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## Why one should count only claims with which one can sympathize

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**Summary:** When one faces competing claims of varying strength on public resources for health, which claims count? This paper proposes the following answer. One should count, or aggregate, a person's claim just in case one could sympathize with her desire to prioritize her own claim over the strongest competing claim. It argues that this principle yields appealing case judgments and has a plausible grounding in both sympathetic identification with each person, taken separately, and respect for the person for whom most is at stake. It also defends this principle against several heretofore unanswered objections, including those raised by Daniel Hausman in *Valuing Health*.

**Key words:** Aggregation; distributive justice; sympathy.

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## Why One Should Count only Claims with which One Can Sympathize

Suppose that you are a manager in a public health system that serves a very large population. You have a fixed amount of resources to allocate to various novel interventions. Furthermore, suppose that all individuals with a given ailment have the same health-related well-being and that in arriving at your decisions, you must take account of only people's health-related well-being. Now consider the following case.

**Death versus Paraplegias:** You must choose to allocate a fixed amount of resources to precisely one of the following interventions.

**Death:** Avert the death of one young adult from appendicitis. (Rather than die, he will lead a full life in good health.)

**Paraplegias:** Avert a number  $N$  of cases of paraplegia among young adults.

Is there a natural number  $N$  of people you could prevent from becoming paraplegic for which you should avert this number of cases of paraplegia rather than save one young adult's life?

Next, consider the following case.

**Death versus Headaches:** You must choose to allocate a fixed amount of resources to precisely one of the following.

**Death:** Avert the death of one young adult from appendicitis.

**Headaches:** Prevent a number  $N$  of people from suffering a mild headache for a day.

Is there a natural number  $N$  of people you could save from such a headache for which you should spare them a headache rather than save a young adult's life?

In this paper, I will defend the following, "Yes; No" pattern of response to these questions. There is a natural number  $N$  large enough such that one ought to avert this number of cases of paraplegia rather than save one life, but there is no natural number of people one can spare a headache such that one ought to avert their headaches rather than save the single life. In deciding whether to save a single life or a number of people from a lesser harm, the number one can save from the lesser harm matters to what one ought to do if and only if the lesser harm is close enough in size to the harm of death to be "relevant" to it. Considerable harms (such as paraplegia) are close enough in magnitude to the harm of premature death to be relevant, so that averting a very large number of considerable harms can permissibly take priority over saving a life. By contrast, very small harms (such as a headache) are not close enough in magnitude to the harm of an early death to be relevant, so that no number of averted headaches can permissibly take priority over saving a life. I shall refer to this view as "Aggregate Relevant Claims," or ARC.<sup>1</sup>

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<sup>1</sup> A view of this kind is defended in Scanlon (1998, pp. 238-41); Temkin (2012, Chapters 2 and 3); Kelleher (2014); and Voorhoeve (2014). Kamm (1993; 2007; 2014) also endorses a view of this type, although she

ARC contrasts interestingly with standard views of distributive justice. On utilitarianism, one ought to allocate resources towards curing the lesser ailment just in case the total well-being generated by curing  $N$  such ailments exceeds the total well-being generated by saving the life. In both cases, if  $N$  is sufficiently large, one therefore ought to cure  $N$  people of the lesser ailment rather than save one life. In giving such a “Yes; Yes” answer to the two opening questions, utilitarianism agrees with some of its familiar rivals. Standard versions of prioritarianism (which is unconcerned with inequality per se but which gives some, non-infinite extra weight to improving lives with a low absolute level of well-being) hold that if the number of people one can cure of the lesser ailment is large enough, then one ought to cure this larger number rather than save a life. The same is true of standard versions of pluralist egalitarianism (which cares both about reducing inequality and about improving the well-being of each person). As shown in Fleurbaey et al. (2009), on both standard versions of prioritarianism and pluralist egalitarianism, there is a point at which one ought to save the greater number from the harm of a headache rather than prevent one death (albeit that the number for which the lesser ailments jointly take priority over one death is greater on these views than it is on a utilitarian view).

