

## Equality, Priority, and Compassion\*

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In recent years there has been a good deal of discussion of equality's place in the best account of distribution or distributive justice. One central question has been whether egalitarianism should give way to a principle requiring us to give priority to the worse off.<sup>1</sup> In this article, I shall begin by arguing that the grounding of equality is indeed insecure and that the priority principle appears to have certain advantages over egalitarianism. But I shall then claim that the priority principle itself is ungrounded and that the priority principle should itself give way to a sufficiency principle based—indirectly, via the notion of an impartial spectator—on compassion for those who are badly off.

### I. EQUALITY

Consider the following pair of distributions, called *Equality* and *Inequality*:

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1. See, e.g., Thomas Nagel, "Equality," in his *Mortal Questions* (Cambridge: Cambridge University Press, 1979), pp. 106–27; Dennis McKerlie, "Egalitarianism," *Dialogue* 23 (1984): 223–37; Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986); John Broome, *Weighing Goods* (Oxford: Blackwell, 1991); Larry Temkin, *Inequality* (New York: Oxford University Press, 1993); Derek Parfit, "Equality and Priority," in *Ideals of Equality*, ed. Andrew Mason (Oxford: Blackwell, 1998), pp. 1–20.

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	<i>Group 1</i>	<i>Group 2</i>
<i>Equality</i>	50	50
<i>Inequality</i>	10	90

Assume that each group contains the same number of people (say, 1,000) and that there are no questions of desert at issue. The numbers represent the welfare of each individual in each group: the individuals in *Equality* have equally good lives, while those in *Inequality* have lives that are either much better or much worse than the lives of those in *Equality*.<sup>2</sup>

According to traditional utilitarianism, given the opportunity of bringing about either outcome, there is no reason to choose one over the other. But many think that there is a strong case for *Equality* over *Inequality*. Why is this? One obvious answer is that equality is itself to be preferred—or perhaps, rather, that inequality is itself to be avoided. This position may be described as:

*Egalitarianism*: one outcome is to be preferred to another insofar as (undeserved) inequality is minimized.<sup>3</sup>

Egalitarianism has long faced a problem which Derek Parfit has recently called “the Levelling Down Objection.”<sup>4</sup> Consider the following outcomes:

	<i>Group 1</i>	<i>Group 2</i>
<i>LD Equality</i>	9	9
<i>Inequality 2</i>	99	100

According to egalitarianism, *LD Equality*—insofar as it is perfectly equal—is preferable to *Inequality 2*. This seems highly counterintuitive. It is indeed true that egalitarianism may be combined with other principles, so that an egalitarian may hold that *Inequality 2* is better overall or all things considered, perhaps because of its higher utility level. But the problem for egalitarianism is that its claiming any reason for preferring *LD Equality* appears to count heavily against it.

2. No commitment to precise measures or to any particular view of welfare itself is intended by the use of numbers; throughout the article, numbers may always be understood in terms similar to those used in the sentence to which this note is attached in the text.

3. Compare Temkin, p. 7. The reference to desert is parenthetical since I wish to avoid the issue of desert here; egalitarians may or may not accept the notion of desert. See Temkin, p. 12.

4. Parfit, “Equality and Priority,” p. 10. See also, e.g., Robert Nozick, *Anarchy, State, and Utopia* (Oxford: Blackwell, 1974), p. 229; Anthony Flew, *The Politics of Procrustes* (London: Temple Smith, 1981), pp. 25–26; McKerlie, “Egalitarianism,” pp. 230–37; Raz, p. 235; Temkin, pp. 247–48.

Before rejecting egalitarianism, however, we should try to understand what lies behind the Levelling Down Objection. Larry Temkin has argued that the force of the objection rests on the following:

*The Slogan:* one situation *cannot* be worse (or better) than another *in any respect* if there is *no one* for whom it *is* worse (or better) *in any respect*.<sup>5</sup>

As Temkin interprets the Slogan, “if there is no one” may be taken as equivalent to “if no one exists or will exist,” and “is worse” as “is or will be worse.” A serious problem with such a view is that it cannot resolve Derek Parfit’s Non-Identity Problem.<sup>6</sup> Many of our actions will affect the identity of those who are born in the future, because they affect which sperm will fertilize which eggs. Consider, for example, the conservation of resources. If we choose not to conserve, that is going to affect our lives greatly and, consequently, the identity of any children that we have—and, of course, the identity of any children that they have. Thus, even if we make the quality of human life in the future much lower than it might have been, future generations cannot object, since no particular person can be said to have been harmed.

