Teleological Egalitarianism vs. the Slogan

MARC RAMSAY
Acadia University

The Slogan holds that one situation cannot be worse (or better) than another unless there is someone for whom it is worse (or better). This principle appears to provide the basis for the levelling-down objection to teleological egalitarianism. Larry Temkin, however, argues that the Slogan is not a plausible moral ideal, since it stands against not just teleological egalitarianism, but also values such as freedom, rights, autonomy, virtue and desert. I argue that the Slogan is a plausible moral principle, one that provides a suitable moral basis for the levelling-down objection to teleological egalitarianism. Contrary to Temkin, freedom, autonomy, virtue, and rights can all be understood in person-affecting terms, while equality of outcome cannot. Moreover, the Slogan is open to a variety of different ideas about how we should weight or rank people's gains and losses. This flexibility allows the Slogan to accommodate ideals such as prioritarianism and desert.

Egalitarians such as Larry Temkin claim that it is morally bad for some persons to be worse off than others through no fault of their own.[1] According to Temkin, it is intrinsically good to eliminate inequalities of welfare by lowering the well-being of the better off to the level of the worse off. This conception of equality is often described as teleological because it is concerned with the equality (or inequalities) of outcomes. It is also described as an impersonal view because it does not reduce the importance of equality to concerns about the promotion of individual or collective well-being. Achieving equality of outcome between persons is morally good even if there is no person for whom this equality is beneficial. Moreover, equality is morally good even if it benefits no one and harms some persons.

Consider the following illustration of this view. There is a village of persons, none of whom are at fault for their level of well-being. Unfortunately, half of them are blind. Temkin's egalitarianism holds that this inequality is morally bad, and that we have a prima facie reason to eliminate it by blinding the entire village (supposing that there is no way to give sight to them all). Of course, Temkin does not say that we have a sufficient reason to blind the entire village. When all moral considerations are taken into account, it is clear that equality is overridden in this context. But, according to Temkin, that does not mean that equality counts for nothing.

[1] Larry Temkin, *Inequality* (Oxford, 1993), p. 14.

© 2005 Cambridge University Press
DOI: 10.1017/S0953820804001426
Utilitas Vol. 17, No. 1, March 2005
Printed in the United Kingdom

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

The levelling-down objection rejects the idea that there is any moral value in achieving equality by lowering the well-being of the better off to that of the worse off. It is not enough to say that it would be wrong, all things considered, to blind the entire village. Rather, we have no moral reason, not even a weak prima facie one, to blind the entire village. A conception of equality that posits such a moral reason is hopelessly defective.

According to Temkin, those who reject even his limited (or prima facie) commitment to teleological equality are probably committed to a strong version of the following maxim:

The Slogan: One situation *cannot* be worse (or better) than another if there is *no one* for whom it *is* worse (or better).[2]

The Slogan is a radical version of the person-affecting view. It holds that our evaluation of outcomes concerns only 'the extent to which the people in those outcomes are *affected* for better or worse'.[3] Thus, the Slogan appears to be the most plausible basis for the levelling-down objection to teleological egalitarianism.

Temkin, however, argues that the Slogan must be false because its general application to morality would strike down not just teleological equality, but also a wide range of other values such as freedom, autonomy, virtue, rights, and even desert. Few if any would be willing to sacrifice all of these values just for the sake of retaining a principled basis for the levelling-down objection. The conceptual cost of endorsing the Slogan is just too high.

I argue that the Slogan does not carry the conceptual cost that Temkin claims. It is compatible with our commitment to values such as freedom, autonomy, virtue and rights. Temkin's strongest point against the Slogan is that it appears incompatible with the notion of desert. However, the Slogan is only incompatible with the brand of teleological or impersonal desert endorsed by Temkin. The Slogan is a plausible moral principle, one that provides a suitable moral basis for the levelling-down objection to teleological egalitarianism.

Temkin's treatment of the Slogan suffers from two crucial shortcomings. First, he has an unduly restrictive understanding of person-affecting considerations. In Section I, I argue that freedom, autonomy, virtue, and rights can all be understood in person-affecting terms, while equality of outcome cannot. The former values, while they expand us beyond a narrow conception of self-interest, still concern the way in which people live their lives.

The second shortcoming in Temkin's treatment concerns the Slogan's flexibility regarding the value we should attribute to particular gains

[2] Ibid., p. 248.

[3] Larry Temkin, 'Equality, Priority, and the Levelling Down Objection', *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams (New York, 2000), p. 152.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

for particular persons. Temkin reads the Slogan as requiring us to deal with this issue in the fashion of utilitarianism. He uses this reading of the Slogan in an attempt to drive a wedge between the Slogan and proponents of prioritarianism (Rawlsian concern for the worst-off group). In fact, as I argue in Section II, the Slogan is open to a variety of different ideas about how we should weight or rank people's gains and losses. It is this flexibility that makes the Slogan compatible with a wide range of moral ideals, including prioritarianism.

In Section III, I consider Temkin's argument that the Slogan cannot account for our intuitions about desert. Here, my response to Temkin relies on both the expanded notion of person-affecting concerns and the Slogan's flexibility regarding the weights and ranks attached to persons' interests. The latter aspect of the Slogan allows for a non-teleological conception of desert, one that helps to establish the moral priority of each person's needs and interests. The expanded notion of person-affecting concerns allows the Slogan to accommodate many plausible conceptions of retributive justice. On the other hand, Temkin's comparatively simple understanding of punishment yields counter-intuitive conclusions about the value of human suffering.

I. THE SLOGAN AND THEORIES OF SELF-INTEREST

According to Temkin, only the following version of the Slogan precludes his limited commitment to teleological egalitarianism:

> (S1) One situation *cannot* be worse (or better) than another *in any respect* if there is *no one* for whom it *is* worse (or better) *in any respect*.[4]

Again, Temkin holds that it would be wrong, all things considered, to blind the entire village. Here, considerations of utility, perfectionism, humanitarianism and rights line up together to outweigh the importance of equality. But this does not mean that the situation's inequality counts for nothing. Says Temkin, 'in cases where our other ideals diverge, equality often seems to rightly make a difference'.[5] Those who wish to reject this limited commitment to teleological egalitarianism must appeal to S1, which holds that equality makes no difference at all.