ARC also contrasts with the maximin principle, which holds that one ought always to maximally improve the lot of the worst off. On this view, in both Death versus Paraplegias and Death versus Headaches, one should avert the death no matter how many lesser ailments one could avert instead. The maximin principle therefore mandates a “No; No” pattern of response to our opening questions. Table 1 summarizes the responses of these different theories of distributive justice.

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argues that the harm of paraplegia is not, in all decision contexts, large enough to be relevant to the harm of death.

**Table 1. Theories of distributive justice and answers to Death versus Paraplegia and Death versus Headaches**

Is there a natural number $N$ of people cured of the condition such that one should cure this number of people rather than save a young adult's life?		Headache	
		Yes	No
Paraplegia	Yes	Utilitarianism Prioritarianism Pluralist egalitarianism	Aggregate Relevant Claims
	No		Maximin

While there is only limited research on people's views, a review of existing studies concludes that there is some (albeit imperfect) evidence that a substantial share of people's judgments align with ARC (Voorhoeve, n.d.). The results of a new online survey ( $N = 532$ ) primarily among philosophy students at the London School of Economics and members of the Philosophy in Europe ('philos-I') distribution list are consistent with this finding (Rueger 2015). As reported in Table 2, a substantial majority of respondents answered these questions in a manner that is consistent only with ARC. The sample is, of course, not representative of populations in the developed world. Moreover, it is probably unrepresentative even of the typical views of philosophy students and philosophers, since it is likely that those with an interest in the permissibility of aggregation were overrepresented. Nonetheless, the findings indicate that ARC's judgments are attractive to people beyond the small congregation of moral philosophers who have defended ARC in writing.

**Table 2. Online Survey Responses to Death versus Paraplegia and Death versus Headaches cases (in percent,  $N = 532$ ).**

Is there a natural number $N$ of people cured of the condition such that one should cure this number of people rather than save a young adult's life?		Headaches	
		Yes	No
Paraplegia	Yes	4.1	63.9
	No	0.8	31.2

Notwithstanding its unique ability to arrive at appealing judgments in these cases, ARC faces several challenges, articulated by Daniel Hausman (2015) and others (Broome 2002; Norcross 2002; Parfit 2003; and Halstead, forthcoming). My aim in this paper is to defend ARC against them.

One challenge is to delineate which types of claim are relevant and irrelevant and provide a clear rationale for the distinction. Section I attempts to meet this challenge. Section II defends the proposed rationale against the objection that it is merely cobbled together to yield the desired case judgments. Section III responds to the charge that ARC implausibly makes one's priorities between two interventions depend on which alternative interventions are available. Section IV considers and rejects Hausman's claim that ARC is worryingly at odds with both current practice and our moral sentiments.

## I. A Rationale for Aggregate Relevant Claims

In the type of cases we shall consider,<sup>2</sup> ARC holds the following:

- (1) Each individual whose health-related well-being is at stake has a claim.
- (2) These people's claims compete just in case they cannot be jointly satisfied.
- (3) An individual's claim is stronger:
  - (3.1) the more her health-related well-being would be increased by being aided;  
and
  - (3.2) the lower the level of health-related well-being from which this increase would take place.
- (4) A claim is relevant if and only if it is sufficiently strong relative to the strongest competing claim.
- (5) One should choose the alternative that satisfies the greatest sum of strength-weighted, relevant claims (Voorhoeve 2014, p. 66).

ARC is grounded in the following idea. Both an aggregative and a non-aggregative approach to distributive justice impose legitimate demands on us. These demands sometimes conflict. ARC adjudicates between them in a reasonable way (Voorhoeve 2014, pp. 68-70).

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<sup>2</sup> For simplicity, I shall only consider decisions under certainty involving public action to alleviate naturally occurring harms. Furthermore, the alternatives under consideration give a person either the best or the worst feasible outcome for her. Finally, claims to an alternative are either all relevant or all irrelevant.



On the aggregative approach, the equal value of each person's well-being gives one reason to assign equal and positive marginal moral importance to every person's claim of a given strength. It does so by regarding the satisfaction of  $N$  claims of a given strength as  $N$  times as important as the satisfaction of one such claim. This approach mandates the satisfaction of the greatest sum of strength-weighted claims.

