Abstract: This essay reconstructs and assesses claims that utilitarianism and, more generally, consequentialism have inadequate conceptions of distributive justice, because their aggregative character ignores the separateness of persons. On this view, the separateness of persons requires a fundamentally anti-aggregative conception of distributive justice. Even if this objection applies to some forms of utilitarianism, it won’t apply to forms of consequentialism that recognize some conception of distributive justice as an important non-derivative good. Moreover, the separateness of persons poses, rather than resolves, questions about the role of aggregation within distributive justice. This essay explores the adequacy of some consequentialist answers to these questions and defends selective, rather than unrestricted, aggregation.

Keywords: aggregation, consequentialism, contractualism, distributive justice, egalitarianism, separateness of persons, sorites, transitivity, utilitarianism

Utilitarianism is a consequentialist moral theory that takes the good to be promoted — in one formulation, maximized — to be the general happiness or welfare. It takes everyone's interests into account by aggregating their interests, balancing benefits to some against harms to others, as necessary, so as to produce the best total outcome. This conception of impartiality is aggregative and permits interpersonal balancing of benefits and harms. But some critics of utilitarianism claim that whereas balancing goods and harms within a life might be acceptable, balancing goods and harms across lives is impermissible. This is because of the separateness of persons. Intrapersonal balancing recognizes the separateness of persons, because in that case there is compensation; benefactor and beneficiary are the same person. By contrast, interpersonal balancing ignores the separateness of persons; benefactor and beneficiary are distinct persons, rendering compensation problematic. Critics of utilitarianism think that the separate of persons shows that utilitarianism has an inadequate conception of distributive justice — utilitarianism is concerned to produce the best total outcome and is otherwise indifferent to the way in which benefits and burdens are distributed.

In order to respect the separateness of persons, critics claim, concern for persons must take a distributed form in which outcomes can be justified to each individually. One such distributed conception is contractualism, which claims that distributions of benefits and harms must be acceptable, in the relevant sense, to each affected party. One version of contractualism claims that actions and distributions of benefits and harms are right insofar as they conform to principles that no one can reasonably reject. By giving each person a veto, the contractualist seeks a kind of unanimity, in contrast to the aggregative character of utilitarianism. The interpersonally best option may usually be acceptable to many, but it can fail to be acceptable to each. Contractualists often claim that distributions that are acceptable to each will tend toward egalitarianism.

In this way, the separateness of persons purports to play two different roles in discussions of distributive justice. Its negative role is to undermine utilitarianism. Indeed, many critics of utilitarianism suppose that the separateness of persons undermines utilitarianism in virtue of its consequentialist or aggregative structure. If so, the negative import of the separateness of persons

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1 This essay builds on but extends ideas in Brink 1993 and 2006. I am grateful to Richard Arneson, Richard Kraut, Hon Lam Li, Doug Portmore, and Theron Pummer for valuable feedback on a draft.
is to undermine consequentialism more generally. By contrast, the positive role of the separateness of persons is to motivate and support a non-aggregative form of egalitarianism about distributive justice.

This essay reconstructs and assesses the negative and positive significance of the separateness of persons. In §1 I reconstruct utilitarian and consequentialist essentials, focusing on agent-neutral forms of consequentialism, such as utilitarianism. In §2 I explain the separateness of persons objection to utilitarianism, its reliance on a compensation requirement, and how it is supposed to motivate a more egalitarian form of contractualism. In §3 I turn to assessing this critique, distinguishing between non-moralized and moralized versions of the compensation requirement. Utilitarianism does violate a non-moralized compensation requirement, but that requirement is too strong. Without additional argument, it’s not clear what moral theories and theories of distributive justice satisfy the moralized compensation requirement. In §4 I examine the contractualist claim that the right way to model the separateness of persons involves pairwise comparison of options in a way that is fundamentally anti-aggregative, arguing that pairwise comparison is problematic precisely because it prevents us from aggregating comparably urgent moral claims. We need to distinguish between local and distal aggregation; even if we reject aggregating distal claims, we should permit some kinds of local aggregation. This sort of selective aggregation is attractive and stands in contrast to the sort of unrestricted aggregation that leads to repugnant conclusions in both intrapersonal and interpersonal contexts (§5). I conclude by reconstructing and assessing two arguments for unrestricted aggregation — a sorites-style argument that appeals to the irrelevance of small differences (§6) and another argument that appeals to the transitivity of the <better than> relation (§7). These arguments defend unrestricted aggregation in both intrapersonal and interpersonal cases. They can be resisted by appeal to discontinuities in the value of lives and the urgency of moral claims, which allows the consequentialist to defend aggregation that is selective, rather than unrestricted.

1. UTILITARIANISM AND CONSEQUENTIALISM

There are a variety of utilitarian and consequentialist moral theories. For instance, classical hedonistic utilitarianism conceives of the good in terms of pleasure and identifies an agent’s duty with maximizing pleasure. This makes the good explanatorily prior to the right insofar as it defines right action in terms of promoting the good (cf. Rawls 1971: §5). Generalizing, we might understand consequentialism as the set of moral theories that make the good explanatorily primary, explaining other moral notions, such as duty or virtue, in terms of promoting value. For instance, a consequentialist conception of duty might identify an agent’s duty as an action that promotes the good, whereas a consequentialist conception of virtue might identify virtuous dispositions as those with good consequences.

If consequentialism takes the good to be primary and identifies right action as action that promotes value, it contrasts with two different conceptions of right action. Deontology takes right action to be the primary normative notion; it recognizes various actions as obligatory, prohibited, or permitted based on their natures and independently of the value they produce. Virtue-ethics takes the idea of a morally good character to be explanatorily primary in the account of right action;

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2 Different conceptions of pleasure are possible. Some conceive of pleasure in phenomenal terms, as having a common kind of feel or qualia that varies principally in intensity and duration. Others understand pleasure in functional terms, taking it to be a mental state or sensation that the subject likes and is disposed, other things being equal, to prolong. My focus will be on utilitarianism per se, rather than hedonistic utilitarianism, so present purposes do not require adopting a particular conception of happiness or pleasure.
right action, on this view, is action performed by someone with a virtuous character or that expresses a virtuous character (e.g. Watson 1990).