Moreover, according to Temkin, if S1 is to be practically relevant to moral judgement, we must have an account of how persons are affected for better or worse. Temkin considers three possible theories of self-interest: the Mental State Theory (MST), the Subjective Desire

[4] Temkin, *Inequality*, p. 256.
[5] Ibid., p. 280.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

Fulfilment Theory (SDFT), and the Objective List Theory (OLT). MST and SDFT are similar in that they are both subjective theories of self-interest. MST holds that only conscious states have intrinsic value, positive or negative. All other things have, at most, instrumental value or disvalue based on the role they play in bringing about pleasurable or displeasurable mental states. Thus, MST makes the value of goods such as freedom, autonomy and virtue contingent on the extent to which these goods provide us with pleasure. SDFT, on the other hand, holds that persons fare well to the extent that their actual preferences or desires are satisfied. Like MST, however, SDFT reduces goods such as freedom, autonomy and virtue to merely instrumental goods; their value depends on the degree to which they help us satisfy our actual preferences.

Proponents of OLT hold that some things can be good or bad for people independent of their effects on the quality of conscious states or the fulfilment of people's desires. Temkin, however, claims that it is at least plausible to hold that freedom, autonomy, virtue and rights have an objective value that is independent of their impact on human self-interest. Moreover, according to Temkin, the content of OLT is radically indeterminate. If we do admit that goods that do not necessarily serve higher-quality conscious states or desire fulfilment can count as part of self-interest, then we can posit 'any plausible ideal' as an aspect of objective self interest.[6] Thus, equality itself might be considered an aspect of objective self-interest.

A. OLT and the Slogan

Contrary to Temkin, there are sound criteria for determining whether something counts as a plausible objective personal good. These criteria allow for values such as freedom, autonomy and virtue, but still rule out the notion of equality as an objective personal good.

Objective personal goods, whatever they are, concern the quality of people's lives and the way in which they live. As Dennis McKerlie notes,

> Respecting someone's freedom could be said to add something valuable to the person's life – freedom – and so make the life better. This is not the case if we create equality by lowering other people to his level. We are changing the relationship between his life and theirs, but not making his life better.[7]

Self-interest (i.e. mental state quality or preference satisfaction), freedom, autonomy and virtue – to the extent that one possesses them – are integral parts of one's life. They concern how one's life goes, how one's life is lived. The same cannot be said of merely comparative

[6] Ibid., p. 273.
[7] Dennis McKerlie, 'Critical Notice of Larry S. Temkin Inequality', *Canadian Journal of Philosophy* 25 (Dec. 1995), pp. 634–5.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

relations such as equality. Comparisons of well-being hold between persons who will never meet, be aware of each other's existence or have any effect on each other's lives.

Some object to this version of the Slogan, arguing that its focus on the individual fails to account for the existence of objectively valuable relations.[8] Of course, one wants to say that some relationships make an intrinsic contribution to the quality of human life. Otherwise, knowledge, friendship and community could not be considered objective personal goods. Likewise, one should be able to recognize the existence of negative relationships such as servility, domination and oppression.

But here the opponent of the Slogan may argue that any account of what relationships have objective value is bound to be *ad hoc* or at least controversial. Thus, once we admit that some relationships are valuable, there is no clear and obvious way to rule out others. Again, once we entertain the notion of objective personal goods, including relations that make an intrinsic contribution to human life, any plausible moral ideal might be thought to make such a contribution.

But this claim is out of step with both the history of moral philosophy and everyday moral thought. We really do ask whether things other than mental state quality or preference satisfaction count as valuable additions to our lives. We ask ourselves: How should we live?

And when we ask this question, we do not think in terms of abstract comparative relations. Rather, we ask whether it is appropriate to take pleasure in certain kinds of activities, and we speculate about what kinds of life goals and social relations are worth pursuing. It is in this context that values such as freedom, autonomy, virtue, friendship, community and knowledge are discussed alongside self-interest. These relationships are different from merely comparative ones in that they are integral parts of one's life. They concern the way in which one lives, the activities one engages in, the way in which one is connected to other people, and even one's sense of personal identity.[9]

So we can make room for relationships within the notion of objective personal goods in a way that rules out equality as an objective personal good. Worse (or better) for someone can be understood not just in terms of self-interest, but also in terms of more general disvaluable (or valuable) additions to a life, such as freedom, autonomy or virtue.

[8] I think this is Robert Shaver's point, in his 'Welfare and Outcome', *Canadian Journal of Philosophy* 32 (Jan. 2002), p. 109, n. 15.

[9] Imagine asking to hear a person's life story. One would not be surprised at the inclusion of such details as her relationship to her family, her career pursuits, and her social and political status. Wouldn't it be strange if she thought that her welfare comparison to a person on a distant continent (their lives have no social or political connection) was as much a part of her own life, her sense of self, as the previous facts?

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

On this reading, the Slogan still provides one with a principled reason for rejecting Temkin's limited commitment to teleological equality.

B. The Slogan and rights

Temkin also claims that it is plausible to regard rights as objectively valuable independent of their effect on human self-interest. McKerlie, however, disputes this claim. In his words,

> It is true that we might respect someone's rights without making that person's life better in any sense. But respecting rights is usually thought of as a deontological moral ideal. Our fundamental reason for respecting rights is not that it leads to the best outcome. Equality, as Temkin explains it, is a teleological moral ideal. The fundamental moral claim is that creating equality will produce a better outcome. The fact that the value of respecting rights is independent of making people's lives better does not show that the same can be true of the value of equality.[10]

If the Slogan applies only to our evaluation of outcomes, then it does not speak to rights. Rights are not part of these evaluations; they are moral constraints that specify what means we may use to bring about the best outcome.

However, like Temkin, I regard the Slogan as an ideal that applies to both teleological and deontological considerations. In other words, the Slogan precludes us from recognizing any moral right or deontological constraint that does not protect or improve someone's life in some respect. But, unlike Temkin, I think the Slogan is sound.

McKerlie is right to say that respecting someone's rights may not improve their life, but this does not tell against the Slogan. If I respect your property rights, I do not improve your life or add anything valuable to it that was not there before. However, if I violate your property rights, I may worsen your situation by destroying your goods. Even if I do not manage to hurt you or destroy your resources, I still interfere with your control over the objects you own.

Now in some cases, the violation of your rights may leave such a small effect on you that you may not even notice or care. I might break into your house, but leave without taking or even touching any of the articles within. In this case, we might say that your right has been violated even though no real harm or loss has come to you as a result. Certainly, on particular occasions, rights may be violated without real injury. But that does not mean that rights have a purpose other than the protection of crucial human interests.[11]

[10] McKerlie, 'Temkin', p. 635.