Since the Slogan cannot explain why it would be wrong not to conserve resources, it should be rejected.<sup>7</sup> But I myself do not believe that it is the Slogan that underlies most people’s dissatisfaction with the implications of egalitarianism in leveling down cases. The Slogan involves person-affectingness—the notion that what matters morally can be only what affects those who do or will exist. But what is worrisome about egalitarianism is independent of person-affectingness in this sense. Rather, the worry arises from the idea that what matters morally could be something that was independent of the welfare of individuals. This idea may be captured as the following:

*The Welfarist Restriction:* in choices affecting neither the number nor the identities of future people, any feature of an outcome O that results in any individual in that outcome being (undeservedly) worse off than in some alternative outcome P cannot count in

5. Temkin, p. 256. The Slogan is essentially a “person-affecting claim”; see Parfit, “Equality and Priority,” p. 18.

6. Temkin, pp. 255–56. See Parfit, *Reasons and Persons* (Oxford: Clarendon, 1984), pp. 357–59.

7. For a radical revision of the Slogan, which I see as in the spirit of my own proposal, see Nils Holtug, “In Defence of the Slogan,” in *Preference and Value: Preferentialism in Ethics*, ed. W. Rabinowicz (Lund: Lund University, Department of Philosophy, 1996), pp. 64–89, pp. 73–75.

favor of O, except to the extent that another in O might be made (not undeservedly) better off.<sup>8</sup>

The welfarist restriction differs from the Slogan in that it does not involve person-affectingness, merely the notion that, desert aside, features that speak in favor of outcomes must be grounded, even if in an indirect way, on benefits to individuals. In the case of *LD Equality* versus *Inequality 2*, the point is that a property of *LD Equality* resulting in benefit to no one and harm to someone cannot speak in its favor. It is acceptance of something like this restriction, I suggest, that leads many to think egalitarianism peculiarly destructive.

The Levelling Down Objection, then, appears to rest on an intuitively secure foundation. But, before rejecting egalitarianism once and for all, we must consider whether it rests on some value to which the plausibility of the welfarist restriction is blinding us.<sup>9</sup> If we can find such a value, we may want to reject the welfarist restriction and the Levelling Down Objection.

What is the appeal of equality? Some kinds of equality clearly have no value—equality in mere height, for example. But here we are concerned with something that does matter in distribution: how well people's lives go, for them. Why should it matter if welfare is distributed equally? The most plausible answer to this question appeals to the value of fairness.<sup>10</sup> The inequalities in *Inequality* and *Inequality 2*, in other words, may be said to be unfair: in those outcomes, some people do worse than others, through no fault of their own. And unfairness in an outcome may plausibly be said to speak against it. Since this conception of fairness depends only on the relative positions of individuals to one another, we may call it *relative fairness*.

I have two doubts about relative fairness, one concerning its source and another concerning its confusion with another, more plausible, principle. First, consider the source of the notion. Here I wish to offer a genealogical hypothesis of a kind similar to that offered by Mill to explain the origin of the notion of justice.<sup>11</sup> According to Mill, on my reading of him, our "sentiment of justice," which might otherwise be taken to constitute insight into a nonutilitarian moral principle, has emerged out of two natural tendencies: toward self-defense and toward sympathy with

8. Parfit calls choices that affect neither the number nor the identities of future people "same people choices" (*Reasons and Persons*, pp. 355–56).

9. It is sometimes said that egalitarianism should be assumed to be the default position. That may be true, but the Levelling Down Objection appears sufficient to dislodge it from that position.

10. See Broome, p. 193; Temkin, p. 13.

11. John Stuart Mill, *Utilitarianism*, 4th ed. (London: Longmans, Green, Reader, & Dyer, 1871), chap. 5. For further exegesis and discussion, see my *Mill on Utilitarianism* (London: Routledge, 1997), chap. 7.

others. The essential idea is that the sentiment of justice has developed out of a natural desire that harm be done to those who harm others. This genealogy is meant to throw doubt on the self-standing normative status of principles of justice, on the ground that they have emerged, through a nonrational process, from natural and nonrational desires (though, of course, Mill accepts that they are extremely important “secondary principles,” whose place in our customary morality is justified by the utilitarian principle). What I want to suggest is that a similar story may be told about relative fairness, based on the natural disposition human beings have toward envy, and—once again—the tendency to sympathize. Envy involves, at its heart, the desire that the good in question be removed from the person envied for their possession of that good and anger at that possession. Generalized through sympathy, envy becomes anger at anyone’s doing better than anyone else.<sup>12</sup> Note that I am suggesting not that appeals to relative fairness rest on envy but that they have their ultimate source in envy, generalized through sympathy. The idea is that generalized envy may have become, through a process of cultural evolution, the principle that it is bad if, through no fault of his or her own, one individual does worse than another. Relative fairness, so adapted, need involve no ill will to the better off and may indeed function in cases in which ill will would be quite out of place (e.g., when one is considering inequalities in societies in the distant past or inequalities between oneself and those who are worse off than oneself).<sup>13</sup> Further, relative fairness may be tied to notions such as self-respect or rational consistency, or it may be limited by other principles, such as those of desert. But the question is whether, once appropriate moral weight has been given to these other notions, the origin of relative fairness in generalized envy throws it into doubt as a moral notion with its own independent weight. There may, of course, be much to be said in favor of keeping the notion, as in the case of justice in Mill. And it may be that, despite its origin, relative fairness is ultimately

12. Partly because of the appeal to sympathy, my account differs from Freud’s neo-Hobbesian/Humean account, in which the principle of equality is adopted by envious individuals for self-interested reasons, to prevent hostile depredation. The two accounts need not, of course, be mutually exclusive. For a helpful discussion of Freud’s account, see John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 539–40. Freud plausibly suggests that we can see envy developing into a sense of justice in the nursery. Rawls comments (p. 540): “Certainly children are often envious and jealous; and no doubt their moral notions are so primitive that the necessary distinctions are not grasped by them. But waiving these difficulties, we could equally well say that their social feeling arises from resentment, from a sense that they are unfairly treated.” I suspect that we could say this only of older children, whose sense of justice has already developed. My two-year-old daughter and her friends have no moral notions I can discern, but they are certainly envious.