On the non-aggregative approach, the separateness of each person's life requires that one confront each person's claim, taken alone, with each competing claim, taken alone (Nagel 1979, p. 116f). From an objective standpoint, in these comparisons, a stronger claim always outcompetes a weaker claim. Since it relies entirely on such pairwise comparisons, when it takes this objective perspective on the claims at issue, the non-aggregative approach concludes that, when claims differ in strength, it is most important to satisfy the individually strongest claim.<sup>3</sup> If one were instead to fulfil other claims, then the greater the difference between the strongest claim and the feeblest, fulfilled claims, the more one's choices would depart from this dictum of the non-aggregative approach.

ARC mediates between these approaches as follows. It tells one to maximize the fulfilment of claims (the aim of the aggregative approach) under the constraint that these claims are relevant—which is just to say that one should not depart “too far” from the

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<sup>3</sup> The strength of a person's claim is a function both of how much of an increment in well-being a person could receive and how badly off he would be otherwise. Neither of these two elements takes lexical priority over the other: a large potential gain to a moderately well off person can yield a stronger claim than a smaller potential gain to a badly off person. The strongest claim is therefore not necessarily made on behalf of the person who would be worst off. Contrary to what Thomas Nagel's writes in some passages (see Nagel 1979, p. 123), but in line with what he suggests in others (see Nagel 1979, p. 125), the non-aggregative view is therefore inconsistent with maximin.

dictum of the non-aggregative approach. But, we must now ask: What would represent such an unacceptable departure from the non-aggregative approach? Put differently, which claims are irrelevant? Hausman (2015, p. 213) puts this question as follows:

“those who maintain that some benefits or burdens are relevant and that some are not need to explain what makes the aggregative [approach] appropriate to some cases and (...) [non-aggregative] pairwise comparison (...) appropriate to others.”

To answer Hausman’s question, I shall now offer a richer characterization of this approach, building on Voorhoeve (2014, pp. 70-5). On this characterization, it will emerge that factors internal to the non-aggregative approach make some departures from its requirement to “satisfy a strongest claim” especially serious.

This more fully developed version of the non-aggregative approach relies on distinguishing two standpoints from which one can carry out the aforementioned pairwise comparisons. From an objective, or impartial, standpoint, the satisfaction of a person’s claim of a given strength, taken alone, is just as important as the satisfaction of any other person’s claim of that strength; and the satisfaction of one person’s stronger claim is more important than the satisfaction of another’s weaker claim. This is the standpoint that yields the verdict that one should always satisfy a strongest claim when claims are pitted against each other one-to-one.

However, one can also consider this competition from a subjective standpoint. I will refer to this standpoint as the “permissible personal perspective.” To characterize this standpoint, I shall assume that to an extent, an individual can be legitimately partial to his

own interests.<sup>4</sup> When one takes up the permissible personal standpoint of an individual (call him P), one imaginatively places oneself in P's position while taking on both P's maximally morally permissible degree of concern for his own well-being and the minimally required degree of altruism towards a stranger. One then compares his claim with the strongest competing claim. Next, one establishes whether, if P were acting solely on the hypothesized pattern of self- and other-concern and had to choose whether his own claim or the stranger's competing claim would be met, he would give priority to the stranger's claim in a one-to-one comparison.

At this point, there are two possibilities. The first is that P's claim is strong enough relative to the strongest competing claim to permit him to regard the satisfaction of his own claim as at least as important (from his personal standpoint) as satisfying the stranger's competing claim when they are compared one-to-one. Precisely when this is the case, one can sympathize with a desire to press P's claim in the face of the strongest competing claim, in the following sense. If one were to place oneself in his position, taking on his maximally permissible degree of self-concern, one would also want to press one's claim.<sup>5</sup> Such sympathy is possible, of course, when P's claim is objectively stronger than the stranger's claim. But such sympathy is also possible when P's claim is, objectively speaking, somewhat weaker than the stranger's claim, because from P's permissible personal point of view, P's own claim takes on special significance.

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<sup>4</sup> In this, I follow Smith (1982 [1790]); Nagel (1991); Kamm (1993); and Scheffler (1994).

<sup>5</sup> Following Smith (1982 [1790]), I consider only a moralized form of sympathy which involves placing oneself in another's shoes whilst assuming morally proper desires and emotions. Sympathy, so conceived, need not involve feeling along with another's actual wants and sentiments.