[11] We can imagine a vast array of purported moral rights, many of which we would reject as false claims. As Scanlon asks: 'rights . . . need to be justified somehow, and how other than by appeal to the human interests their recognition promotes and protects?' Genuine moral rights are ones that claim protection for a feature of persons that we deem worthy

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

This is not to say that rights protect the pursuit of collective well-being or social utility. Rather, rights protect each individual's pursuit of her own well-being or her own projects.

Of course, well-being (in Temkin's sense) may not be the only feature of human lives that we should protect and promote. But it is inappropriate for Temkin to pose rights as ideals that have a status that is fully independent of what we have to say about values such as freedom, autonomy and well-being. Apart from rights to the protection and promotion of these values, what rights do we have? If one says 'a right to equality of well-being', then we find ourselves right back where we started. The question of what rights people have just brings us back to the prior debate over whether teleological equality is a valuable aspect of people's lives.

II. EGALITARIANISM, PRIORITARIANISM AND A 'COMMON ENEMY'

In a somewhat surprising turn, Temkin has recently argued that teleological egalitarianism's rival, prioritarianism, is also incompatible with the Slogan. He attributes the original version of this argument to Ingmar Persson. If sound, it would strike a powerful blow for Temkin, since prioritarians wish to use the Slogan against teleological egalitarianism.

According to Temkin,

> [prioritarians] want each person to fare as well as she possibly can, but they are especially concerned with the worse-off. This view tends to favour redistribution between the better- and worse-off, even if a loss in utility accompanies such redistribution. Naturally, how much loss in utility to the better-off would be compensated by lesser gains to the worse-off would depend upon how much greater weight, or priority, was attached to one's concern for the worse-off. In any event, on this view the worse-off someone was the greater the priority they would receive in our moral deliberations . . . The key point to note is that, while on this view one has a special concern for the worse-off, one's ultimate goal is for each to fare as well as possible.[12]

or in need of protection. If we did not think that personal control over a certain amount of physical space or items was a valuable addition to a life, then we would not recognize rights to private property. Recall Hart's claim that, were human beings transformed into invincible creatures impervious to physical harm, the right against assault would change accordingly. Occasionally, the right designed to protect a given interest may be violated without much damage to the interest in question. But if social circumstances or human nature changed such that this right no longer provided real protection for this interest, we would abandon or alter our conception of this right. See Thomas Scanlon, 'Rights, Goals, and Fairness', *Public and Private Morality*, ed. Stuart Hampshire (Cambridge, 1978), p. 93; H. L. A. Hart, 'Positivism and the Separation of Law and Morals', *Philosophy of Law*, 3rd edn., ed. Joel Feinberg and Hyman Gross (Belmont, 1986), pp. 81–2.

[12] Temkin, 'Equality', p. 128.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

In short, prioritarianism does not concern itself with inequalities as long as the position of the worst-off group is improved.

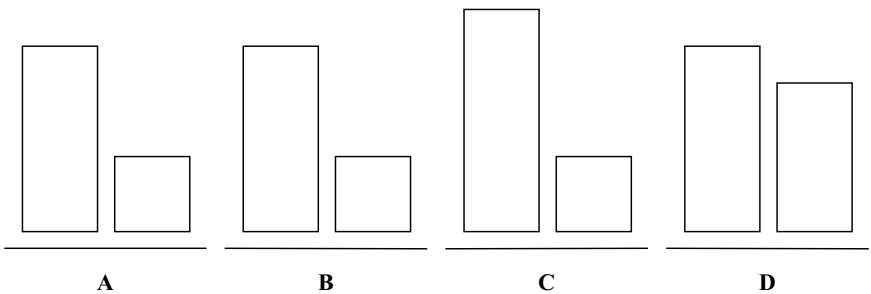
Nonetheless, Temkin thinks that prioritarians have good reasons for rejecting the Slogan. S1 holds that every element of our evaluation of outcomes concerns 'the extent to which the people in those outcomes are *affected* for better or worse'.[13] According to Temkin, this exclusive concern with *person-affecting* considerations also supports the following position:

Improvement: the extent to which a change improves a situation will be a direct function of the extent to which individuals in that situation are (collectively) *benefitted* by the change (where harms count as negative benefits for the purposes of aggregation); so, for one situation to be improved more by change than another situation, the members of the first situation must, collectively, benefit *more* from its change, than the members of the second situation benefit, collectively, from its change.[14]

Temkin suggests that those who are attracted to the Slogan should also be attracted to Improvement, and vice versa. However, he does not claim that the Slogan actually entails Improvement.

Consider, then, the following scenario:

Diagram 1



Suppose one could transform A into C, by benefiting A's better-off a certain amount, or B into D, by benefiting B's worse-off the exact same amount. Prioritarians are committed to the view that they should bring about D, rather than C. Furthermore, most prioritarians would hold that D is a better outcome than C. But, by hypothesis, B's worse-off do *not* benefit more in the change to D, than A's better-off would in the change to C. Each group would be benefited to the *exact* same extent. Thus, according to Improvement, there would be *no* reason to favour D over C.[15]

Temkin concludes that prioritarians must reject Improvement. Like teleological egalitarians, prioritarians have 'a commitment to an

[13] Ibid., p. 152.
[14] Ibid.
[15] Ibid., p. 153.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

impersonal principle which evaluates outcomes in ways that are not fully reducible to what is good or bad for individuals'.[16] For this reason, they reject the 'person-affecting reasoning' that underlies both the Slogan and Improvement.

A. The Slogan and Improvement

Accepting Improvement is tantamount to accepting utilitarianism. In short, we evaluate states of affairs (or compare changes in different states of affairs) based on the aggregate well-being of persons.[17]

If this is what a 'person-affecting' view amounts to, then prioritarianism is not a person-affecting view. The prioritarian does not think that our choice between two alternatives reduces to questions of aggregate (or collective) human well-being. Again, the interests of the worst-off have priority over gains in aggregate well-being. So if the Slogan commits us to Improvement, then prioritarians should reject the Slogan.

But the prioritarian does not choose A over B unless there is someone for whom A is better. Prioritarians' judgements always conform to the Slogan, so how could they possibly reject it? Supposedly, prioritarianism conflicts with the common 'spirit' of the Slogan and Improvement. Temkin says that those who are attracted to the Slogan *should* be attracted to Improvement and vice versa. But, as Temkin recognizes, the Slogan does not actually entail utilitarianism or Improvement. Let me explain why.