On this way of thinking, consequentialist views treat the good as prior to the right and direct agents to promote the good. Different consequentialist conceptions make different claims about the good, that is, what is intrinsically or non-derivatively good. One issue is whether all goods are personal — goods for someone — or whether some or all goods are impersonal — good independently of any contribution they make to valuable lives. Utilitarian theories are consequentialist theories that take the good to be promoted to be human (or sentient) happiness or well-being. Utilitarian conceptions assume that all goods are personal goods. Different conceptions of utilitarianism make different claims about the nature of happiness or well-being. One familiar conception is the hedonistic claim that pleasure is the one and only intrinsic good and that pain is the one and only intrinsic evil. Alternatively, one might understand the human good in preference-satisfaction terms, as consisting in the satisfaction of actual or suitably informed or idealized desire. Hedonism and preference-satisfaction views construe the human good as consisting in or depending upon an individual’s contingent and variable psychological states. By contrast, one might understand the good in more objective terms, either as consisting in the perfection of one’s essential capacities (e.g. one’s rational capacities) or as consisting in some list of disparate objective goods (e.g. knowledge, beauty, achievement, friendship, or equality).

Another issue the consequentialist must address is whose good matters and how. Who should an agent care about, and among those that demand her concern, should they matter equally? At one extreme lies the impartial consequentialist view that an agent should be concerned to promote any and all kinds of value and, in particular, should have an equal concern with the well-being of all and should act in ways that benefit all those that is in her power to affect for better or worse. Utilitarianism is probably the most familiar form of impartial consequentialism. It instructs agents to promote human or sentient happiness generally. But a view that recognized impersonal values and instructed agents to promote these wherever possible would also be a form of impartial consequentialism. At the other extreme lies the partial consequentialist view that an agent should be intrinsically concerned with promoting only her own happiness or welfare. Such a view would be a form of ethical egoism. In between these extremes lie moderate forms of consequentialism that demand non-derivative concern for others but that limit the scope or weight of such concern. One such a moderate view is the view that C.D. Broad called “self-referential altruism” and associated with commonsense morality (1953: esp. 279). Self-referential altruism claims that an agent’s concerns should have wide scope, but variable weight. It says that an agent has an obligation to be concerned about anyone but that the weight of an agent’s moral reasons is a function of the nature of the relationship in which the agent stands to potential beneficiaries. On this view, an agent has reason to be concerned for perfect strangers as well as intimate associates, but, all else being equal, she has more reason to be concerned about the well-being of an associate than a stranger.

These distinctions within consequentialism can also be made in terms of the distinction between agent-neutral and agent-relative reasons. The general form of agent-relative reasons

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3 Many classical hedonistic utilitarians, such as Jeremy Bentham and Henry Sidgwick, conceive of the good as sentient, and not just human, happiness or pleasure. Whether to focus on human or sentient happiness or pleasure is an important choice point for utilitarians with significant practical implications. However, it will be simpler, in the issues about distributive justice that I will be discussing, to focus on the special case of distribution among humans, even if we eventually decide we need to fold sentient interests into our conception of distributive justice.
makes essential reference to the agent in some way, whereas the general form of agent-neutral reasons does not (cf. Nagel 1986: 152). Being under a duty to help children, as such, would involve an agent-neutral reason, whereas being under a duty to help one’s own children would involve an agent-relative reason. Being under a duty to minimize suffering would be an agent-neutral reason, whereas the deontological duty never to be the cause of another’s suffering, even if this is necessary to minimize total suffering, would be an agent-relative reason. These contrasts can also be captured in the contrast between constraints and options (e.g. Kagan 1989: ch. 1). Constraints are categorical moral prohibitions that are often thought to correlate with moral entitlements that individuals possess — such as rights — that limit what someone may do to them, even in the pursuit of good consequences. On such views, it can be wrong to do something, even though doing so might have the best consequences. By contrast, options permit an agent to devote attention and resources to her own projects and those of others with whom she is associated out of proportion to their agent-neutral value. Utilitarian and agent-neutral conceptions of consequentialism are apparently hostile to both constraints and options, claiming that agents should always do the most good.4

Though it is common to associate consequentialism with agent-neutral consequentialism, and utilitarianism is an agent-neutral form of consequentialism, it would be a mistake to treat all consequentialist doctrines as agent-neutral. Ethical egoism and self-referential altruism both identify an agent’s duty with promoting goods, though they limit the scope or vary the weight of the values she ought to promote. Consequentialists have a distinctive orientation or response to values — they promote, rather than honor the relevant values. To honor a value is to represent it as a constraint on action, acting on it or protecting it at every opportunity. To promote a value is to take steps that lead to its greater realization overall. But promoting a value overall can require failing to honor it on some occasions, as it would, for example, if promoting and protecting freedom within a community required establishing a compulsory draft. And honoring a value on some occasion may involve failing to promote that value, as it would, for example, if saving an innocent life now could only be done in ways that prevented saving even more innocent lives at some later point in time. Whereas the consequentialist tells agents to promote the relevant values, the deontologist tells them to honor those values (cf. Pettit 1991).

Though more could be said about the forms and limits of consequentialism (see, e.g., Brink 2006), this statement of utilitarian and consequentialist essentials should be adequate for present purposes. On this traditional understanding, consequentialists treat the good as prior to the right and direct agents to promote the relevant goods.5 Though consequentialism per se is not agent-neutral, many conceptions of consequentialism are agent-neutral. In particular, utilitarianism, whether hedonistic or not, is an agent-neutral form of consequentialism that directs agents to promote (e.g. maximize) human happiness or well-being. Concerns about the separateness of persons target utilitarianism and, more generally, agent-neutral conceptions of consequentialism.

2. THE SEPARATENESS OF PERSONS

Critics of utilitarianism often focus on its aggregative character — the fact that it takes everyone’s interests into account, weighs them equally, and balances benefits to some against

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4 A sensible deontological morality employs constraints and options that are moderate, rather than absolute — prohibitions and permissions that are overridden if the cost of observing them is sufficiently great. For discussion, see Nagel 1972; Nozick 1974: 30n; Moore 1997: 721-25; Kagan 1998: 79; and Alexander 2000.

5 For a different and potentially more ecumenical conception of consequentialism, see, e.g., Portmore 2011.
harm to others, where necessary, so as to produce the best overall outcome. In *A Theory of Justice* (1971) John Rawls famously criticized utilitarianism’s aggregative character for ignoring the separateness of persons in the course of defending his own liberal egalitarian conception of justice. In *Anarchy, State, and Utopia* (1974) Robert Nozick likewise criticized utilitarianism’s troubles with the separateness of persons in the process of defending his own libertarian entitlement theory of justice. Moreover, both Thomas Nagel (1970) and Bernard Williams (1976) endorsed this criticism of utilitarianism. This consensus about utilitarianism’s problems with the separateness of persons is impressive. Both Rawls and Nozick think that these problems reflect utilitarianism’s failure to respect individual rights and the demands of distributive justice. Their agreement is all the more striking because they hold such divergent conceptions of rights and justice.