The second possibility is that even from P's permissible perspective, fulfilling P's claim is less important than fulfilling the stranger's claim. This will occur when P's claim is very much weaker, objectively speaking, than the stranger's claim. Under these circumstances, one cannot sympathize with a desire to press P's claim in the face of the strongest competing claim when these claims are pairwise compared.

This distinction between claims one can sympathize with pressing in the face of the strongest competing claim and those one cannot so sympathize with marks a morally significant divide within the non-aggregative approach. Suppose that in a competition between a weaker and a stronger claim, one can sympathize with the desire of the person with the weaker claim to press for the satisfaction of her claim. Of course, when one subsequently takes up the position of the person with the stronger claim, one will then also sympathize with his desire to advance his stronger claim. Under these circumstances, it follows that when one imaginatively places oneself in the position of each person in turn and compares each person's claim one-to-one against the competing claim, one retains a lively sense of the conflict of priorities, because one can sympathize with each person's desire to prioritize their claim.

By contrast, consider a case in which, in a one-to-one competition between a weaker and a stronger claim, one cannot sympathize with the desire to prioritize the weaker claim. Under these circumstances, when one imaginatively places oneself in the position of each person involved in turn, one will desire to give priority to the stronger claim even when one takes up the permissible personal perspective of the person with the weaker claim. Sympathetic identification with each person then gives no sense of conflict, because there is agreement from each person's permissible viewpoint that the stronger claim should be prioritized when it is compared pairwise to the weaker claim.

One can draw on this distinction between claims with which one can and cannot sympathize to formulate the following criterion of relevance. A person's claim is relevant just in case one can sympathize (in the sense articulated) with its possessor's desire to prioritize it over the strongest competing claim.<sup>6</sup>

By way of illustration, suppose that P is facing paraplegia and the strongest competing claim is to life-saving treatment. It seems consistent with maximally permissible self-concern (and minimally required other-concern) to prioritize saving oneself from paraplegia over saving a stranger's life. To see this, suppose that P faces becoming paraplegic and a stranger has contracted a terminal illness. Both threats are due to natural causes for which no one is responsible. P must choose whether to use his own resources to avert becoming a paraplegic or instead to cure the stranger's terminal illness. Moreover, no one else can save them from harm. While it would be admirable of P to use his resources to save the stranger's life, it also would be supererogatory to do so—P is morally permitted to give priority to his own needs in this case. On the proposed criterion of relevance, P's claim is therefore relevant to a life. It follows that averting a sufficiently large number of cases of paraplegia can take priority over saving a life.

Now suppose that P will soon develop a headache. It is inconsistent with maximally permissible self-concern (and minimally-required other-concern) to save oneself from a headache rather than save a stranger's life. On the proposed criterion, P's claim is therefore irrelevant; no number of averted headaches can jointly take priority over saving a life.

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<sup>6</sup> The criterion of relevance proposed here draws inspiration from the appeal in Crisp (2003) to the distinction between claims one can and cannot sympathize with. However, despite this similarity of foundation, as explained in Voorhoeve (2014, n. 6) ARC is substantially different from the view put forward by Crisp (2003).

To sum up: the non-aggregative approach requires one to take up both an objective point of view on each person's claim and the personal point of view of each individual. From the objective point of view, one must simply satisfy a strongest claim. By contrast, when one takes up the standpoint of each person in turn, one divides claims into two kinds: there are those which one can permissibly desire to prioritize over the strongest competing claim and those which one cannot permissibly desire to prioritize over the strongest competing claim. The former are claims with which one can sympathize from a person's subjective point of view; the latter are claims with which one cannot so sympathize. From the personal point of view of each, it is unacceptable to fulfil the latter type of claim. ARC respects this verdict made from the non-aggregative, personal standpoint by mandating the satisfaction of all and only those claims with which one can sympathize. Since weaker claims that one can sympathize with cannot differ tremendously in strength from the strongest competing claim, ARC thereby also avoids departing very far from the dictum that emerges from the non-aggregative, objective standpoint. These are the senses in which ARC does some justice to the demands of non-aggregative morality.