> (S1) One situation *cannot* be worse (or better) than another *in any respect* if there is *no one* for whom it *is* worse (or better) *in any respect*.

That there is someone for whom B is, in some respect, better than A does not entail that there is any respect in which B is morally better than A. Put another way, that person X would, in some respect, be better off in B does not necessarily give us any reason (even a prima facie one) for bringing about B rather than A.

Rather, S1 holds that someone's being better off, in some respect, in B than A is a *necessary* condition for a moral reason (prima facie or all things considered) for preferring B over A. But S1 does *not* say that such a benefit or advantage is *sufficient* to establish such a moral reason. S1 allows us to regard any particular benefit or gain for an individual with profound indifference or neutrality.

[16] Ibid.

[17] This notion of collective benefit may be somewhat more complicated. The choice between A,B, C and D is one in which no one will experience diminished well-being as a result of our choice. So perhaps there is an additional stipulation holding that no one's position may be worsened.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

Of course, the same can be said of any particular harm or loss. That someone is, in some respect, worse off in A than they are B, is a necessary feature of any negative moral comparison of A to B. But, while losses are necessary features of such negative comparisons, they are not sufficient for them. S1 also allows us to regard any particular loss with profound indifference or neutrality.

It should also be clear that S1 does not require us to place equal moral weight on arithmetically equal gains (or losses). S1 merely establishes that a moral reason for holding that B is better (or worse) than A must make reference to someone being better (or worse) off in B. That does not mean that a 5-unit gain in well-being for one person necessarily outweighs a 4-unit gain in well-being for someone else. The fact that all moral reasons must make reference to improvements or losses to human well-being does not necessarily tell us how these reasons should be balanced against each other.

B. Why endorse the Slogan?

'That's well and good,' one might say, 'but why endorse the Slogan in the first place unless it's human well-being, and its promotion, that matters to you? Who would want to say the things that S1 allows?' Many of us will, I think, find that S1 does a very good job of tracking our moral intuitions.

First, consider a case in which we must choose between a life of freedom and critical reflection and a life of mere sensual pleasure. Suppose that in the first situation, we experience a fair amount of pleasure (certainly our lives are not filled with suffering or pain). In the second, while pleasure is abundant, freedom is absent as our pleasure is generated by a machine that enslaves our wills. One may wish to say that we have no reason (none at all) to prefer the second situation over the first. S1 allows us to say this. The excess pleasure counts for nothing in the face of a life that is both free and not plagued by constant or pervasive suffering.

Second, the proponent of the Slogan may believe that people have rights or claims that constrain the ways in which the rest of society may pursue the promotion of collective welfare. However, the proponent of the Slogan maintains that these claims, if they are legitimate, involve either the addition of a valuable element to an individual's life or the protection of some existing valuable aspect of her life. In other words, any moral reason (prima facie or all things considered) that blocks the promotion of collective welfare must involve either the addition of a valuable element to an individual's life or the protection of some existing valuable aspect of her life. No individual has a valid claim to the alteration (or preservation) of a purely comparative relationship between herself and any other person. The demands I can make against

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

the promotion of collective welfare are demands concerning my own well-being or quality of life.

The Slogan also requires that our understanding of better and worse states of affairs be understood in terms of improvements to human lives. The Slogan does allow for the idea that smaller gains in the quality of life for some may outweigh larger gains in the quality of life for others.

But the Slogan treats qualitative changes to human lives as the raw material of value. It denies that so-called impersonal moral ideals have a life of their own independent of the work they do in conjunction with the raw material that changes in the quality of human life provide. For instance, the prioritarian holds that concern for the worst-off may enhance (or diminish) the moral importance that we would otherwise attribute to a person's gain in well-being. But the prioritarian does not believe that so-called impersonal ideals have a life of their own, independent of our basic concern with human well-being.

Moreover, as I shall explain at the end of Section III, the Slogan sometimes allows us to take a profoundly ambivalent attitude towards both human satisfaction and human suffering. Again, the essential idea is that, while losses to the quality of a person's life are necessary conditions for negative moral changes, other moral ideals may bear upon the situation in a way that either enhances or diminishes (perhaps even eliminates) this negative change.[18] Likewise, under certain circumstances, the fact that a gain in well-being is wrongfully obtained may eliminate the positive value we would otherwise attribute to that gain (spoiling, we might say, the raw material of value).

I now turn to the notion of desert. This is the only remaining moral ideal that seems opposed to the Slogan. Temkin's case against the Slogan stands or falls with his treatment of desert.

III. THE SLOGAN AND DESERT

Temkin's conception of desert, like his conception of egalitarianism, is teleological. It is morally bad for people to have more than they deserve just as it is morally bad for people to have less than they deserve.

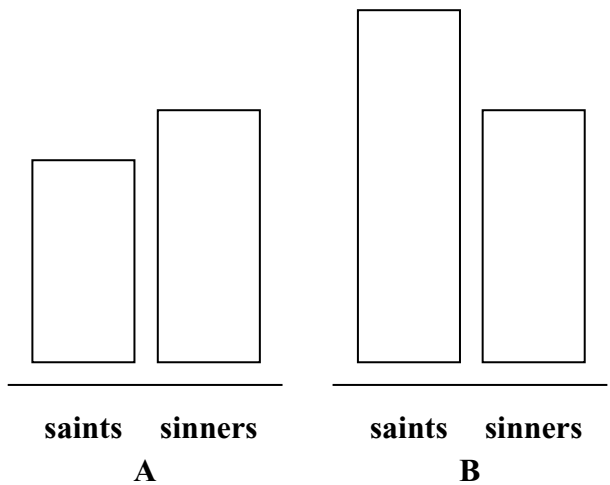
[18] As Shelly Kagan points out, we might think of moral merit as a multiplier ranging from one to zero that can be applied to the disvalue of a person's suffering. If a person is innocent, then the multiplier is one, but if the person has moral baggage, then the multiplier is less than one, perhaps zero. Similarly, the fact that a person's conduct carries a great degree of moral merit might act as a multiplier, this time greater than one, on the value of gains to her well-being. On my view, impersonal values can enhance or diminish the value (or disvalue) of gains (or losses) for persons. But impersonal values must work with the raw material provided by gains and losses for persons. I thank Larry Temkin for pointing out the importance of drawing a connection between my view and Kagan's. See Shelly Kagan, 'The Additive Fallacy', *Ethics* 99 (Oct. 1998), p. 20.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

There are two basic versions of teleological desert, absolute desert and comparative desert. On an absolutist view, one's level of desert entitles one to a specific level of well-being (x deserves 5 units of well-being). Thus, we might speak of a group of equally happy, but equally lazy, persons as having more than they deserve. Each person might have 10 units of well-being, although none of them deserves more than 5.