13. I owe these examples to Larry Temkin, and I am indebted to him for our discussion on this topic.

something to which we should be prepared to subscribe. My point is merely that the envy hypothesis requires answering and that it does throw some doubt on relative fairness.

But this is a mere hypothesis. And, it may be suggested, people's relative positions surely do appear to matter to us in distributions. Consider the following case. Anya, through no fault of her own, has had a really miserable childhood so far; Bikhu, again independently of any efforts on his part, has had a wonderful childhood so far. If I have some indivisible good to distribute—a holiday in Disneyland, for example—is there not a case for giving it to Anya, even if I am sure that Bikhu would enjoy it just as much? And were I to give the holiday to Bikhu, would Anya not have a justified claim based on relative fairness, not envy?

If one believes that Anya would have a justified claim to the holiday, on the ground that she, through no fault of her own, has had a worse childhood than Bikhu, this is merely to accept that people's relative positions may matter in the distribution of some good (or indeed some unavoidable bad); this position—which we may call the principle of the relevance of relativity in distribution (principle R)—is quite different from mere relative fairness. It implies not that equality is a good in itself, or inequality a bad, but merely that relative positions of potential recipients of goods and bads may be relevant in distribution.

The egalitarian may ask why someone should be concerned with relative positions in distribution if they are not concerned with relative fairness per se. Why should anyone want to attend to the relative positions of Anya and Bikhu if they do not think that their being unequal is bad and thus to be removed?

Well, why not? There is a deep difference here between egalitarianism, on the one hand, and the combination of principle R with the welfarist restriction, on the other. And, I want to suggest, the appeal of a view which allows us to take note of relative position but forbids leveling down has more going for it than egalitarianism, and it is likely that at least some of the attraction of egalitarianism arises from its being confused with the combination in question.

## II. PRIORITY

Principle R allows us to attend to the relative positions of recipients in any distribution, but it does not commit us to the idea that inequality in itself is bad. It thus allows us to avoid the Levelling Down Objection while preferring *Equality* to *Inequality* in my original pair of outcomes. In this section, I shall discuss that version of principle R which recently has been presented by Derek Parfit as a response to the Levelling Down

Objection.<sup>14</sup> According to Parfit, those known as political egalitarians have been concerned often not with mere equality but with the plight of the worse off, and they have wished to give the worse off priority. Thus he advocates the following:

*The Priority View:* benefiting people matters more the worse off these people are.

The difference between a concern for relative fairness, on the one hand, and the priority view, on the other, can be brought out by noting that relative fairness is comparative, whereas the priority view is not.<sup>15</sup> The egalitarian is concerned with the position of the worse off only insofar as his or her position compares unfavorably with that of the better off, whereas the prioritarian is concerned with the worse off proportionally in relation to his or her absolute level of welfare.

Let me now attempt to find the most plausible version of the priority view. Consider, first, Nagel's suggestion that we might see ourselves as seeking a kind of "unanimity" in assessing outcomes:

The essence of such a criterion is to try in a moral assessment to include each person's point of view separately, so as to achieve a result which is in a significant sense acceptable to each person involved or affected. . . . It is possible to assess each result from each point of view to try to find the one that is least unacceptable to the person to whom it is most unacceptable. This means that any other alternative will be more unacceptable to someone than this alternative is to anyone. The preferred alternative is in that sense the least unacceptable, considered from each person's point of view separately. A radically egalitarian policy of giving absolute priority to the worst off, regardless of numbers, would result from always choosing the least unacceptable alternative, in this sense.<sup>16</sup>

14. See Parfit, "Equality and Priority," p. 12. Parfit himself refers to Scanlon and others.

15. *Ibid.*, p. 13. This point brings out an important difference between relative fairness and principle R: principle R does not require one to believe that relative position matters in itself, merely allowing that facts about relative position may be relevant.

16. Nagel, p. 123. Dennis McKerlie ("Egalitarianism and the Separateness of Persons," *Canadian Journal of Philosophy* 18 [1988]: 205–26, pp. 219–21) suggests that unanimity is not really Nagel's concern, since the prioritarian outcome may well be one which only the worst-off person accepts. Derek Parfit has suggested to me that the unanimity in question might consist in maximizing the degree of acceptability to everyone. Since the worst-off person will be worst off even in the outcome which is best for him or her, by choosing this outcome, we are thereby choosing the outcome whose degree of acceptability to everyone is as high as it could be. But the fact remains that the better off might still not accept the prioritarian outcome, and I would suggest that the core notion here is the availability of a justification of a policy to each individual concerned, there being a justification available to the better off for benefiting the worse off at their expense, but not the other way around. See also McKerlie, "Egalitarianism," pp. 224–27.

