate *only as if B* were at 6 in each temporal period is in one way to deny the reality of *B*'s situation in  $T_2$ . It fails to regard *B*'s circumstances as what they actually are—namely, that *B* is actually at 3 in  $T_2$ . It is to act as if *B* is currently not experiencing plight, to treat his hardship as if it were absent, which appears to show inadequate recognition respect for *B*. Some of the concerns generated from *B*'s point of view at  $T_2$  are about his life at  $T_2$ , and some of these are taken to matter in their own right, without reference to the whole. Furthermore, *B*'s plight in  $T_2$  engenders greater empathetic distress and a greater sense of urgency to aid *B* than to aid *C* in  $T_2$ . These motivational responses are significant features of moral appraisal and should not be dismissed lightly.

It might be objected that there is another sense of compensation that strongly conflicts with time-specific prioritarianism. Someone is compensated when his or her burden is made up for by a corresponding benefit. When this is the case, *nothing further is owed*. No further action is required to remedy or alleviate the person's burden. If *B*'s advantage in  $T_1$  makes up for *B*'s disadvantage in  $T_2$ , then his burden in  $T_2$  does not itself give us any independent reason for action.

I think we do sometimes understand compensation in this way, for example, when an agent makes informed, deliberate tradeoffs within his or her own life. We are of course assuming that *B* is not responsible for his advantage and disadvantage and are discussing compensation in the context of other-regarding distributive deliberation. Because the above sense of compensation by definition leaves no moral residue, it may be difficult to see how time-specific prioritarianism can gain a foothold unless it is denied that someone is compensated in this way, at least in certain cases. I have described a limited number of cases where this may be so. But should time-specific prioritarians claim more broadly that there is inadequate compensation in more mundane cases like that of *B* and *C*, thereby indicating that something more is owed to *B* than to *C*?

Intuitively, it does appear that there is stronger reason to aid *B* in  $T_2$  despite his past. Taking this intuition seriously would lead to a significant revision of the concept of compensation. For a plurality of cases, the size of benefits/burdens alone would not determine the adequacy of compensation. Revising the concept of compensation in this way seems less plausible for purely self-regarding choices. However, noncontractualist deontic prioritarians need not be

74 See McKerlie, "Dimensions of Equality," for discussion of this sense of compensation.

committed to this sort of revision for self-regarding choices. Unlike telic prioritarrians, noncontractualist deontic prioritarrians do not regard priority weights as intrinsic properties of the outcomes in which individuals are benefited or burdened. Rather, priority weighting arises from the ways in which we ought to value each other.<sup>75</sup> With respect to other-regarding moral concern, if the adequacy of compensation were also determined by people's absolute levels at particular times, then *B* might not be adequately compensated after all. This would allow us to regard *B*'s lower absolute level in  $T_2$  as providing a reason for action.<sup>76</sup> Nevertheless, even on this modified account of compensation, for some sufficiently large advantage in one temporal period, a person's disadvantage in another temporal period could be adequately compensated. In such cases, the benefit makes up for the burden, and nothing further would be owed.

It should be emphasized that it is not the inadequacy of compensation per se that provides the time-specific reason to prefer aiding *B* over *C* in  $T_2$ . *B*'s inadequate compensation is an intertemporal, global feature of *B*'s life, so it can be argued that this aspect of *B*'s *whole life* is what is driving the judgment that *B* should receive priority in  $T_2$ . The point of referring to *B*'s inadequate compensation was to argue that a time-specific concern regarding *B*'s life at  $T_2$  is not morally extinguished or canceled. Consider the following modification:

Person	$T_1$	$T_2$
<i>B</i>	3	9
<i>C</i>	6	6

In this modified example, it remains true that *B* is inadequately compensated on the above proposal. When his life is taken as a whole, this inadequacy might even count in favor of giving priority to *B* in  $T_2$  despite *B* and *C* having

75 If a person's absolute level of well-being matters because the person matters, and time-specific prioritarianism is valid, then does not morality require a concern for absolute levels in both other-regarding *and* self-regarding choices? This depends on whether we can be morally bound to act in certain ways with respect to our own lives, isolated from other-regarding considerations. Some doubt this on the grounds that persons can always release themselves from duties to themselves, which is to say they deny the possibility of self-obligation. The topic of self-regarding duties is an expansive one and not one that I can take up here. If noncontractualist deontic prioritarrians do not reject the possibility of such duties, then they must identify some relevant difference between the self-regarding perspective and the other-regarding perspective from which priority judgments arise, if they intend to preclude prioritarianism from self-regarding choices. This is a topic for future exploration.

76 McKerlie presents a version of this proposal for reconciling a telic version of time-specific prioritarianism with the concept of compensation ("Dimensions of Equality," 279–80).

equivalent lifetime well-being. However,  $C$  is worse off at  $T_2$ , and this itself engenders a time-specific reason for giving priority to  $C$  at  $T_2$ . Consequently, time-specific priority reasons can align with, or oppose, reasons that might arise from someone being inadequately compensated.