On the comparative view, however, we cannot say that the group of equally happy, but equally lazy, persons have more than they deserve. On this view, desert can be violated only if some person fares better than another who is more deserving.[19] Temkin, however, rejects the idea that there would be no injustice in a case that contained sinners, but no saints. Instead, he maintains that a proper account of desert combines both comparative and absolutist commitments. Consider the following diagram:

Diagram 2



In A, saints fare exactly as they should in terms of absolute desert, but sinners fare even better than the saints (which must be more than sinners deserve). In B, sinners keep their undeserved well-being, but saints are raised well above what they themselves merit according to absolute desert. Here, Temkin holds that a satisfactory theory of desert would lead us to prefer B over A, because sinners should be worse off than saints.

[19] John Broome espouses this comparative view, in *Weighing Goods* (Oxford, 1991).

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

However, according to Temkin, this does not show that 'retributive justice is *only* concerned with comparative well-being, *rather than* absolute well-being'.[20] Here Temkin appeals to Kantian views about the relationship between crime and appropriate punishment. On Kantian terms, 'punishment is to fit the crime, and the fit is to be absolute, not relative'.[21] In short, if we have the chance to bring the sinners down to what they deserve in terms of absolute well-being (and doing so comes at no great cost to the saints), then we should do so.

Temkin is right to say that the Slogan can accommodate neither absolutist nor comparative teleological desert. Both versions of teleological desert hold that we sometimes have a moral reason for lowering people's well-being even though doing so benefits no one. Absolute teleological desert recommends lowering a person's well-being just so that we can bring her down to her deserved level of well-being. Comparative teleological desert recommends lowering a person's well-being in order to establish a more appropriate ratio between her well-being and that of a more deserving person.

A. Person relevance, desert and the Slogan

I maintain that we can retain both the Slogan and a non-teleological conception of desert. This option is preferable as teleological conceptions of desert are themselves defective. However, before proceeding with this line of argument it is worthwhile to consider an alternative strategy proposed by Brett Doran.

Doran argues that we can jettison the Slogan, but still retain both a commitment to teleological desert and the levelling-down objection to teleological egalitarianism. In fact, Doran argues that desert, properly understood, provides the best basis for the levelling-down objection to Temkin's egalitarianism.

In his article 'Reconsidering the Levelling-down Objection against Egalitarianism', Doran asserts that desert claims are generated by people's wilful behaviour:

> [this] can be construed quite broadly to refer to any of a person's *intentional* actions, attitudes, thoughts, character, preferences, and so forth . . . [B]etween any two persons, if the wilful behaviour of one is better morally than the wilful behaviour of the other, the former deserves to fare better.[22]

This notion of wilful behaviour allows us to draw a distinction between deserved suffering and merely undeserved well-being:

[20] Temkin, 'Equality', p. 150.
[21] Ibid., p. 150.
[22] Brett Doran, 'Reconsidering the Levelling-down Objection against Egalitarianism', *Utilitas* 13 (March 2001), p. 72.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

we should note the distinction between an outcome that is *merely undeserved* and an outcome that is undeserved *because* it is not in line with what *is* deserved. For instance, we might say that being born blind is merely undeserved: although a born-blind person did not deserve to have been born blind, such a person also did nothing to have deserved not to have been born blind. It is more substantial, however, to claim that an outcome is undeserved because a different outcome is deserved . . . If, however, we cannot appeal to a person's wilful behaviour, say, in being born blind, then the outcome can only be merely undeserved, since no desert-claim is available.[23]

Since there is no sense in which persons can do anything to deserve being born blind (or not being born blind), this outcome is morally neutral.

Doran formulates the underlying ideal here as follows:

The Principle of Person-Relevance: A non-person-affecting ideal pertains to the value of a situation only if the ideal in question is relevantly tied to the persons involved in the situation, such that the persons' *wilful behaviour* generates and determines (in accord with the ideal's normative standards) the situation's value (relative to the ideal).[24]

On this view, there are sound non-person-affecting moral reasons (ones that are incompatible with my conception of the Slogan). But these reasons must make reference to relevant features of individuals; they must make reference to features of persons (wilful behaviour) that justify a particular outcome or course of action. Temkin's egalitarianism violates the Principle of Person-Relevance. It seeks to establish certain comparative relations of well-being between persons, but it does not justify these relations with reference to features of the individuals in question (things they have done).

B. Response to Doran

I do not think that Doran's strategy succeeds. He says that outcomes should conform to people's comparative performance in terms of wilful behaviour. Those who are more honest, more kind and more respectful of others should fare better in life than those who are less honest, less kind and less respectful. However, he also says that we should not compensate people for natural advantages and disadvantages. Why not? Apparently, this is because we lack a basis for comparing them in terms of wilful behaviour. If people are born blind, then we cannot reflect on their past behaviour for a comparison that would speak to the justice of this outcome.

Imagine, however, that half of a village is blinded by a solar eclipse (none of them knew or could have known about this impending event).

[23] Ibid., p. 73.
[24] Ibid., p. 76.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

We have a solid basis of comparison between these persons in terms of their wilful behaviour, and, as it turns out, all the villagers are virtually equal in their performance on this score. So it would seem that Doran's notion of proportional justice recommends that we blind the second half of this village. Now that is a problem. I take it that most persons who endorse the levelling-down objection would think that it applies here, and not just in those cases in which the relevant inequality was an accident of birth.

Now one might say that the eclipse, like accidents of birth, is a merely undeserved outcome. No one did anything to deserve this outcome, so proportional justice does not come into play. But that will not do. If the idea behind proportional justice is that people should fare, in comparison to others, in a way that comports with their moral performance, then proportional justice has to recommend adjusting accidental outcomes that violate the desired pattern of distribution. Otherwise, proportional justice, as Doran conceives it, would not have much work to do in our moral deliberations.