On this conception, the priority view may be stated as the following:

*The Absolute Priority View:* when benefiting others, the worst-off individual (or individuals) is (or are) to be given absolute priority over the better off.

Consider the following distributions, where *WP* is the worst-off person and each group contains 1,000 people:

	<i>WP</i>	<i>Group 1</i>	<i>Group 2</i>
<i>Status Quo</i>	8.9	9.1	100
<i>Absolute Priority</i>	9	9.1	100
<i>Expanded Concern</i>	8.9	100	100

The absolute priority view, in this case, favors moving from *Status Quo* to *Absolute Priority* rather than to *Expanded Concern*. The key notion in Nagel's elucidation is the contractualist view that we must consider each person's point of view separately.<sup>17</sup> Imagine that *WP* is in quite serious pain and that, in *Absolute Priority*, *Group 1* is in pain almost as serious. All that will happen in *Absolute Priority* is that *WP* will be given a chocolate (her pain is bad, but it is not so bad that she cannot enjoy a chocolate). The absolute priority view favors giving her the chocolate over alleviating the serious pain of 1,000 others. Because the absolute priority view is an "innumerate" maximin principle, it will, like Rawls's "difference principle," allow the smallest benefit to the smallest number of worst off to trump any benefit, however large, to any but the worst off, even the next worst off. And this, it may be thought, is almost as absurd as leveling down.<sup>18</sup>

What is required, then, is a principle that allows us to give priority to the worse off but, in giving priority, to take into account the size of benefits at stake and the numbers of people who will benefit. So understood, the priority view is essentially a nonlexical weighting principle:<sup>19</sup>

*The Weighted Priority View:* benefiting people matters more the worse off those people are, the more of those people there are, and the greater the benefits in question.

17. For discussion of this conception of contractualism, see T. M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998), pp. 229–41.

18. Nagel himself suggests (p. 125) that one may accord greater urgency to larger benefits to those better off than to smaller benefits to the worst off. But this amounts to giving up on his conception of selecting the outcome that is least unacceptable to the person to whom it is most unacceptable, in the sense that, if acceptability is not tied closely to the position of the person in question, theories such as utilitarianism can meet the unanimity test (see also n. 16 above). Further, Nagel suggests that numbers do count, and he admits both that his unanimity criterion cannot account for this and that no alternative criterion suggests itself to him.

19. Compare here Temkin's "Weighted Additive Principle" (Temkin, p. 41).



The weighted priority view, then, will permit us to benefit those who are better off if the benefit to them is significantly greater than to the worse off, or if they are greater in number. Exactly how the factors of absolute position, size of benefit, and number of beneficiaries are to be weighted is, of course, an important question, but I now want to suggest that, whatever weights are attached to these factors, the weighted priority view allows too much weight. Consider the following proposal:

<i>Improvement in Level</i>	<i>Weight</i>	<i>Overall Value</i>
1→2	100	100
2→3	99	99
3→4	98	98
...		
98→99	3	3
99→100	2	2
100→101	1	1

This chart represents the moral weights attached to improvements in the position of any individual.<sup>20</sup> If, for example, I can offer one unit of the good to be distributed to P, who already possesses one unit; two units to Q, who has two units; or three units to R, who has 98, then the overall moral value of my so doing will be as follows:

P (has 1, gets 1):	100
Q (has 2, gets 2):	99 + 98 = 197
R (has 98, gets 3):	3 + 2 + 1 = 6

Attention to the size of benefits, then, requires me to benefit Q in this case. But if we imagine that there is another person, P', who is also in P's position and to whom I may also give one unit when benefiting P, everything else remaining the same, the overall value of benefiting P and P' will be

$$P + P' \text{ (both have 1 each, get 1 each): } 100 + 100 = 200.$$

In this case, the number of beneficiaries outweighs the importance of the amount of benefit available to any particular individual.

The weighted priority view will judge *Expanded Concern* clearly superior to *Absolute Priority*. But, because it allows for straightforward aggregation across persons, the following problem now arises, regardless

20. We should assume that 101 represents the highest possible level of welfare a person can attain.

of the weighting.<sup>21</sup> Consider the following situations, involving 10 people doing pretty badly and 15,000 people doing pretty well:<sup>22</sup>

	<i>10 Poor</i>	<i>15,000 Rich</i>
<i>Status Quo</i>	1	98
<i>Pain Relief</i>	51	98
<i>Chocolates</i>	1	99

In *Pain Relief*, each poor person gains 50 units, and there are 10 such people. The value of increasing the level of the poor in this outcome is thus  $(100 + 99 + 98 + 97 \dots + 53 + 52 + 51 = 3775) \times 10 = 37,750$ . The value of giving a chocolate (a really good chocolate!) to the rich is  $3 \times 15,000 = 45,000$ .