To understand this concern with the separateness of persons, it will help to consider a familiar analogy between prudential aggregation and utilitarian aggregation. Prudence is *temporally neutral* and assigns no intrinsic significance to *when* a benefit or burden occurs within a person’s life. It says that we should balance benefits and harms, where necessary, among different stages in a person’s life and pursue the action or policy that promotes her overall good best. Utilitarianism is *interpersonally neutral*; it assigns no intrinsic significance to *whom* a benefit or burden befalls. Just as temporal neutrality requires intrapersonal balancing, so too person neutrality requires interpersonal balancing. It requires that benefits to some be balanced against harms to others, if necessary, to produce the best interpersonal outcome overall. Utilitarianism’s person neutrality thus effects a kind of interpersonal balancing akin to the intrapersonal balancing that prudence’s temporal neutrality requires.

However, Rawls claims that this sort of interpersonal balancing is unacceptable because it ignores the *separateness of persons.*

Nozick, Nagel, and Williams agree. They accept prudence’s intrapersonal balancing but reject utilitarianism’s interpersonal balancing.

Why accept intrapersonal balancing, but not interpersonal balancing? In *The Methods of Ethics* (1907) Henry Sidgwick suggested we can explain the asymmetry between intrapersonal balancing and interpersonal balancing by appeal to the separateness of persons and the significance of compensation (1907: 418-19, 498). Intrapersonal balancing is compensated, but interpersonal balancing is not. Nozick’s discussion develops Sidgwick’s thought.

Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm. … Why not, similarly, hold that some persons have to bear some costs that benefit other persons more? But there is no *social entity* with a good

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6 On the one hand, Sidgwick is attracted to the utilitarian extension of balancing goods and harms from the intertemporal prudential case to the interpersonal case. On the other hand, Sidgwick thinks that the separateness of persons and compensation provide a rationale for the egoist to resist the utilitarian conclusion. This ambivalence is reflected in the fact that Sidgwick reluctantly concludes *The Methods of Ethics* by recognizing a dualism of practical reason between agent-relative and agent-neutral methods of ethics — egoism and utilitarianism.
that undergoes some sacrifice for its own good. … To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has. He does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him …. [1974: 32-33].

Like Sidgwick and others, Nozick is invoking claims about compensation to explain the asymmetric treatment of intrapersonal and interpersonal balancing. Whereas balancing benefits and harms is acceptable within a life, balancing benefits and harms across lives appears unacceptable. In the intrapersonal case, benefactor and beneficiary are the same person, so compensation is automatic. In the interpersonal case, benefactor and beneficiary are different people; unless the beneficiary reciprocates in some way, the benefactor’s sacrifice will not be compensated. Whereas intrapersonal compensation is automatic, interpersonal compensation is not. This fact about compensation appears to rationalize intrapersonal neutrality without rationalizing interpersonal neutrality.

Rawls thinks that utilitarianism’s problems with the separateness of persons is symptomatic of its indifference to considerations of individual rights.

[W]e distinguish as a matter of principle between the claims of liberty and right on the one hand and the desirability of increasing aggregate social welfare on the other; ... we give a certain priority, if not absolute weight, to the former. Each member of society is thought to have an inviolability founded on justice or, as some say, natural right, which even the welfare of everyone else cannot override. Justice denies that the loss of freedom for some is made right by the greater good shared by others. The reasoning which balances the gains and losses of different persons as if they were one person is excluded. Therefore in a just society the basic liberties are taken for granted and the rights secured by justice are not subject to political bargaining or to the calculus of social interests. [1971: 27-28].

Similarly, Nozick contrasts goal-based moral theories with constraint-based theories and insists on understanding rights as side-constraints on pursuit of good consequences, rather than as especially important goals (1974: 28-33).

For both Rawls and Nozick, it is impermissible to aggregate the interests of different individuals. Rather, we should respect the separateness of persons by insisting that distributions be acceptable to each. Nozick thinks that a distributed concern for each supports an historical entitlement theory of justice in holdings that respects individual talents and choices. A more common reaction is to think that a distributed concern for each supports some form of contractualism and its guiding idea that just distributions would be acceptable and justifiable to each and every affected person via the right sort of agreement.

Famously, Rawls appeals to an ex ante contract in the original position, which imposes a veil of ignorance, designed to represent contractors as free and equal moral persons. He claims that contractors in the original position would choose Justice as Fairness which consists of two principles of justice — a principle of equal basic liberties (Equal Basic Liberties) and a principle that distributes social and economic goods and opportunities so as to be to the greatest benefit of the least advantaged (the Difference Principle). The Difference Principle assigns priority to the worst-off members of society, not permitting greater benefits to the better-off if these do not maximize the prospects of the worst-off. In this way, the Difference Principle is anti-aggregative.
In *The Possibility of Altruism* Nagel not only criticizes utilitarianism by appeal to the separateness of persons and the compensation principle but also defends Rawls’s Difference Principle (1970: 142). Later, in his essay “Equality” Nagel contrasts utilitarianism and egalitarianism. Egalitarianism, he claims, “establishes an order of priority among needs and gives preference to the most urgent, regardless of numbers (1977:116-17).” Nagel identifies the anti-aggregative Difference Principle as the correct way to give expression to a distributed concern with each affected party.

So let me return to the issue of unanimity in the assessment of outcomes. The essence of such a criterion is to try in 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. Where there is a conflict of interests, no result can be completely acceptable to everyone. But it is possible to assess each result from each point of view to find the result that is the 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 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. [1977: 123]

Similarly, in his writings on contractualism Tim Scanlon thinks that the correct way to model the separateness of persons is via an ex post contract that aims to identify principles that no one can reasonably reject (1982, 1998).

[Contractualism] holds that an act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement. [1998: 153]

Complaints are the basis of reasonable rejectability, and Scanlon thinks that contractualism forces us to assess complaints of people *individually* (1998: 229-30). This, he thinks, commits us to *pairwise comparison* of the interests and complaints of individuals. So understood, contractualism will register when one individual has a bigger complaint than another, but it will block the aggregation of smaller complaints of several individuals to justify an outcome other than the one that addresses the individually greatest complaints. In this way, Scanlon thinks that contractualism is the correct way to model the separateness of persons and that it contains a restriction to pairwise comparison that makes it fundamentally anti-aggregative.