Likewise, the idea that proportional justice does not apply to accidents of birth seems rather *ad hoc*. The problem here is that we do not have a suitable basis of comparison between persons in terms of their wilful behaviour. Down the road, however, we will. I see no reason why the application of personal merit to outcomes could not be, to some degree, retroactive. The historical origin of my natural advantages lies in the past, but unless they are taken from me, I continue to enjoy their benefits. If my wilful behaviour turns out to be poor, in comparison to that of other persons, could we not say that I do not deserve to retain these advantages in the present or in the future? Doran accepts that his conception of desert might be applied to natural inequalities in this fashion. However, he argues that such a tactic is incompatible with the idea that equality itself holds any intrinsic value. Rather, on this view, our concern for equality turns out to be a contingent one that applies only in those contexts where persons measure up equally in terms of desert or proportional justice.[25]

Perhaps Doran is right about this. The problem, as I noted above, is that his notion of proportional justice and person-relevance supports only a very narrow version of the levelling-down objection. It supports the claim that we have no reason to blind the entire village just for the sake of promoting equality of well-being as an independent value. But it allows for the idea that we have a moral reason to blind the entire village if everyone in the village is equal in terms of moral performance. I take it that most persons who object to the notion that equality speaks

[25] Ibid., p. 80.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

in favour of blinding the whole village will also object to the idea that proportional justice speaks in favour of this course of action.

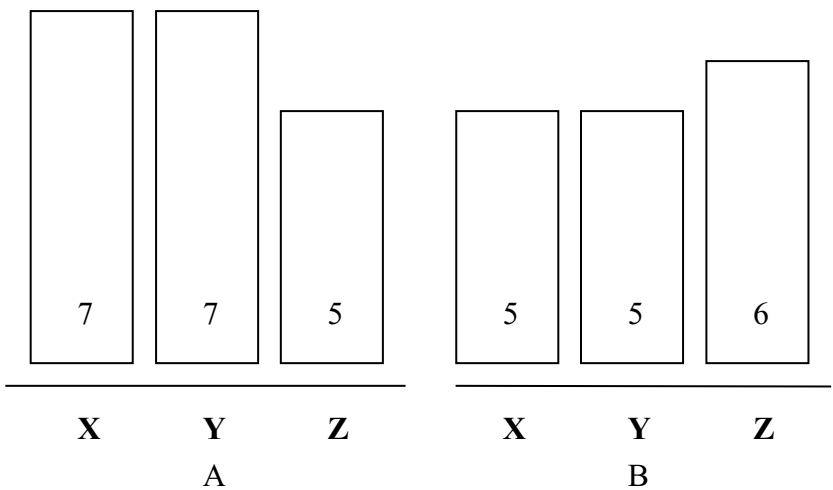
The Principle of Person Relevance does not provide a suitable basis for the levelling-down objection to teleological egalitarianism. For that we must return to the Slogan and attempt to reconcile it with a more suitable conception of desert.

C. A Slogan-compatible version of desert

The Slogan can accommodate both comparative and absolutist notions of desert as long as these ideals are given a deontological interpretation rather than a teleological one. A deontological conception of desert uses people's level of desert to establish the moral priority of their needs and interests.

An absolutist version of deontological desert holds that each person should fare at least as well as he deserves in absolute terms. It gives us a moral reason to prioritize the interests and needs of persons who stand below their deserved level of well-being.

Diagram 3



Suppose that X and Y both deserve 5 units of well-being, while Z deserves 6 units of well-being. Absolute deontological desert holds that we have a moral reason to bring about B even though A yields a higher total amount of utility.[26]

[26] Larry Temkin has reminded me that we should consider a third alternative, C, where X and Y receive 7 and Z receives 6. Temkin holds that there is at least one respect in which B would be preferable to C. In B, each party has exactly what they deserve, no

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

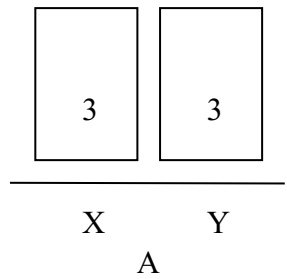
There is someone for whom B is better, namely Z, so the Slogan allows for the claim that there is some respect in which B is morally better than A. As I pointed out in Part 2, the Slogan allows us to say that Z's gain of 1 outweighs X and Y's collective gain of 4. It allows for the idea that gains for the worst-off are more important than larger gains in terms of social utility. It also allows for the idea that gains for the deserving are more important than larger gains in terms of social utility. Again, the point is that people's claims must concern improvements to their own life, not merely changes in their comparative relations to other persons.

The Slogan is also compatible with a deontological version of comparative desert. Such a conception might be applied to questions of distributive justice in which our circumstances are marked by either radical scarcity or radical abundance. Suppose that it is not possible to satisfy everyone's needs, or that it is not possible to give everyone all that they deserve in terms of absolute desert. Comparative deontological desert could be used to determine how scarce goods should be distributed. It could also be used to determine the proper distribution of excess goods when everyone already has at least as much as they deserve in terms of absolute desert.

D. Problems for comparative teleological desert

Consider the following scenario.

Diagram 4



In terms of comparative desert, X is twice as deserving as Y. In A, both X and Y enjoy 3 units of well-being. Time passes, and both X and Y are

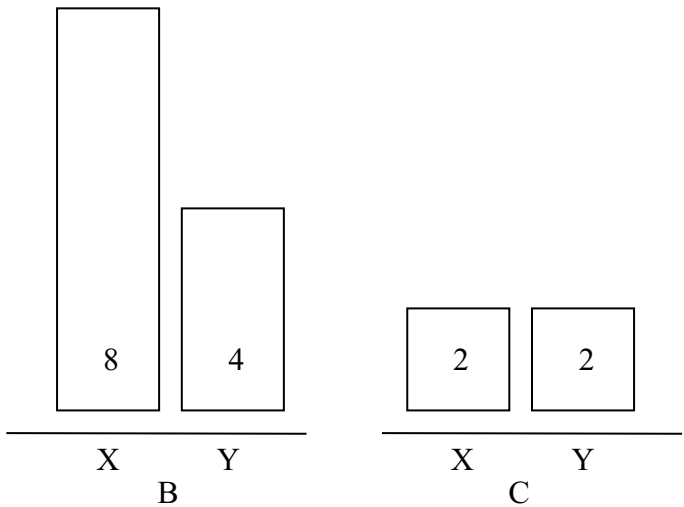
more no less. Absolute deontological desert will not allow us to account for this, but I do not think that this should concern us. Teleological equality recommends levelling people down just because it seems to object to good-luck windfalls for some persons (even if these good-luck windfalls come at no cost to anyone else). The same is true of teleological desert. It seems to say that there can be something morally bad about one party's good luck even if this good luck hurts no one. The Slogan will not allow us to say this. It treats desert as an ideal that helps us to prioritize people's interests. This, I believe, is a good way of understanding the role of desert in our moral deliberations.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

faced with opportunities to improve their level of moral performance. In effect, X treads water. He acts in a way that maintains, but does not improve, his claims in terms of absolute desert. Y is then faced with a choice. He can either improve his behaviour in a way that will equalize him with X in terms of comparative desert or he can act in a way that maintains their previous desert comparison.