In other words, the weighted priority view, though it may avoid requiring us to give the smallest benefits to the smallest number of the worst off at the largest costs to the largest number of those only slightly better off, does require us to give tiny benefits to those who are very well off at huge costs to the worst off. Its readiness to aggregate straightforwardly “all the way up” leads it to fail to attach the appropriate moral significance to the size of the benefits and the numbers of the recipients. This seems, if anything, an even less palatable position than the absolute priority view, since that view at least always skews distributions in favor of the worst off.

It will not solve the problem to allow the weighting to operate only at lower levels. For as long as the number of the rich is large enough, priority may be given to benefiting them to a small degree rather than benefiting the worse off to a large degree. The problem is arising from straightforward aggregation, so one possible solution here would be to decrease the weight attached to numbers of individuals.<sup>23</sup> Consider the following:

*The Number-Weighted Priority View:* benefiting people matters more the worse off those people are, the more of those people there are, and the larger the benefits in question. But the number of beneficiaries matters less the better off they are.

It may be claimed, for example, that the importance of numbers asymptotically approaches zero as they become large. A weighting could easily be devised which ensured that, in the *Pain Relief/Chocolates* case, when aggregating, one weighted the second rich person’s contribution to the sum at somewhat less than 3, the third at even less, and so on,

21. Compare here Temkin’s “Repellent Conclusion” (Temkin, p. 218).

22. I am, of course, assuming my *Rich* to be welfare-rich, my *Poor* to be welfare-poor.

23. For this suggestion, I am indebted to Jeff McMahan.

in such a way that the total was lower than 37,750, thus respecting our intuitions.

But now consider what I shall call the *Beverly Hills case*, in which you can offer fine wine to different groups of well-off individuals:<sup>24</sup>

	<i>10 Rich</i>	<i>10,000 Super-rich</i>
<i>Status Quo</i>	80	90
<i>Lafite 1982</i>	82	90
<i>Latour 1982</i>	80	92

The value of giving *Lafite 1982* to each of the *10 Rich* is  $(20 + 19) \times 10 = 390$ .

Now let me assume that a number weighting has been devised, such that the value of giving the *Latour 1982* to the *10,000 Super-rich* comes out as less than 390 (how the figures might be calculated is not important for the purposes of this example). Once again, I suggest, a modification of the priority view has taken us from one extreme to another—from allowing that numbers count straightforwardly to denying them appropriate relevance. It seems somewhat absurd to think that the *Rich* should be given priority over the *Super-rich* to the extent that aggregation is entirely forbidden in the case of the latter. Indeed, what the Beverly Hills case brings out is that, once recipients are at a certain level, any prioritarian concern for them disappears entirely. This implies that any version of the priority view must fail: when people reach a certain level, even if they are worse off than others, benefiting them does not, in itself, matter more.<sup>25</sup> And this seems to me to be true even if, in a Beverly Hills case, the utilities are equal. That is, even if the benefits to each of the *Rich* and the *Super-rich* are identical and their numbers are the same, there still seems to me nothing to be said for giving priority to the “worse off.” At this level, only utilities matter, so there would be nothing to choose between the two distributions. In the final section of this article, I shall outline an alternative to the priority view based on the lessons learned so far.

### III. COMPASSION

Egalitarianism failed because relative fairness is not a value; the priority view failed because, since priority is not always a value, it cannot explain why we think priority should be given in those cases in which we think

24. I am assuming that the wine is supplied in some quantity and that it does not constitute a trivial good. If you think it is trivial, then think of some nontrivial good instead.

25. Compare here Elizabeth Anderson’s complaints about modern egalitarians’ concerns with the lazy, surfers, et al., in her “What Is the Point of Equality?” *Ethics* 109 (1999): 287–337, pp. 287–88.

it should. So we must look elsewhere for an appealing account of why, in my original pair of distributions, we should favor *Equality* over *Inequality* (on the assumption that this is not itself a Beverly Hills case).

Since Adam Smith, it has been common to articulate distributive principles, that is, distributive justice, by using the notion of an impartial spectator:

We can never survey our own sentiments and motives, we can never form any judgment concerning them; unless we remove ourselves, as it were, from our own natural station, and endeavour to view them as at a certain distance from us. . . . We endeavour to examine our own conduct as we imagine any other fair and impartial spectator would examine it.<sup>26</sup>

Impartial spectators are often ascribed virtues other than impartiality. Now, it might be thought that any attempt to employ the notion of such a virtuous spectator in formulating a principle to rank outcomes is doomed to failure, since outcome-oriented views are quite distinct from forms of virtue ethics. But this may be a place where such distinctions fail to carve the reality of moral theory at its joints. For, in itself, there seems nothing incoherent in a theory which recommends actions on the basis of a ranking of outcomes but ranks those outcomes from the point of view of a virtuous spectator. Indeed, the notion of the benevolent spectator has been one standard form of argument for, or expression of, utilitarianism, the most significant outcome-ranking theory. In this case, the spectator is assumed to put himself or herself in the shoes of all those affected and to be entirely impartial between individuals in the sense that equal amounts of utility count equally. This device brings out the virtue that leads many to find utilitarianism attractive: benevolence. Indeed, it may be argued that the basing of a utilitarian theory on the notion of the impartial spectator is itself an appeal to the benevolence of those to whom the theory is addressed.