3. ASSESSING THE CRITIQUE OF UTILITARIANISM AND CONSEQUENTIALISM

Should we accept the negative thesis associated with the separateness of persons objection? Do utilitarian and consequentialist theories ignore the separateness of persons, and does this show that they lack a plausible conception of distributive justice? There are several issues to explore in addressing these questions.

First, even if utilitarianism countenances interpersonal aggregation and balancing that involves uncompensated sacrifices and so ignores the separateness of persons, this may not be true of all consequentialist theories. In particular, consequentialist theories can assign intrinsic or non-
derivative significance to matters of distributive justice, however that is best conceived. Classical utilitarianism demands that we produce the most total happiness, but it seems indifferent how that total is distributed. In particular, it is indifferent between egalitarian and highly inequalitarian distributions of benefits and harms within a population that sum to the same total. Of course, the principle of diminishing marginal utility — the principle that as a person increases her consumption of a given resource, the marginal utility of additional units of that resource decreases — will imply that more equal distributions of resources tend to produce larger amounts of utility. But classical utilitarianism is indifferent between different distributions of the same amount of utility. This is why it is sometimes said that classical utilitarianism has no principle of distributive justice. But if distributive justice is an important good, then consequentialism can insist that it be promoted. Moreover, if the right conception of distributive justice forbids interpersonal aggregation and balancing and the consequentialist assigns distributive justice priority over other goods, then such a consequentialist conception would not be guilty of ignoring the separateness of persons in its conception of distributive justice.

Of course, a consequentialist conception that is sensitive to distributive justice would need to articulate and defend a particular conception of justice as part of its conception of the good. One might wonder if this can be done while maintaining the priority of the good over the right (Rawls 1971: 25). This is a reasonable question. It might seem circular if we define the right in terms of the good and then define the good in terms of permissible distribution. But it’s not clear that we couldn’t have a theory of the good that is distribution-sensitive and still maintain that the good is prior to the right. If the right is all-things-considered obligation and permission, then it seems we could define the right in terms of promoting the good while allowing that the distribution of goods in a situation is an ingredient, perhaps the most important ingredient, in the overall goodness of that situation.

Second, we might wonder if the separateness of persons objection proves too much. Recall that the objection accepts intrapersonal aggregation and balancing and but rejects interpersonal aggregation and balancing, because whereas there is automatic intrapersonal compensation for sacrifice, interpersonal compensation is not automatic. In this way, the objection seems to assume that compensation is both necessary and sufficient for demands for sacrifice to be legitimate. The sufficiency claim is what rationalizes the intrapersonal balancing that prudence requires, and the necessity claim is what undermines the sort of interpersonal balancing that utilitarianism requires.

1. Sacrifice is legitimate just in case it is compensated.
2. Hence, intrapersonal temporal neutrality is required by the sufficiency of compensation for sacrifice; because beneficiary and benefactor are the same in the intrapersonal case, sacrifice is automatically compensated.
3. Hence, the necessity of compensation for sacrifice blocks interpersonal neutrality; because benefactor and beneficiary are distinct in the interpersonal case, sacrifices are not automatically compensated.

But the assumption about legitimate sacrifice in (1) is potentially problematic. The sufficiency claim is itself interesting. Consider a now-for-then sacrifice in which a proximate sacrifice makes possible a greater distal benefit for the agent. We might think that the compensation involved in now-for-then sacrifice gives the agent a prudential reason, perhaps a sufficient one, to make the sacrifice. Nonetheless, concerns about paternalism might make us reluctant to demand of others that they make now-for-then sacrifices. Interesting as the sufficiency
thesis is, it’s the necessity claim that blocks interpersonal aggregation. But the necessity claim is quite extreme.

One measure of the extremity of the necessity claim is that an egoist form of consequentialism could embrace it. For egoism just is the view that an agent has reason to do something just insofar as that would advance his own happiness or well-being. As such, egoism embraces both the sufficiency and the necessity of compensation for sacrifice. Egoism is a potentially interesting doctrine, especially as a claim about rationality, rather than morality, worth exploration in another context (e.g. Brink 1997a, 1997b). But ethical egoism seems implausible to many as an account of our duties to others and, hence, as an account of distributive justice. For the necessity of compensation for sacrifice would seem to preclude any uncompensated duties to others. In particular, it implies that it would be impermissible to ask one person to make or even risk a very small sacrifice for the sake of enormous benefits to others. For example, duties of easy rescue violate the necessity claim.

Another measure of the extremity of the necessity claim is that many conceptions of distributive justice flout it. Consider Rawls’s own Difference Principle, which permits only those inequalities in social and economic goods that are to the greatest benefit of the least advantaged (1971: §§12-13, 21, 26). As Rawls himself recognizes, the Difference Principle will in many circumstances require the better-off to forego further benefits for the sake of the worse-off (1971: 103). These would often be uncompensated sacrifices. But then the Difference Principle also violates the necessity claim and so would offend against the separateness of persons.

The necessity of compensation for sacrifice is overly restrictive if our conception of a sacrifice counts any cost or negative effect on someone’s well-being as a sacrifice. For then even easy rescue’s demand of small sacrifices from one to avert significant harm or produce significant benefit for others violates necessity. However, we might moralize sacrifice, claiming that what’s impermissible is not imposing any sacrifice on some for the benefit of others but only unjustified sacrifices. This sort of moralized compensation principle is less restrictive and permits some kinds of interpersonal balancing. For instance, it need not condemn requiring easy rescue. Moreover, it need not condemn the sort of interpersonal balancing that the Difference Principle requires. Whereas Rawls condemns the sort of bottom-up sacrifice of the worse-off for the sake of the better-off that he thinks utilitarianism might demand, he defends the sort of top-down sacrifice of the better-off for the sake of the worse-off that the Difference Principle might demand (cf. 1971: 103, 178). In doing so, Rawls seems to accept a moral asymmetry between top-down and bottom-up sacrifice — all else being equal, bottom-up sacrifice is morally more problematic than top-down sacrifice. If we combine a moralized compensation principle with the moral asymmetry thesis, we might be able to reconcile the Difference Principle, but not some forms of utilitarianism, with a suitably moralized compensation principle.

But, of course, it is a substantive question which sacrifices are justified and which are unjustified and whether some version of the moral asymmetry thesis is true. Once we drop the objection to interpersonal balancing per se, it is no longer clear that all forms of consequentialist balancing are impermissible or that egalitarian distributions are permissible. The unmoralized separateness of persons objection, resulting from an unmoralized compensation principle, proves too much. The moralized separateness of persons objection, resulting from the moralized compensation principle, poses, rather than resolves, questions about the role of aggregation within distributive justice.