After Y chooses his course of action, it will be possible to move from A to either B or C. Let us assume that both X and Y are unaware of the prospects regarding B and C at the time they choose their actions.

Diagram 5



If Y acts well, and improves his level of desert, then comparative teleological desert recommends that we choose C over B. On the other hand, if Y acts poorly, if he fails to improve his level of desert relative to X, then comparative teleological desert recommends that we choose B over C. In short, this view of desert holds that Y's bad behaviour can give us a moral reason for benefiting both X and Y, while Y's good behaviour can give us a moral reason for imposing a loss on both X and Y.[27]

[27] I had expressed this point by saying that comparative desert gives us a moral reason for rewarding bad behaviour. As Larry Temkin has pointed out to me, it is unfair to describe this as a matter of rewarding bad behaviour. Suppose the choice was a matter of 8 units of well-being for X and 4 units for Y versus an alternative with 8 units of well-being for both. In this case, if Y maintains the status quo in terms of desert, then the proponent of comparative desert would favour the first choice. If the proponent of comparative teleological desert really cared about rewarding bad behaviour, he would favour the second outcome. This is true, but I think that the problem remains. Given the

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

This does not mean that the proponent of comparative teleological desert would be bound to this choice once all things are considered. She could decide that, in this context, other considerations, including absolute desert, determine our overall decision. But the problem is not the all-things-considered decision. The problem is that her theory of desert – one part of it at least – yields a prima facie moral reason to increase Y's well-being if Y performs poorly in moral terms. Presumably, a satisfactory account of desert would not yield such a reason.

Perhaps Temkin could simply jettison the notion of non-reducible comparative desert claims altogether.[28] I do not think that absolute teleological desert cannot be caught in the same sort of trap as the comparative version.[29] That is to say, it cannot be caught offering moral reasons for increasing someone's well-being when she performs poorly in moral terms.[30] Again, my objection to absolute teleological desert is that it recommends diminishing people's well-being even when doing

circumstances outlined in my own example, comparative desert yields a moral reason that runs counter to our intuitions about what desert requires. Even if the proponent of comparative teleological desert does not intend to reward bad behaviour, his theory still fails to track our intuitions about desert in the case I have outlined.

[28] Temkin uses Diagram 2 to suggest otherwise. He thinks that there is something good about saints faring better than sinners, even if this entails that saints will have more than they deserve in absolute terms. But how important an intuition is this? Saints who have as much as they deserve in absolute terms must fare incredibly well. Is there any need to say that the situation is improved if they receive more well-being? Moreover, the Slogan allows us to account for the preferability of the saints' additional well-being on utilitarian or humanitarian grounds. Likewise it would allow us to prioritize this gain over equal or even greater gains for sinners in the event that we must choose between saints and sinners.

[29] Both brands of teleological desert appear to have a problem with supererogation. Temkin typically speaks of saints as being the most deserving persons. He even notes that, as saints, they may not be troubled by the excess well-being of other persons. The problem is that saintly actions, which often involve forgoing one's own well-being for the sake of others, may be self-defeating when we have perfect enforcement of moral norms. Saints' extra efforts on behalf of others may lower their own well-being, while generating additional desert claims for themselves. Thus, their actions may provide reasons for lowering the well-being of other persons (taking the gifts bestowed) in order to re-establish appropriate patterns in terms of comparative desert. Likewise, saints' excess efforts on behalf of others may keep them below what they deserve in terms of absolute desert. Thus, comparisons between saints and sinners, while rhetorically forceful, are philosophically problematic.

[30] Larry Temkin disagrees with me here. While he does not find my criticisms of comparative teleological desert compelling, he thinks that if one did take these criticisms seriously, he/she should find a similar problem with absolute desert. Appealing to one of W. D. Ross's examples, Temkin points out that a person who has much less than he deserves in terms of absolute desert might seem to enjoy a licence to behave badly. If he were caught stealing, it might well be the case that his past moral performance could be so great as to cancel out or even outweigh the infraction. Thus, with respect to absolute desert, the authorities might have reason to let him go free or even further reward him. Temkin does not consider this example a serious criticism of absolute desert, but he maintains that, if my previous example regarding comparative desert counts as rewarding bad behaviour, then Ross's example poses the same problem for absolute desert.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

so fails to improve the quality of human life. Temkin, however, thinks that our commitment to punishing evil shows that we are willing to inflict harms that do not result in benefits or improvements to human lives.

E. The Slogan and punishment

Recall the saints and sinners example. According to Temkin, sinners should be punished for their crimes, reduced to (or by) an absolute measure of well-being that fits the seriousness of their crimes. Most would agree.

The proponent of the Slogan can deal with this counterexample in one of two ways. First, she could admit that the Slogan cannot accommodate Temkin's retributive intuition, conceding that the Slogan requires us to reduce the value of punishment to considerations such as deterrence. Second, she could argue that punishment does, in some way, improve human lives. I will defend the latter approach.

On some views of retributive punishment, punishment is understood as a valuable addition to the life of the criminal. Temkin recognizes this line of thought, and responds to it as follows:

> he [Hegel] believes that by being punished the criminal is honoured as a rational being and that the guilty have a right to be punished . . . Contrary to Hegel I believe that the right to be punished is one that clear thinking, rational, criminals could, and would, gladly, and without any reservations, forgo. Obviously, this is because I do not share Hegel's view about the nature of rational beings.[31]

But Temkin dismisses Hegel too quickly. For Hegel, when one acts in a way that violates the rights of others, one gives one's consent to punishment. Assaulting or killing another person is tantamount to a rejection of the concept of respect for persons that affords rights and protections to the criminal himself. In effect, the criminal's attack on other persons is a declaration of a universal law that killing is allowed. The criminal may not see his act in this way, but the fact that his action constitutes such a declaration does not depend on his particular beliefs or intentions.