This approach to reconciling intrapersonal compensation over time with time-specific prioritarianism leaves a difficult question unanswered. How do time-specific prioritarians individuate temporal periods of a person's life? This question matters because how these temporal periods are individuated will determine what distributive decisions time-specific prioritarians will make.<sup>77</sup> If the individuation is arbitrary, then that seems to make time-specific prioritarianism arbitrary. I do not have a solution to the problem of individuating temporal periods. Nonetheless, this does not render the distinction between a concern for whole lives and a concern for parts of lives untenable. In other contexts, we acknowledge the normative importance of certain distinctions even if there is some degree of arbitrariness in how these distinctions are drawn, e.g., the age of consent, the poverty line, the speed limit. Furthermore, there is some degree of arbitrariness within pure lifetime prioritarian and egalitarian views. Each view must determine how much weight it ascribes to various lifetime aspects of well-being when assessing a person's overall condition.<sup>78</sup> Additionally, if proponents of pure lifetime views also think that structural goods are morally relevant, e.g., a life that starts off badly but ends well is better than a life that starts off well but ends badly, while the contents of each life are identical, then some decision must be made about how to weight and aggregate these different kinds of good to reach an overall verdict. And all prioritarian and egalitarian views—excluding maximin—must determine how much weight to give to aiding the worse-off. If arbitrariness does not invalidate these views, then opponents of time-specific prioritarianism should offer some account of when arbitrariness is or is not invalidating. There is enough support, I believe, to render time-specific prioritarianism worthy of further exploration by non-contractualist deontic prioritarians as a component of a view that combines a concern for whole lives and parts of lives.

Let us return to the problem with which I began this paper. Recall that some proponents of deontic prioritarianism have underscored the fact that it avoids the objections levied by Otsuka, Voorhoeve, and Fleurbaey against telic prioritarianism, objections that purport to show that unrestricted prioritarianism

77 McKerlie denies that this is a problem for time-specific prioritarianism, but he seems to be mistaken here (*Justice Between the Young and the Old*, 105–9). See Bykvist, review of *Justice between the Young and Old*, for the relevant counterargument.

78 Nagel discusses ordering various lifetime needs and interests, e.g., health, education, work, freedom, self-respect, and pleasure (“Equality,” 117).

does not adequately respect the unity of the individual or the separateness of persons. Given that the rationale for noncontractualist deontic prioritarianism makes no reference to interpersonal conflict, the question arises whether the view extends beyond interpersonal conflict. As it stands, the rationale seems to license a concern for levels of well-being in one-person cases. That noncontractualist deontic prioritarianism shares this feature with standard telic prioritarianism may not be all that surprising. After all, according to both theories, agents are guided by a value that is present in one-person cases. But if noncontractualist deontic prioritarianism is an unrestricted view, then it may be vulnerable to the objections raised by Otsuka, Voorhoeve, and Fleurbaey.

Their objections have generated a sizeable literature. Although some of the replies on behalf of unrestricted telic prioritarianism appear to show that their objections are not decisive, a thorough discussion of these objections and replies lies beyond the scope of this paper.<sup>79</sup> Yet in closing, I wish to express my skepticism about restricted views. The scope of *other-regarding* morality extends beyond interpersonal conflict.<sup>80</sup>

If absolute levels were irrelevant and morality had no place in one-person cases, then it should make no difference to the strength of our reason to aid when Sam is badly off and when Sam is well-off, supposing we can benefit Sam to the same degree. But this seems false. The concept of urgency is not limited only to cases in which we must decide to distribute aid among contestants.<sup>81</sup> The same goes for reactive attitudes. There is clearly greater urgency to aid Sam when he is badly off than when he is well-off. And greater moral approbation

79 See O'Neill, "Priority, Preference, and Value"; Parfit, "Another Defence of the Priority View"; Porter, "In Defence of the Priority View"; Segall, "In Defense of Priority (and Equality)"; Holtug, "Prioritarianism: Ex Ante, Ex Post, or Factualist Criterion of Rightness?"; and Agmon and Hitchens, "Prioritarianism."

80 Williams, Voorhoeve, and Fleurbaey appear to view morality exclusively as a way of mediating between conflicting claims. Yet these authors suggest that in one-person cases, individuals have *claims* to have their expected utility maximized. See Williams, "Priority View Bites the Dust?" 323; and Voorhoeve and Fleurbaey, "Egalitarianism and the Separateness of Persons," 398. What is the nature of this claim against a morally motivated stranger? If it is a moral claim, then morality is *not* solely concerned with mediating between competing claims. If it is not a moral claim, then what obligates strangers to maximize another person's expected utility in one-person cases, and who can be wronged when strangers decide against maximizing another's expected utility in such cases? It is unclear what these competing claims theorists have to offer here.