## **II. An Objection to this Rationale**

I shall now consider the following objection to the proposed criterion of relevance and its associated rationale: they are merely jerry-rigged to yield the desired case judgments.

Halstead (forthcoming, pp. 6-7) puts this challenge as follows:

“We can make an infinite number of modifications to the aggregative and non-aggregative approaches in order to render them consistent, but, in the absence of an

adequate justification for these modifications, they will be ad hoc. One implication of these modifications is that they allow us to hold on to the commonsense case judgements [in response to our opening questions]. (...) [But] ARC is supposed to be justified without appealing solely to these judgements.”

These remarks present an opportunity to clarify the attempted justificatory strategy. This strategy is the familiar method of reflective equilibrium, in which one seeks moral principles that offer a good explanation of confidently held case judgments and that cohere with other attractive moral principles and still deeper moral ideals (Daniels 2013). In this process, the fact that particular case judgments follow from appealing moral principles strengthens our confidence in these case judgments. But it is also the case that conformity with case judgments supports our confidence in the correctness of these principles. The case judgments in question therefore contribute to the justification of ARC.<sup>7</sup>

Of course, in turn, ARC must offer some support for the judgments that a large number of lesser harms can permissibly jointly outcompete the harm of death in Death versus Paraplegias but cannot do so in Death versus Headaches. It does so by explaining these judgments as the consequence of a reasonable sensitivity to the competing demands

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<sup>7</sup> As Otsuka (2006, p. 135) writes:

“our intuitive responses to cases provide a *justification of our beliefs* in the principles. This is just an instance of a more general phenomenon whereby our justification of our beliefs in what is explanatorily basic or primary often depends on support from our beliefs in what is explanatorily nonbasic or secondary. In effect, this happens whenever we reason from *explanandum* (i.e., that which is to be explained) to *explanans* (i.e., that which explains) by ‘inference to the best explanation’.”

of two profoundly different ways of responding to the equal moral worth of each person, each of which is a part of distributive morality, but neither of which represents the whole of it. In this, it follows the lead of Nagel (1979, p. 123 and p. 118):

“Both the separate [non-aggregative] and the conglomerate [aggregative] methods count everyone fully and equally. The difference between them is that the second moves beyond individual points of view to something more comprehensive than any of them, though based on them. The first stays closer to the points of view of the individuals considered. (...) It is obvious that [these] conceptions of moral equality (...) are extremely different. They seem to be radically opposed to one another, and it is very difficult to see how one might decide among them. My own view is that we do not have to. A plausible social morality will show the influence of them [both].”

In sum, ARC represents a systematic attempt to do some justice to both the non-aggregative and aggregative approaches. The way in which it does so is not ad hoc, because it appeals to a morally salient distinction found within the non-aggregative approach between claims with which one can and cannot identify.<sup>8</sup>

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<sup>8</sup> Halstead (forthcoming, pp. 8-9) also objects that this distinction cannot justify ARC because it assumes rather than justifies the non-aggregative approach. In *Death versus Headaches*, for example, one does not sympathize with the claims of people facing a headache only if one compares the claims one-to-one, which one should do only if the non-aggregative approach is right.

This objection is based on a misunderstanding of the nature of the attempted justification. The distinction between claims one can and cannot sympathize with is not intended to justify the non-aggregative approach. Rather, assuming the merits of the non-aggregative approach, it is used to explain why some



### III. The Importance of Unchosen Alternatives

A different class of objections targets the way in which ARC requires that one's decisions depend on which alternatives are feasible. By way of illustration, consider a small but nonetheless significant loss that, while not relevant when compared to the loss of a life, is relevant when compared to paraplegia. Assume for the sake of the argument that this is the loss of a severed finger. Further assume that, on ARC, one death is outweighed by one thousand cases of paraplegia and, when only paraplegia and severed fingers are at stake, a thousand cases of paraplegia are outweighed by one billion cases of a severed finger. However, because the loss of a finger is, by hypothesis, not relevant when it competes with loss of life, when one must choose precisely one from the feasible set consisting of {saving one from death; saving a thousand from paraplegia; saving one billion from the loss of a finger}, ARC requires that one save the thousand from paraplegia, because this satisfies the greatest number of relevant claims.