Rawls, Nozick, and Nagel write as if the bare fact that utilitarianism requires interpersonal balancing and permits uncompensated sacrifices is sufficient reason to conclude that it ignores the
separateness of persons and should be rejected, independently of the kind of sacrifices required. This strongly suggests that they originally understand the compensation requirement in a non-
moralized way, which, at least for Rawls and Nagel, is hard to reconcile with their own claims
about distributive justice. Reconciliation is possible if they adopt the moralized version of the
compensation requirement. But then the case against utilitarianism cannot be made in advance of
defending a particular moralization of the compensation requirement and some version of the
moral asymmetry thesis. The separateness of persons is a conversation starter, not the
conversation stopper, it is often presented as.

4. ASSESSING PAIRWISE COMPARISON AND ANTI-AGGREGATION

Critics of utilitarianism appeal to the separateness of persons not only to criticize
utilitarianism but also to motivate alternative distributional principles. As we have seen, Rawls,
Nagel and Scanlon all think that the correct way to model the separateness of persons is
contractualist and that the right kind of contract will direct our attention to the worst-off, giving
them priority that blocks interpersonal aggregation. Rawls imagines that contractors in the original
position compare representative social positions, effectively ignoring the numbers of people
occupying such positions, arguably employing pairwise comparisons of representative social
positions and preventing the sort of interpersonal aggregation that utilitarianism permits. Both
Nagel and Scanlon explicitly claim that in assessing outcomes under different principles we should
restrict ourselves to pairwise comparison, effectively blocking interpersonal aggregation.

In assessing these proposals, we should distinguish two different commitments that these
contractualist egalitarians make — prioritarianism and anti-aggregation. Prioritarianism reflects
the operation of moral asymmetry — the thesis that, all else being equal, the worse-off have more
urgent claims than the better-off. Anti-aggregation is embodied in the restriction to individual or
pairwise comparison, preventing a larger number of smaller individual claims from outweighing a
smaller number of individually larger claims. These two theses need not go together. In particular,
it is possible to embrace moral asymmetry and prioritarianism without embracing anti-aggregation
(see, e.g., Brink 1993, 2015 and Arneson 2000). While some forms of aggregation appear morally
problematic, the wholesale rejection of aggregation is also problematic.

Let’s agree, at least for the sake of argument, that the moral asymmetry thesis is correct
and that, as a result, some form of prioritarianism is also correct. We need to specify the
dimensions along which we determine how well or badly off someone is and how serious their
complaints about some options are. I will assume that how well off someone is a function of both
her absolute and relative well-being. Though A is worse off than B in virtue of A’s relative level
of well-being, we are only likely to think this is morally important if A’s absolute level of well-
being is low. If both A and B are fabulously well off, we are unlikely to care much about A’s
purely relative deprivation. Contractualist discussions often focus on the complaints of affected
parties. Scanlonian contractualism is explicit about this. We can measure the size of someone’s
complaint about one option (e.g. principle or outcome) by how much better she would have fared
under some alternative option and by her relative level of well-being. No doubt, there is more to
be said about how to measure how well-off people are and the size of their complaints. However,
these remarks should be sufficient for present purposes.⁷

⁷ Like others, I will assume that we assess options and complaints about the options in terms of the effects of
the options on the overall life prospects affected parties, not the effects on temporal parts of their lives. So, for
instance, the Difference Principle requires maximizing the life prospects of the worst-off person, not
minimizing the worst period in anyone’s life. For exploration of this assumption, see, e.g., McKerlie 1989.
Prioritarianism says that all else being equal, we should prefer options that favor the worse-off. Rawls’s Difference Principle, which requires foregoing benefits to the better-off so that the position of the worst-off can be maximized, is a form of prioritarianism. Nagel illustrates prioritarianism with an example in which someone has two children, one with special needs. Treating them with equal concern, Nagel claims, requires unequal treatment, specifically, it requires devoting greater attention and resources to the child with special needs (1977: 124). When other things are equal, moral asymmetry supports prioritarian conclusions in which we should benefit the worst-off.

But other things are not equal if we vary the numbers of affected parties. Consider a case in which there are two people, A and B, who are both badly off, but A is marginally worse-off than B. If we had one indivisible resource to distribute, prioritarianism would favor giving it to A. So far, so good. But now assume that we have two groups of similarly situated people. Both the As and the Bs are badly off but the As are marginally worse off. But now assume that there are many more Bs than As. Do the individually slightly more urgent claims of As take priority over individually slightly less urgent but vastly more numerous claims of the Bs? Pairwise comparison and anti-aggregation assume so. But in many cases that would be an implausible answer.

Consider two examples. The first is a choice of educational policy. Assume that we have a fixed number of resources to devote to special education. Assume that we can quantify the severity of learning disabilities and the amount of benefit that different policies would confer. One disability (A) is marginally more severe but also quite rare. Because this disability is more severe, it is harder to overcome than the other (B), and so education of these A-children is more resource-intensive. One policy (Hardship) gives priority to those with the individually worse disability, while the other (Benefit) gives priority to the much larger group with the marginally less severe disability. The second case involves analogous issues about how to ration scarce healthcare resources. Assume that we have two conditions A and B. Those with condition A are marginally worse-off individually than those with condition B, but whereas condition A is quite rare, condition B is quite common. Condition A is harder to treat, so we have to choose between Hardship, which provides a small benefit in terms of life expectancy to A-patients, and Benefit, which produces a larger benefit in terms of life expectancy to the much larger group of B-patients.

In both cases, pairwise comparison requires that we prefer Hardship to Benefit, no matter how few A-type individuals there are and how many B-type individuals there are. That strikes me as unreasonable. We can embrace moral asymmetry and prioritarianism without endorsing pairwise comparison and its ban on all forms of interpersonal aggregation.