Of course, what many find disturbing about utilitarianism is just this notion of impartial benevolence.<sup>27</sup> It seems to matter not only how much welfare there is overall but also how it is distributed. In particular, we may think that a truly virtuous spectator would be more concerned for those who are badly off. What virtue lies behind such concern? The answer is compassion: the spectator puts himself or herself into the shoes of all those affected and is concerned more to the extent that the

26. Adam Smith, *The Theory of the Moral Sentiments* (1759), ed. D. D. Raphael and A. L. Macfie (Oxford: Oxford University Press, 1976), p. 110.

27. See Philippa Foot, "Utilitarianism and the Virtues," *Mind* 94 (1985): 196–209.

individual in question is badly off. A spectator who shows no special concern for the badly off has a vice—he or she is uncompassionate.<sup>28</sup>

It is important to note here that the virtue ascribed to the spectator is a “theorized” version of the ordinary virtue. In ordinary life, the person we describe as benevolent is likely to be someone, for example, who helps his or her friends and neighbors—who is not, in the utilitarian sense, impartial. But it seems perfectly coherent to take the ordinary virtue and reshape it, for theoretical purposes, in accordance with impartiality. The same goes for compassion. The ordinarily compassionate person, for example, is likely to be moved especially by suffering that he or she witnesses or by the plight of those close to him or her. That cannot be true of the spectator. But it is important to note that the objection often made against utilitarians—that they are concerned merely with happiness and not with individuals—cannot be made against the spectator. He or she recognizes the distinction between persons, and, to that extent, compassion is here to be understood as a personal, rather than an impersonal, virtue.<sup>29</sup> It is also worth pointing out that the model I am here recommending does rely on the notion that compassion is indeed an admirable trait. Other models—employing, for example, “pragmatic” or “tough-minded” spectators—would deliver quite different principles.

The notion of compassion, then, used in conjunction with the notion of an impartial spectator, may provide us with the materials for an account of distribution which allows us to give priority to those who are worse off when, and only when, these worse off are themselves badly off. In other words, it enables us to avoid the problem of the Beverly Hills case by supplying a principled and nonarbitrary basis for a threshold account of justice.<sup>30</sup> Such a view will incorporate an absolute threshold above which priority does not count but below which it does—and we may assume that it will be priority that takes into account both size of benefits and numbers of recipients, so as to avoid the problems of the absolute priority view, as well as how badly off

28. It might be suggested that the virtue required is justice. But what the virtue of justice in distribution requires is exactly what we are trying to decide. This explains why it would be a mistake to object to the model I am proposing that compassion is not something that people are usually thought to have a right to, whereas justice is a matter of rights. The compassion of the impartial spectator (where no question of entitlement need be raised) enables us to identify individuals' entitlements to welfare-enhancing goods.

29. Here I am influenced by the helpful discussion of compassion, understood as a personal dimension of benevolence, in Kai Draper, “The Personal and Impersonal Dimensions of Benevolence,” *Noûs* 36 (2002): 201–27.

30. We have, then, an answer to Richard Arneson's worry (expressed here about Martha Nussbaum): “I do not see how any unique level (not even a broad thick line) can be picked out such that if a person has that level, she has ‘enough’” (“Perfectionism and Politics,” *Ethics* 111 [2000]: 37–63, p. 56; see also Richard Arneson, “Egalitarianism and Responsibility,” *Journal of Ethics* 3 [1999]: 225–47).

those below the threshold are. What is to happen above the threshold? One plausible view is utilitarianism above the threshold, but it is important to note that basing distribution on compassion below the threshold has no implication for what should happen above. What is proposed, then, is something like the following, if we allow that only nontrivial benefits are the concern of compassion:

*The Compassion Principle:* absolute priority is to be given to benefits to those below the threshold at which compassion enters. Below the threshold, benefiting people matters more the worse off those people are, the more of those people there are, and the greater the size of the benefit in question. Above the threshold, or in cases concerning only trivial benefits below the threshold, no priority is to be given.

It may be asked why compassion gives out above the threshold. Consider a case in which the impartial spectator is contemplating some person who, though well above the threshold, is suffering from quite a severe headache. Would she not feel compassion for this individual and incline toward the option of providing her with a painkiller, if that is indeed an available option? Here again we must remember that compassion is being used in a theorized form. Ordinarily, of course, a compassionate person will show concern for someone suffering from a headache, even if that person is very well off. But, within a theory, we can understand that concern as “mere” benevolence, compassion consisting in the attachment of special weight to the interests of those who are badly off.