Several authors have argued along the following lines that the foregoing provides a decisive reason to reject ARC (Norcross 2002; Parfit 2003; Halstead forthcoming).

Suppose one knows that one has the option to either save the thousand from paraplegia or the billion from a severed finger, but one is unsure whether one has the further option to instead save a single person from death. On ARC, if saving the single person from death is a feasible option, one ought to save those facing

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failures to satisfy the strongest claim would be especially morally problematic on this approach, and are therefore to be avoided by a view that accords the non-aggregative approach some respect.

paraplegia; if it is not feasible, one ought to spare the multitude the loss of a finger. Since so much hangs on whether the single person can be saved from death, an adherent of ARC should expend some effort on finding out whether he can indeed be saved. But this is perplexing, since whether he can be saved or not, the devotee of ARC will not save him. Why should one make an effort to establish the feasibility of an option which one knows one will not choose?

Moreover, the hypothesized pattern of choice sits uneasily with the purported rationale for ARC. Suppose one initially believes that one's only options are either to avert the cases of paraplegia or to spare each of the multitude a severed finger. In line with ARC, one plans to spare the multitude's fingers. Subsequently, one discovers that one has the additional option of instead saving the one from death. ARC then holds that out of respect for what is at stake for the person facing death, one must save the paraplegics. But how can respect for what is at stake for the person facing death require *not* that we save him, but only that we save those facing paraplegia rather than those facing the loss of a finger?<sup>9</sup>

In reply: I submit that the actions to which ARC leads in these scenarios and the justification it offers are, on reflection, neither unreasonable nor perplexing. Indeed, they have their analogues in common-sense deontological ethics. Consider the following scenario, which is of a kind first analysed by Frances Kamm (1985).

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<sup>9</sup> Norcross (2002), Parfit (2003), and Halstead (forthcoming) press a further objection using this scenario: that ARC violates principles of rational choice, including transitivity and Basic Contraction Consistency. These criticisms are answered elsewhere (see Voorhoeve 2013, Sec. 1; 2014, Secs. V and VI).

**Spare Room Case.** There has been a sharp increase in the number of asylum seekers, which your cash-strapped government is housing in inadequate camps. The government calls for volunteers to take in an asylum seeker for several months. You have a spare room and consider that taking in an asylum seeker would be a valuable way of greatly helping another, but would also disrupt your daily life and intrude on your privacy. You rightly conclude that taking in the asylum seeker is therefore supererogatory. You also decide that you would prefer to remain living alone. Just as you conclude your deliberations, an acquaintance with whom you used to be close writes that he has a few months off which he would like to spend in your city, staying at your place. Years ago, you stayed at his place for a similar length of time and promised him to return the favour. His stay would be a moderate burden on you, but it would not be permissible to break this promise merely in order to prevent the disruption of your everyday activities and the attendant loss of privacy. But it would be permissible to instead take in the asylum seeker and explain to your acquaintance that there is no space for him. If you must, in any case, bear the burden of having your life disrupted, you would rather accomplish a great good by doing so. You therefore volunteer to take in an asylum seeker.

In this scenario, whether you can permissibly remain living alone rather than take in an asylum seeker depends on whether, in doing so, you would break a promise to your acquaintance. If you would not thereby break such a promise, you can permissibly remain alone; if you would thereby break such a promise, you may not do so (although you may, rather than fulfilling the promise, do the supererogatory act instead). Though such a scenario may be uncommon, these judgments flow from what I take to be common-sense

morality; they also seem perfectly reasonable. But note that they have the very implications that critics of ARC view as unacceptable. If you are uncertain whether or not your acquaintance has asked to stay (perhaps you do not remember the contents of the relevant email), you should undertake an effort to find out (say, by finding the email), even though you know that you will not accede to the request if he made it. Moreover, respect for the promise you made to him can be manifested not only by fulfilling it but also by changing what you plan to do instead of fulfilling it: the supererogatory rather than the merely self-interested act. The moral significance of the promise lies in part in which alternatives it rules out, and you respect its importance by finding out whether it rules out any alternatives and by not choosing such an ineligible alternative. Similarly, ARC rules that it would be disrespectful to the person whose life is at stake to spare a multitude the loss of a finger rather than save his life. It would not be disrespectful to instead save many from paraplegia. As with a promise, the moral significance of what is at stake for each person, taken separately, lies in part in which alternatives it rules impermissible. You respect its significance by finding out whether it rules out any alternatives and by not choosing such an ineligible alternative.