5. UNRESTRICTED AGGREGATION?

Scanlon recognizes this sort of worry about his requirement of pairwise and its wholesale ban on interpersonal aggregation, but he doesn’t see a way to allow interpersonal aggregation only selectively and in the right way (1998: 230-41). Intuitively, not all aggregation is morally equal. Egalitarian and prioritarian critics of classical utilitarianism rightly worry about unrestricted interpersonal aggregation that would impose serious harms on a few for the sake of preventing significantly smaller harms or producing modest benefits to a much larger number of persons. The worry is strongest where the goods and harms being aggregated are — considered individually — of very disparate value. We should be reluctant to think that even one person should lose her life even if this meant that we could prevent millions or billions of hangnails. More realistically, we should be reluctant to think that small numbers should be imprisoned or denied basic liberties, so that a much larger number of people could avoid offense or inconvenience. These intuitions are
amplified when the few are already worse-off than the many. It would be good to block that kind of interpersonal aggregation. But a wholesale ban on interpersonal aggregation also blocks legitimate forms of interpersonal aggregation, where the kind and magnitude of benefits and harms are — considered individually — similar, rather than disparate. In such cases, the ban on interpersonal aggregation looks problematic. To explain why we should prefer Benefit to Hardship, we need to allow interpersonal balancing across individually similar cases.

What we need is a way of blocking aggregation where the stakes are highly disparate and permitting it where the stakes are roughly similar. This requires an account of when the stakes are disparate or similar, and there are different possible views about the relevant dimensions of similarity and disparity. For present purposes, let’s assume that similarity/disparity is a function of three different dimensions: (a) the kinds of goods and harms in question, (b) their magnitude, and (c) the relative position of the affected parties. Presumably, it’s clear how the kind and magnitude of goods and harms can affect whether the stakes are similar or not. Moral asymmetry would also imply that whether the stakes are morally similar depends on the relative position of the affected parties. The best-off and the worst-off in a highly inegalitarian society occupy disparate social positions, whereas adjacent social positions in a social hierarchy will have similar standing. Importantly, each of these dimensions is scalar, forming a continuous scale and ensuring that there will be cases in which it is indeterminate whether the stakes are similar or not.

One response to the discussion so far would be to defend selective, rather than unrestricted aggregation. In particular, one might seek to defend aggregation in cases involving similar stakes, but reject it in cases involving highly disparate stakes. On such a view, we would defend local aggregation but reject distal aggregation. However, there is an obstacle to defending this sort of selective aggregation. There are arguments for unrestricted aggregation. We can distinguish the operation of unrestricted aggregation in interpersonal and intrapersonal cases.

Derek Parfit’s repugnant conclusion is a consequence of unrestricted interpersonal aggregation (1984: ch. 17). The repugnant conclusion claims that there is a world with an extremely large population of people with lives barely worth living that it better than a world with a large population of people leading exceptionally good lives. Parfit reaches the repugnant conclusion by a long sequence of small trade-offs of a larger number of slightly lesser goods for a smaller number of slightly superior goods. Similarly, this reasoning supports forms of unrestricted interpersonal aggregation that imply that we should accept trade-offs in which we prevent some very large number of hangnails at the cost of someone’s life or in which we sacrifice one person’s basic liberties for the sake of preventing offense to a great many people.8

We can also imagine unrestricted intrapersonal aggregation. In the Philebus Plato contrasts the life of intelligence and a life with only the simple pleasures of an oyster, defending the superiority of a life of intelligence against an oyster-like existence (20b5-22e5). In The Nature of Existence, J.M.E. McTaggart argues that even if the goods of the intellect are much superior to the value of the oyster’s humble pleasures — such that, all else being equal, we should strongly prefer the life of the intellect to the life of the oyster — nonetheless we have reason to prefer the life of an oyster provided that is sufficiently longer than the life of the intellect (1927: vol. II, book

8 There is a complex literature discussing unrestricted interpersonal aggregation, which includes Parfit 1984: ch. 17 and 2016; Temkin 1996 and 2012; Norcross 1997; Rachels 1998 and 2004; Carlson 2000; Pummer 2017 and forthcoming; Nebel 2018; and Li ms.
But many would disagree, regarding this, as McTaggart notes, as a “repugnant conclusion.” Presumably, Plato would. In *Utilitarianism* John Stuart Mill defends the higher pleasures doctrine, claiming that a life containing the higher pleasures — Socrates dissatisfied — is *discontinuously better* than a life containing only lower pleasures — the pig or fool satisfied (1861: ch. II, paras. 3-6). But one might defend McTaggart’s conclusion indirectly, rather than directly, by appeal to a sequence of local intrapersonal comparisons.

There are at least two versions of this kind of argument for unrestricted aggregation worth distinguishing. Both versions begin from the assumption of selective local aggregation — the idea that a significantly larger number of individually slightly less important claims can outweigh a smaller number of claims that are individually slightly more important — and progress by a sequence of cases to distal aggregation — the idea that an enormous number of extremely unimportant claims can outweigh a small number of extremely important claims. In the first version, the disparity among lives or goods compared is gradually widened, moving from local comparisons to progressively more distal comparisons, and there seems no non-arbitrary point at which to say that we shouldn’t prefer a greater number of lesser goods or claims. In the second version, we only make local comparisons. But the transitivity of the <better than> relation uses a series of local comparisons to commit us to distal aggregation.

6. A SORITES ARGUMENT FOR UNRESTRICTED AGGREGATION

Here’s one attempt to formulate more carefully the first version of the argument for unrestricted aggregation, whether intrapersonal or interpersonal.

1. **Sequence.** Consider a sequence of lives or worlds A-Z. The goodness of lives in these worlds is a function of the kinds and magnitudes of goods people enjoy and whether they have any complaints and how serious they are. In the intrapersonal sequence: A is a full life filled with all the most important goods; B is almost as good as A, but significantly longer; C is almost as good as B but significantly longer; and so on until Z, which is barely worth living but fantastically long. In the interpersonal sequence: A is a world in which there are many people leading very good lives; B is a world in which everyone is leading lives almost as good as in A, but there are many more people; C is a world in which everyone is leading lives almost as good as in B, but there are many more people; and so on until Z, which is a world with an enormous population all leading lives barely worth living.

2. **Local Aggregation.** Aggregation is permissible in cases involving similar goods and bads. In particular, all else being equal, B is better than A; C is better than B; and so on, including the fact that Z is better than Y.

3. **Irrelevance of Small Differences.** Small differences can’t make for big moral or evaluative differences. In particular, if B is better than A, then, given the small differences between B and C, C must also be better than A; if D is better than C, then, given the small differences between C and D, D must also be better than A; and so on.

4. Hence, **Unrestricted Aggregation.** Z is better than A — The intrapersonal version: A sufficiently long life that is never more than barely worth living is better than a long life

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9 Kraut 2018 contains a very interesting discussion of McTaggart’s thesis, though he does not explicitly discuss the particular defenses of unrestricted intrapersonal aggregation that I do below. Nonetheless, Kraut’s response to McTaggart and my own are, I think, relevantly similar.