One possible problem with the view is the following. Consider the following scenario, where *WP* is, again, the worst-off person:

	<i>WP</i>	<i>Group 1</i>
<i>Status Quo</i>	22	26
<i>Below</i>	24	26
<i>Above</i>	22	100

If we assume that the threshold is 25 and that an increase of 2 is nontrivial, then we can see that the view will prefer the smallest nontrivial benefit to any number of individuals below the threshold to any benefit, no matter how large, to any number of individuals above the threshold. That is, it will view *Below* as superior to *Above*. This implication of the view, however, may not be as implausible as it seems once we give proper recognition to the fact that the threshold is the point at which compassion no longer applies. There really is something special to be said for benefiting the worst-off individual which cannot be said for benefiting those above the threshold.

The following difficulty may also be thought to arise, one similar to that which faced the weighted priority view:

	WP	Group 1
<i>Status Quo</i>	1	20
<i>Pain Relief 1</i>	20	20
<i>Pain Relief 2</i>	1	21

Here, let us imagine that we have a case in which one person is far below the level at which compassion enters, and let us assume that there are several thousand individuals just below that level. We can either release the worst-off person from her torture chamber or relieve the migraines suffered by all those in *Group 1*. The compassion principle might be thought to imply that, if there are enough people in *Group 1*, we should benefit them rather than the worst-off person. This seems counterintuitive.

It is true that this problem is consistent with one reading of the compassion principle. It assumes, however, a particular weighting of numbers. In fact, the principle as stated is consistent with, in the case described, putting such weight on another factor—the size of the benefit in question—as to allow us to benefit the worst-off person rather than *Group 1*.

An obvious question to ask of the compassion principle is where the threshold at which compassion gives out is situated, and at this point I shall merely sketch some of the issues and arguments involved.<sup>31</sup> One suggestion might be that compassion is closely tied to needs. When we see someone in need, our compassionate concern suggests that we should give them some special priority over those who are not in need.

A problem with this proposal is that, on any plausible distinction between needs and, say, desire satisfaction or other components of welfare, needs give out before compassion. Imagine a society which includes, among a large number of very wealthy and flourishing individuals, a group which is very poor but whose basic and indeed nonbasic needs are met.<sup>32</sup> Compassionate concern for the badly off speaks in favor of at least some transfers from the rich to the poor, even if the poor use any resources gained to purchase goods which they could not be said to need. Of course, the notion of need may be expanded to

31. It may be said that I need to say a lot more about compassion itself. But my main aim in this article is not to recommend some particular conception of compassion—as, say, cognitive or hard-wired—but to suggest that, in an impartial spectator model, compassion, understood in various plausible ways, might help us to construct a plausible principle of distributive justice. Of course, any development of any particular model would have to say more about its conception of compassion and, in particular, the question of how it relates to desert.

32. I leave it to readers to give their own content to “basic” and “nonbasic” here.

cover the area in which compassion applies. But this still leaves the question of the boundaries of that area itself.

One obvious move is to attempt to set the compassion threshold at some absolute level of welfare—an individual's welfare being taken to be equivalent to how good that life is for that individual. Consider, however, the following scenario which includes many human beings in some considerable pain and a contented dog:

	<i>1,000 Humans</i>	<i>Dog</i>
<i>Status Quo</i>	6	3
<i>Pain Relief</i> 2	20	3
<i>Biscuits</i>	6	4

Any plausible absolute threshold is likely to require us to give priority to small, though nontrivial, increases in the welfare of any number of perfectly contented nonhuman animals over large increases in the welfare of any number of human beings.<sup>33</sup> If we assume that the threshold is, say, 5, in this case it appears that the compassion principle requires us to give better-quality biscuits to the dog (over his lifetime) in preference to relieving the pain of many human beings (again, perhaps, over their lifetimes).

It may be claimed that any such result would demonstrate a flaw, not in the notion of an absolute threshold but in the theory of welfare in play. On the most plausible and widely held views of welfare, however, the lives of nonhuman animals are less valuable than the lives of most humans.<sup>34</sup> According to hedonism, welfare consists in the balance of enjoyable over painful mental states. It is clear that many human lives contain a greater balance of pleasure over pain than any nonhuman life, not only because of the different kinds of enjoyment available to humans but also because of the length of human life. As the hedonist J. S. Mill famously said, "It is better to be a human being dissatisfied than a pig satisfied."<sup>35</sup> The same is true of the comparison between humans and nonhumans on so-called desire accounts of welfare. Human desires are more numerous and more complex than those of nonhumans. Finally, consider the "objective list" theory of welfare, according to which the value of a life consists in its instantiating certain goods such as knowledge or friendship. Once again, most humans do a lot better than most nonhumans.

Now it is undoubtedly true that we feel compassion for the suf-

33. Compare Jeff McMahan, "Cognitive Disability, Misfortune, and Justice," *Philosophy & Public Affairs* 25 (1996): 3–35, pp. 8–9.