#### **IV. ARC's Fit with Practice and Our Moral Sentiments**

The final challenge I shall consider is that ARC is an implausibly radical doctrine (Broome 2002 and Hausman 2015). As Hausman (2015, p. 213) puts it, defenders of ARC:

“must condemn the practices of existing public health systems, all of which devote resources to the treatment of minor ailments (...) rather than using them exclusively to treat or prevent serious and life-threatening conditions.”

Moreover, Hausman adds, these health systems do so without generating significant public opposition. The most likely explanation for this fact is that ARC lacks both widespread public support and a plausible rationale.<sup>10</sup>

In reply: the practice of treating minor harms may in fact be consistent with ARC once we drop two simplifying assumptions on which we have relied so far. The first of these is that all individuals in a condition will end up with the same level of health-related well-being. In reality, minor ailments may generate large burdens. To take a common example: a cold, if untreated, can develop into a life-threatening lung infection. Even when such cases are infrequent, the relevant population may be so large that we can be confident that failing to provide public resources for the prevention or treatment of the typically minor ailment will lead to considerable burdens for some. According to ARC, these considerable burdens give rise to relevant claims. If prevention or treatment of a typically minor ailment is an efficient way of avoiding the burdens caused by its rare complications, then ARC requires us to devote resources to such treatment.

Second, unlike in our two stylized cases, in practice, the means available to a public health system likely depend on the services it provides. It is a reasonable conjecture that for a host of minor ailments, it is more efficient to offer public provision rather than demand full out-of-pocket payment. If so, then the availability of treatment for minor but common

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<sup>10</sup> Hausman added these further points in discussion.

ailments in the public system will be something for which each citizen is, on purely self-interested grounds, prepared to pay more.<sup>11</sup> The resources available may therefore be larger when the public system offers treatment for minor ailments; such treatment then does not use funds that could instead be used by public health officials to treat more severe ailments. Claims to the prevention or treatment of minor ailments would then not be in competition with claims for the prevention or treatment of life-threatening ailments and ARC would not condemn satisfying the former, weaker claims.

Of course, ARC does condemn this practice when these claims are in competition. The well-known priority-setting exercise for Medicaid in Oregon in 1990 provides a case of this kind. Medicaid serves poor individuals and families and is funded partly from state taxes and partly by the US Federal government, so that those who benefit from its interventions are not its primary funders. In the Oregon case, therefore, it was unlikely that the available funds would increase if common but minor ailments were covered. Resources for treatment for such minor ailments therefore competed directly with resources for life-threatening conditions. Infamously, on grounds of cost-effectiveness, officials recommended that tooth capping should take precedence over treatment for terminal appendicitis (Ubel et al. 1996). This proposal generated public outrage, precisely as one would predict if people's moral sentiments conformed to ARC.

Hausman considers this case, but concludes that ARC, which, he takes it, is grounded in "respect for [those] with the strongest claims," is "unlikely to be the source of [this] outrage" (2015, p. 213). Instead, he writes, "a much more plausible explanation of our gut

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<sup>11</sup> I am grateful to Joseph Mazor for this suggestion.

reactions” is provided by “our compassionate outrage at the thought that our policy might let some people die in order to cure [minor ailments]” (2015, p. 213).

Hausman’s argument appears to be this. Compassion with the person facing death, and only such compassion, is the most plausible basis for people’s condemnation of the policy that prioritized capping teeth over saving a life. But ARC is motivated only by respect for the strength this individual’s claim. Therefore, ARC does not reflect the grounds of people’s condemnation.

Contrary to the second of these claims, ARC is grounded in both respect and in sympathy (or compassion). The process of sympathetically taking up each person’s position, one at a time, is motivated by respect for the separateness of persons. Respect for the value of another’s life also figures within this process, because it sets limits on the special concern for one’s dear self with which we can sympathize. When we engage in this process, sympathy with each person’s perspective provides us with a vivid sense of what is at stake for each person taken separately and motivates an overriding concern for a person for whom much more is at stake than for anyone else. It is plausible that both such respect and compassion motivated people’s responses to Oregon’s proposed policy. I conclude that the policies and sentiments Hausman mentions do not refute ARC; indeed, a real-world case in which there was a straightforward trade-off between averting deaths and curing minor ailments supports it.