10 For discussion of Mill’s higher pleasures doctrine, see Brink 2013: ch. 3.
filled with the greatest goods; the interpersonal version: a world with an enormous population of people all leading lives barely worth living is better than a world in which there are many people leading very good lives.

This defense of unrestricted aggregation seems relevantly like a sorites argument inasmuch as it relies on the irrelevance of small differences claim. For this reason, we might call it the sorites version of unrestricted aggregation. The original sorites argument is a step-wise argument designed to convince us that there are no such things as heaps of sand. One grain of sand is not a heap. Adding one grain of sand to something that is not a heap cannot produce something that is a heap. As we add grains of sand, there is no non-arbitrary point at which a heap emerges. But then it follows that there is no number of grains of sand, however large, that constitutes a heap of sand. This argument for unrestricted aggregation may seem to have a similar structure. It takes us from the assumption of local aggregation to a conclusion about distal aggregation by gradually moving from local comparisons to progressively more distal comparisons and insisting that there is no non-arbitrary point at which to say that we shouldn’t prefer a sufficiently greater number of lesser goods or lives.

Should we accept this argument for unrestricted aggregation? Its similarity to sorites arguments might make us suspicious. Though the exact diagnosis of where the sorites argument goes wrong is controversial, it is widely viewed as fallacious, because it begins from a true premise and leads to a manifestly false conclusion. One sign that something is fishy about the sorites argument is that it is reversible. One version of sorites begins by assuming that one grain of sand is not a heap and then appeals to successive applications of the claim that small differences are irrelevant to show that there is no number of grains of sand that would constitute a heap. But the same logic proves that any number of grains of sand, no matter how few, is a heap provided we begin by assuming that very large numbers of grains of sand constitute a heap. Similarly, the sorites version of the unrestricted aggregation argument is reversible and will support a complete ban on aggregation if only we begin with the assumption that distal aggregation is impermissible. For then by appeal to successive applications of the irrelevance of small differences, we reach the conclusion that even local aggregation is impermissible.

We began with the assumption of selective aggregation, in particular, that while local aggregation is permissible distal aggregation is not. But then the reversibility of the sorites argument for unrestricted aggregation is problematic, because the two starting points of the argument lead to incompatible conclusions. This suggests that the sorites argument is problematic. But how? Sequence is just a statement of the structure of the situation under investigation, and local aggregation is an assumption common to both selective and unrestricted aggregation. So the only remaining premise is the claim about the irrelevance of small differences. This principle is not problematic in itself. What’s problematic is its repeated application within the sequence. For repeated small differences amount to a large difference, and large differences are relevant.

What would it mean to reject the repeated application of the principle about the irrelevance of small differences? One might think that the impermissibility of aggregation grows as the small differences accumulate. The first local aggregation involved in B being better than A is permissible. Indeed, the first few small differences may be irrelevant to the permissibility of aggregation. But as the differences accumulate, the case against aggregation grows until it
becomes impermissible. On one version of this view, there is some non-arbitrary point in the sequence at which a small additional difference renders what was previously acceptable aggregation suddenly unacceptable. Perhaps B-L is better than A, but M-Z is not. But it’s hard to see what would justify singling out any one small difference to make this big difference. A more plausible version of this view, I think, claims that there is determinate permissibility at the beginning of the sequence (e.g. B is determinately better than A), determinate impermissibility at the end of the sequence (e.g. Z is determinately not better than A), and indeterminate permissibility in some large range of cases in the middle. Of course, if this alternative picture is to avoid positing its own arbitrary point at which small differences make the difference between permissibility and indeterminate permissibility, on the one hand, and between indeterminate permissibility and determinate impermissibility, on the other hand, there will need to be higher-order indeterminacy about when first-order indeterminacy sets in and then stops. I think that this is an attractive view about how to respond to many sorites-style arguments and how to preserve selective aggregation in the face of this sorites argument for unrestricted aggregation.\(^\text{11}\)

7. A TRANSITIVITY ARGUMENT FOR UNRESTRICTED AGGREGATION

In the sorites argument for unrestricted aggregation, the disparity among lives or goods compared is gradually widened, moving from local comparisons to progressively more distal comparisons, and there seems no non-arbitrary point at which to say that we shouldn’t prefer a greater number of lesser goods or lives. By contrast, in the transitivity argument for unrestricted aggregation, we only make local comparisons, but the transitivity of the \(<\text{better than}>\) relation uses a series of local comparisons to commit us to distal comparisons.

The transitivity argument begins from the assumption of selective aggregation — the idea that a significantly larger number of individually slightly lesser goods or claims can morally outweigh a smaller number of goods or claims that are individually slightly more important. But the process of local aggregation can repeat indefinitely. As long as the \(<\text{better than}>\) relation is transitive, this implies unrestricted aggregation — the idea that a sufficiently large number of de minimus goods or claims can be better than a much smaller number of claims that are individually much more important. Stated more carefully, the argument has something like this structure.

1. **Sequence.** Consider a sequence of lives or worlds A-Z. The goodness of lives in these worlds is a function of the kinds and magnitudes of goods people enjoy and whether they have any complaints and how serious they are. In the intrapersonal sequence: A is a full life filled with all the most important goods; B is almost as good as A, but significantly longer; C is almost as good as B but significantly longer; and so on until Z, which is barely worth living but fantastically long. In the interpersonal sequence: A is a world in which there are many people leading very good lives; B is a world in which everyone is leading lives almost as good as in A, but there are many more people; C is a world in which everyone is leading lives almost as good as in B, but there are many more people; and so

\(^{11}\) There is an enormously complex literature on sorites arguments and related phenomena involving vagueness (see, e.g., Hyde 2018 and Sorensen 2018). My appeal to indeterminacy has some affinities with multi-valued approaches that reject the law of excluded middle. In the literature these approaches are sometimes associated with semantic treatments of vagueness, whereas I’m inclined to regard the vagueness in question as metaphysical, involving the scalar nature of normative properties. For discussion of metaphysical vagueness, see, e.g. Barnes 2010, 2014.
on until Z, which is a world with an enormous population all leading lives barely worth living.

2. **Local Aggregation.** Aggregation is permissible in cases involving similar goods and bads. In particular, all else being equal, B is better than A; C is better than B; and so on, including the fact that Z is better than Y.

3. **Transitivity.** The relation <better than> is transitive — If B is better than A, and C is better than B, then C is better than A.