81 Nagel, recall, suggests that there is a standard of urgency that orders various needs and interests ("Equality," 117). The standard could apply to one-person cases even if the unanimity condition that presupposes it is designed for resolving conflicts between contestants for aid. That is, if a person can have more urgent and less urgent claims to aid, this involves a noncomparative judgment made with reference to the standard of urgency.

of Bob is warranted if he fails to aid Sam for no good reason when Sam is badly off than if Bob fails to aid Sam when Sam is well-off.<sup>82</sup>

What could be the basis for a conception of morality that is solely concerned with interpersonal conflict? We have already seen one prominent answer: Nagel claimed that the possibility of intrapersonal compensation invalidates the application of distributive principles within a life.<sup>83</sup> I argued above that intrapersonal compensation over time involving actual gains and actual losses can be reconceived to accommodate the application of distributive principles to parts of a life. I believe that Nagel's argument has even less force when applied to possible gains and possible losses within a life. We can appreciate this latter point without needing to revise the concept of compensation as was done in the discussion of temporal scope.

Otsuka, Voorhoeve, and Fleurbaey, inspired by Nagel, argue that a prospective greater gain compensates for a prospective lesser loss in intrapersonal gambles, and an agent ought to accede to this view when deciding whether to expose another person to a gamble, lest the agent be accused of failing to take seriously the unity of life. However, this sense of compensation may not have the same normative significance as compensation involving actual gains and actual losses. Nor does a prospective gain compensate for an actual loss.<sup>84</sup> One is left to wonder why a conception of compensation in prospects should always take precedence over the fact that the person we expose to a gamble will actually go uncompensated if she loses a gamble, falling to a lower absolute level. Invoking the unity of life only seems to beg the question about the importance of other senses of compensation. Presumably, followers of Nagel who endorse a purely whole-life approach to distributive ethics would ascribe special importance to intrapersonal compensation of an actual loss.

Consider the following example from Parfit.<sup>85</sup> Suppose that it is equally likely that either Tom is very well-off or Tom is very badly off. If we do *X*, Tom will receive a benefit if he is very badly off. If we do *Y*, Tom will receive a slightly greater benefit if he is very well-off. Doing *Y* obviously maximizes expected utility. But if compensation of actual losses matters, then we have reason to do

82 Assume that there is no cost to Bob in aiding Sam in either scenario, i.e., there is no interpersonal conflict. There appears to be a duty to aid in both cases, if the aid cannot otherwise be administered. Now suppose there were some cost to Bob. If there is a magnitude of cost such that there is no duty to aid Sam when he is well-off, yet there remains a duty to aid when Sam is badly off, then the *stringency* and *defeasibility* of a duty to aid is determined in part by a person's absolute level.

83 Nagel, "Equality," 120.

84 O'Neill made this point in "Priority, Preference, and Value," 346.

85 Parfit, "Another Defence of the Priority View," 408.

*X*, since *X* arranges for Tom to receive some measure of compensation when he would need compensation, i.e., if Tom turns out to be very badly off. Tom would not need compensation if he turned out to be very well-off. And doing *Y* would have no bearing on compensation of an actual loss. The notion of compensation, then, does *not* itself preclude prioritarian concern for levels of well-being in one-person cases and may actually align with such concern. Compensating someone becomes more urgent the worse off this person would be without the compensation.

This defense of prioritarianism in risky one-person cases differs from what is proposed by Parfit and Luc Bovens.<sup>86</sup> Both authors claim that we should be risk averse when making decisions on another person's behalf.<sup>87</sup> In contrast, my argument does not rely on claims about risk aversion or the impersonal value of outcomes. Rather, it claims that if we care about compensation, as Otsuka, Voorhoeve, and Fleurbaey profess they do, then certain decisions may be more consistent with this concern despite contravening expected utility maximization.

Noncontractualist deontic prioritarians do not view persons as mere sites or loci for value production, including expected utility maximization. Persons are not mere instruments for maximization of the good, not even their own good or expected good. Fixating solely on expected utility maximization in one-person cases such as Tom's loses sight of the person, the *end in itself* for whom we ultimately act. A concern for a person's level of well-being is rooted in a concern for the person, and this concern for levels is not rendered irrelevant simply because a person does not compete with others. Since noncontractualist deontic prioritarians are ultimately responding to the value of each person, it is difficult to see how extending prioritarianism to one-person cases inappropriately values persons.

#### 4. CONCLUSION

A noncontractualist version of deontic prioritarianism is a viable contender within the spectrum of prioritarian views. This view is more plausible than its telic or contractualist counterparts in explaining our moral thinking about priority to the worse-off. In counting how things are with a person, i.e., counting her absolute level of well-being, we acknowledge and express that the person matters. We see that a person's absolute level matters because the

86 Parfit, "Another Defence of the Priority View," 423; and Bovens, "Concerns for the Poorly Off in Ordering Risky Prospects," 404.

87 For a critique of this approach and the notion that there is a divergence in the goodness of outcomes and what is expectably best for someone in risky one-person cases, see McCarthy, "The Priority View."

person matters, and we respect their value by attending to their condition. This rationale grounds the normativity of absolute levels, elucidates the motivation to give priority to the worse-off, and explains why various reactive attitudes are warranted. The rationale might be developed to support hybrid or mixed views; but its support for a concern for relative levels of well-being appears to be weaker. I have contended that noncontractualist deontic prioritarianism can be applied to both whole lives and parts of lives, which is compatible with a person-centered distributive ethic. And although noncontractualist deontic prioritarianism is not restricted to interpersonal conflict, this is not an embarrassment for the view.<sup>88</sup>

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