## **V. Conclusion**

When one faces competing claims of varying strength on public resources for health, which claims count? I have given reasons for counting a claim just in case one could sympathize

with a person's desire to prioritize it in the face of the strongest competing claim. I have argued that this principle yields appealing case judgments that cannot be explained by familiar rival principles of distributive justice. I have also argued that this principle is not vulnerable to several objections raised against it, and has a plausible grounding in both sympathetic identification with each person, taken separately, and respect for the person for whom most is at stake.

## References

- Broome, J. (2002). "All Goods Are Relevant." In C. Murray, J. Salomon, C. Mathers, and A. Lopez (eds.) *Summary Measures of Population Health: Concepts, Ethics, Measurement and Applications*. Geneva: World Health Organization, pp. 727-30.
- Crisp, R. (2003). 'Equality, Priority, and Compassion'. *Ethics* 113: 745-63.
- Daniels, N. (2013). 'Reflective Equilibrium', in *The Stanford Encyclopedia of Philosophy*, E. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/win2013/entries/reflective-equilibrium/>>.
- Halstead, J. (forthcoming). 'The Numbers Always Count', *Ethics*.
- Hausman, D. (2015). *Valuing Health*. Oxford: Oxford University Press.
- Kamm, F.M. (1985). 'Supererogation and Obligation', *The Journal of Philosophy* 82 (3): 118-38.
- Kamm, F.M. (1993). *Morality, Mortality, Vol. I*. Oxford: Oxford University Press.
- Kamm, F.M. (2007). *Intricate Ethics*. Oxford: Oxford University Press.
- Kamm, F.M. (2014). *Bioethical Prescriptions*. Oxford: Oxford University Press.
- Kelleher, P. (2014). 'Relevance and Non-Consequentialist Aggregation'. *Utilitas* 26: 385-408.



- Nagel, T. (1979). "Equality," in his *Mortal Questions*. Cambridge: Cambridge University Press, pp. 106–27.
- Nagel, T. (1991). *Equality and Partiality*. Oxford: Oxford University Press.
- Norcross, A. (2002). 'Contractualism and Aggregation'. *Social Theory and Practice* 28: 303-14.
- Otsuka, M. (2006). 'Saving Lives, Moral Theory, and the Claims of Individuals'. *Philosophy and Public Affairs* 34 (2006): 109-35.
- Parfit, D. (2003). 'Justifiability to Each Person'. *Ratio* 16: 368-90.
- Rueger, K. (2015). *The Close Enough View in Distributive Ethics and Two Dominance Objections*. MSc dissertation, London School of Economics and Political Science.
- Scanlon, T.M. (1998). *What We Owe to Each Other*. Cambridge, MA: Harvard University Press.
- Scheffler, S. (1994). *The Rejection of Consequentialism*. Oxford: Clarendon Press.
- Smith, A. (1982) [1790]. *The Theory of Moral Sentiments*, D. D. Raphael and A. L. Macfie (eds.). Indianapolis: Liberty Fund.
- Temkin, L. (2012). *Rethinking the Good*. Oxford: Oxford University Press.
- Ubel, P., G. Loewenstein, D. Scanlon, and M. Kamlet. (1996). 'Individual Utilities Are Inconsistent with Rationing Choices: A Partial Explanation of Why Oregon's Cost-Effectiveness List Failed'. *Medical Decision Making* 16: 108–16.
- Voorhoeve, A. (2013). 'Vaulting Intuition: Temkin's Critique of Transitivity'. *Economics and Philosophy* 29: 409-25.
- Voorhoeve, A. (2014). 'How Should We Aggregate Competing Claims?' *Ethics* 125: 64-87.
- Voorhoeve, A. (n.d.) 'Healthy Nails versus Long Lives: The Practice and Theory of Weighing a Multitude of Lesser Burdens against a Small Number of Large Burdens.' Manuscript.