4. Hence, **Unrestricted Aggregation.** Z is better than A — The intrapersonal version: A sufficiently long life that is never more than barely worth living is better than a long life filled with the greatest goods; the interpersonal version: a world with an enormous population of people all leading lives barely worth living is better than a world in which there are many people leading very good lives.

The crucial difference between the sorites and transitivity arguments for unrestricted aggregation is that the former relies on the iteration of the irrelevance of small differences principle, whereas the latter relies on transitivity.

Parfit represents the repugnant conclusion as following from this kind of transitivity argument. The transitivity argument for unrestricted aggregation may seem more robust than the sorites argument, precisely because transitivity may seem more plausible than the irrelevance of small differences. Should we accept the transitivity argument? The transitivity argument seems valid. To avoid unrestricted aggregation, one must reject either local aggregation or transitivity.

Consider local aggregation. Notice that local aggregation only compares adjacent pairs — A and B, B and C, and so on, including Y and Z. Unlike the sorites version, the transitivity version does not assume that we can compare A and C, A and D, and so on. It derives such comparisons from local aggregation and transitivity. Perhaps local aggregation fails at some point between adjacent lives and worlds in the sequence. But since the space between adjacent pairs is by hypothesis minimal, if local aggregation between some pairs is permissible, it’s unclear why it wouldn’t be permissible in all cases involving adjacent pairs.

Consider transitivity. We might think that rational decision-making depends on the assumption of transitivity. If transitivity never obtained, we could never do more than pairwise comparison, which would severely limit our ability to compare values and construct preference orderings. But there’s no need to deny local transitivity. The issue is really about whether we need to accept distal transitivity. In particular, the issue is whether transitivity holds in cases in comparisons involving significantly different kinds of value. In the intrapersonal case, the issue is whether transitivity holds in cases involving larger and smaller numbers of very different kinds of goods, such as higher and lower pleasures or perfection and contentment. In the interpersonal case, the issue is whether transitivity holds in cases involving larger and smaller numbers of people possessing very different kinds of goods and also occupying significantly different positions in a social hierarchy. As Mill argues in the intrapersonal case and as Rawls argues in the interpersonal case, we might want to recognize comparative discontinuities in kinds of goods and social position. One kind of discontinuity is lexical priority in which no amount of a lesser kind of life is better than the smallest increment in the best kind of life or in which no amount of trivial benefits to the better-off is better than the greatest kind of benefits to the worst-off. If we embrace some kinds of

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12 I think both sorites and transitivity arguments are at work in different parts of *Reasons and Persons*. Though Parfit defends the repugnant conclusion by a transitivity argument, some of his spectrum arguments about personal identity (1984: ch. 11) seem to be sorites arguments.
discontinuity, we can deny distal transitivity involving comparisons between highly disparate kinds of goods and lives.

Where exactly along the local/distal spectrum does transitivity cease to obtain? Despite differences between the sorites and transitivity arguments, I think they are similar on this point. It could be that there is some precise point in applying the transitivity principle to evermore distal comparisons that transitivity fails. Maybe there is some small change in the kinds of value within a life or the proximity of classes in a social hierarchy that blocks aggregative comparisons. Perhaps transitivity holds in cases involving comparisons A-L, but not involving comparisons between A-L and M-Z. But it’s hard to see what would justify singling out any one small difference to make this big difference. A more plausible claim, I think, is that transitivity is itself scalar and becomes more problematic as it becomes more distal. This would mean that transitivity determinately obtains in cases of local comparison, determinately fails to obtain in cases of distal comparison, and is indeterminate in its application to a range of comparisons in the middle. Of course, if this alternative picture is to avoid positing its own potentially arbitrary points at which small differences make the difference between transitivity and indeterminate transitivity, on the one hand, and between indeterminate transitivity and determinate intransitivity, on the other hand, there will need to be higher-order indeterminacy about when first-order indeterminacy sets in and then stops.

This way of avoiding unrestricted aggregation and the intrapersonal and interpersonal repugnant conclusions requires denying that transitivity holds everywhere. This will prevent a complete ordering of goods, but a complete ordering may be both unnecessary and misguided (e.g. Sen 1973: 4-6, 47-76).

8. CONCLUDING REMARKS

It is time to take stock. Utilitarianism is an agent-neutral form of consequentialism that takes the good to be promoted to be happiness or well-being. The separateness of persons objection alleges that there is an asymmetry between the sort of intrapersonal balancing of benefits and harms within a life that prudence requires and the sort of interpersonal balancing of benefits and harms across lives that utilitarianism and other forms of agent-neutral consequentialism require. This argument rests on the assumption that sacrifice requires compensation, because intrapersonal compensation is automatic in a way that interpersonal compensation is not. Even if we accepted the separateness of persons argument against utilitarianism, it would not be successful against other consequentialist conceptions that took the appropriate form of distributive justice to be an important intrinsic or non-derivative good. Moreover, as it stands, the separateness of persons argument is inconclusive. If we rely on a non-moralized conception of compensation, then the compensation requirement is much too extreme, undermining any theory that demands even de minimus sacrifices by some for the sake of great benefits to others, as in easy rescue. The compensation requirement is more plausible if we moralize compensation so that only unjustified sacrifices are prohibited and recognize a moral asymmetry between the claims of the better-off and worse-off. But it is a substantive question involving independent argument that utilitarianism and consequentialism cannot satisfy the moralized compensation requirement. Contractualist critics of utilitarianism claim that the right way to model the separateness of persons involves pairwise comparison of options in a way that is fundamentally anti-aggregative. But pairwise

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13 This is how Temkin 1996, 2012 and Rachels 1998 and 2004 avoid the interpersonal repugnant conclusion. It is arguable that Parfit 2016 and Pummer forthcoming are committed to similar claims, for the discontinuities that they contemplate arguably require denying unrestricted transitivity.
comparison is problematic precisely because it prevents us from aggregating comparably urgent moral claims, as in the examples involving Hardship and Benefit. We need to distinguish between local and distal aggregation; even if we reject aggregating distal claims, we should permit some kinds of local aggregation. This sort of selective aggregation is attractive and stands in contrast to the sort of unrestricted aggregation that leads to repugnant conclusions in both intrapersonal and interpersonal contexts. We can distinguish two arguments for unrestricted aggregation, whether intrapersonal or interpersonal — a sorites-style argument that appeals to the irrelevance of small differences and another argument that appeals to the transitivity of the <better than> relation. These arguments can be resisted by appeal to discontinuities in the value of lives and the urgency of complaints, which allows the consequentialist to defend aggregation that is selective, rather than unrestricted.
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