34. For a discussion of the central theories of welfare, see, e.g., Parfit, *Reasons and Persons*, app. I.

35. Mill, chap. 2, par. 6.



fering human beings and not for the contented dog. But the question we have to ask is whether the impartial spectator would feel the same way. In the case of benevolence, for example, it seems to be the case that most human beings feel greater benevolent concern for other human beings than for other animals. Compare, for example, our attitudes, taken generally, to slavery with those toward factory farming. But the model of benevolence employed in the most plausible version of the impartial spectator account will be nonspeciesist. A benefit is a benefit, no matter whoever or whatever receives it. So perhaps the impartial spectator is best understood to feel compassion exactly in proportion to levels of overall welfare, in which case he or she will indeed give greater weight to benefiting the dog in the case outlined above.

I am prepared seriously to entertain this view. And, in fact, I can even bring myself to feel what I believe to be compassion (perhaps pity would be a more apt description) for contented nonhuman animals.<sup>36</sup> If this approach seems too counterintuitive, one alternative would be to correlate compassion with what Jeff McMahan calls “fortune,” that is, how well the individual is faring relative to some appropriate standard.<sup>37</sup> McMahan rejects the view that the standard is species-specific in favor of an account which assesses the fortune of any individual in the light of both the possible lives open to him or her given his or her own psychological capacities and the lives of others in certain relevant comparison classes. But, against this, someone who wishes to advocate that compassion be proportionate to welfare might claim that the impartial spectator will feel compassion for some being (such as, say, a dog) just because it has only relatively meager psychological capacities to begin with. True, it makes little sense to say of a highly contented dog that it is “unfortunate,” since it is not clear how things could have gone better for it. But the a priori appeal of the notion that compassion correlate with levels of welfare may be sufficient to make the introduction of the notion of fortune unnecessary.

What does seem to be important, on whatever model one adopts, is that compassion, as I have outlined it, is tied to the notion of a lack. Where the individual in question has enough, compassion seems to give out—though this is not, of course, to say that all benevolent concern for the individual gives out. This gives us the following:

36. I am not alone in this. It is said that J. M. E. McTaggart felt pity for his cat on the ground that it was a cat. See McMahan, “Cognitive Disability,” p. 9, n. 8.

37. Jeff McMahan, *The Ethics of Killing* (New York: Oxford University Press, 2002), chap. 5.

*The Sufficiency Principle:* compassion for any being B is appropriate up to the point at which B has a level of welfare such that B can live a life which is sufficiently good.<sup>38</sup>

Then, of course, the obvious question is: How much is enough? Might my suggestion that those in the Beverly Hills case have enough itself be based on too narrow a conception of welfare? Imagine that the impartial spectator knows that the universe contains trillions of beings whose lives are at a much higher level of welfare than even the best off on this planet. Will he or she take the same view of the Beverly Hills case, or might his or her threshold for compassion be set at a much higher level? It is hard to know how to answer such questions, but, on reflection, my own intuition is that, say, eighty years of high-quality life on this planet is enough, and plausibly more than enough, for any being.

A further important question is whether welfare should be judged globally, across the relevant being's life as a whole, or at the time of assessment.<sup>39</sup> It seems that there are cases which speak in favor of either:

*Cinema Ticket:* You have a spare cinema ticket. You can give it either to Rich, who is usually at level 100 but today has a very bad headache and is at 10, or to Poor, who is, as always, at 10. In either case, it will raise the present level of the recipient by 1.

*Painful Death:* Rich is enduring a painful death, over the course of several days. You can buy her pain-relief or give the money to Poor. Rich's global level is 100, but now she is at 5. The pain-relief would bring her present level up to 25 and her global level up to 101. Poor's present and global level is 30. Any benefit given to Poor will be distributed equally over the rest of her life, raising its level to 31.

Compassion appears to speak in favor of benefiting Poor in the first case and Rich in the second. We do not, I suggest, need to go further into the matter. Both global and at-a-time assessments of welfare are required to decide whether compassionate priority is appropriate. In particular, it seems that present suffering is particularly salient when it comes to at-a-time assessments.<sup>40</sup>

To conclude, I have argued in this article that egalitarianism is to

38. The idea that political egalitarians have been concerned with individuals' getting enough is illuminatingly discussed in Harry Frankfurt, "Equality as a Moral Ideal," in his *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988), pp. 134–58.

39. For good discussions of this issue, see Dennis McKerlie, "Equality and Time," *Ethics* 99 (1999): 475–91; Temkin, chap. 8; and Klemens Kappel, "Equality, Priority, and Time," *Utilitas* 9 (1997): 203–25.

40. This may have implications for intrapersonal rationality; see Kappel, p. 227. It may be reasonable, e.g., to avoid some severe suffering here and now even though it will result in one's life as a whole being less valuable overall.

be rejected because of the lack of plausibility in the notion of relative fairness and that the priority view fails primarily because priority does not matter above a certain threshold. Using the notion of the impartial spectator, I claimed that the compassion principle provides the best account of when, and why, we should give priority to the worse off. Compassion for any being gives out, I suggested, when that being has enough welfare, and it may be based on assessments of a being's life as a whole or on the individual's position at the time of assessment. The discussion of how to interpret the compassion principle itself has necessarily been brief, but I hope at least to have shown that my alternative to both egalitarianism and the priority view is worthy of further thought.