I must admit that I failed even to consider this idea. Nonetheless, I think my point against comparative teleological desert stands. Ross's deserving thief cannot act badly without diminishing what he could otherwise claim in terms of absolute desert. If he refrains from stealing, then, when the authorities catch up with him, his claims will be greater than they would be in the event that he steals. His act of theft does not generate any increase in what he can claim on the basis of absolute desert. Although one might think it inappropriate that he should be able to use his past behaviour as a shield against the consequences of present wrongdoing, this is not the same as his present wrongdoing yielding an increase in what desert recommends for him.

[31] Temkin, *Inequality*, pp. 274–5, n. 47.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

This may not seem much of an improvement. Perhaps I am merely substituting a dubious notion of consent for dubious conceptions of rationality and rights. But I do not think so. The general idea here is that membership in the moral community is mandatory for those who have the ability to apprehend other persons as moral agents with claims to dignity and respect. Since this membership is mandatory, and we require that people act as members of the moral community, their actions will be construed as if they are thinking reflective members of this community. Criminals do not have the option of being treated as if they are non-moral beings. We do not allow them to offend against or deny their moral capacities, their moral dignity as human beings.

The proponent of the Slogan can say that a life in which these capacities are exercised goes better than one in which they are not. Likewise, a life in which one is not allowed to forget or ignore one's standing as a moral agent goes better than a life in which one is allowed to forget or ignore this standing. Again, this concerns how one lives one's life and how one interacts with other persons, and not just comparative relations between oneself and persons whom one might never affect or even be aware of.[32]

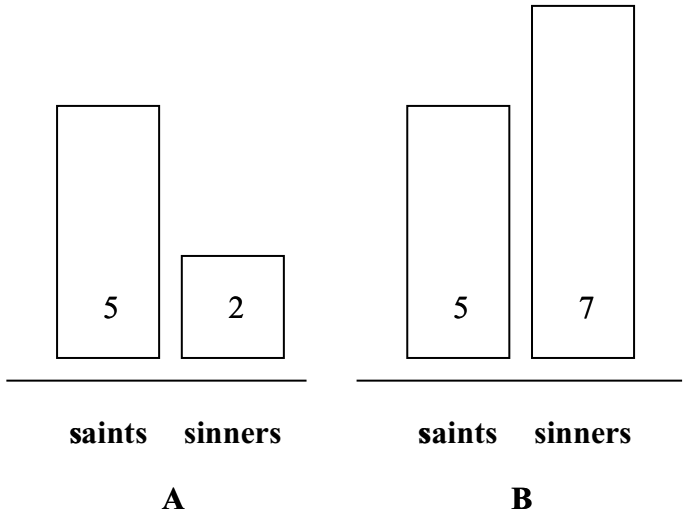
There are other ways of arguing for the moral value of retribution. Some authors, such as Jean Hampton, have argued that the punishment of crime is a public affirmation of the moral status of the victim. I believe that this approach could also be reconciled with the Slogan. But I will not attempt to defend this claim, or the expressive approach itself, in further detail here. Rather, in the next section I explore the implications of rejecting person-affecting accounts of punishment. I argue that the counter-intuitive implications of Temkin's non-person-affecting approach are serious enough to encourage the further development of person-affecting models such as those offered by Hegel and Hampton.

[32] Larry Temkin pointed out to me the fact that the criminal has already offended against his moral capacities in committing his crime. We might say that the criminal's committing the offence was bad for him, but it does not follow from this that avoiding punishment is bad for the same criminal. My defence of the Slogan does require us to adopt the redemptive view of punishment. Avoiding punishment is bad for the criminal because he loses out on what would have been a positive contribution to his life. But what if the criminal genuinely repented for his sins? What if the offender's character was completely transformed such that he would never commit another crime, and this transformation was achieved without punishment? Wouldn't he still deserve punishment? My own view is that if we really did live in a world where such transformations occurred frequently (and could be verified with reasonable certainty), most people's intuitions regarding the institution of punishment would change.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

F. Harming criminals

Diagram 6



Suppose that punishment, that is to say the overtly public act of harming criminals or depriving them of their liberty, is, for some reason, not an option. The lower well-being that the sinners experience in A results from other conditions. Perhaps they suffer from some sort of illness or other form of bad luck. Perhaps they fare badly because we refuse to render some form of assistance (assistance that would have brought about outcome B). Whatever brings about A or B, we are still expected to comment on the relative merits of the two possible outcomes.

As I noted earlier, S1 does not require us to say that B is better, in any respect, than A. In fact, S1 allows us to be completely neutral between A and B. But it will not allow us to say that there is some respect in which A is preferable to B.

Is this a genuine problem? I do not think that the value of punishing a criminal consists simply in lowering his well-being to some specific level. If it did, then we would have a moral reason (not necessarily a sufficient one) to harm them even if our actions were covert. It would be good in and of itself for criminals to suffer, even if they remained wholly ignorant of the source of their misfortune. But to make a valuable contribution to the world, punishment should be public. The offender should understand both why he is made to suffer and who acts against him, and I do not think that the importance of these considerations reduces to questions of effective deterrence.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

Consider another possible explanation of the disparity of well-being between A and B. Suppose that 'sinners' contains a single mass murderer. In A, the sinner is filled with self-loathing. He is miserable because he has managed to kill only a small number of the people he wished to destroy. In B, however, the sinner feels differently. Upon further reflection, he decides that he should not be so troubled. Having considered the limitations of his resources and abilities, he concludes that he should be proud of what he has already accomplished. He lives on, free of misery and self-loathing even though he is never able to kill another of his intended victims.

Should we say that there is at least one respect in which A is better than B? I think not. In both cases the sinner remains committed to the legitimacy of his criminal acts. This commitment is implicated in the suffering he experiences in A and also in the satisfaction he experiences in B. Clearly, the source of the satisfaction in B deprives it of any positive moral value. There is no reason to prefer B over A, no reason at all. Likewise, I see no reason to prefer A over B, no reason at all. The sinner should not pat himself on the back for being the best mass murderer he can be. Nor should he feel bad about the fact that he is unable to kill more innocent people. Here, his diminished well-being makes no positive moral contribution. In short, even if we could diminish the sinner's well-being by chiding him about his failures, we would have no moral reason to do so. The world is not a better place for this kind of suffering.[33]

The value of punishment does not consist simply in lowering a criminal's well-being. Punishment is a public act; its value and justification cannot be separated from the effects it has on members of the community, victims and offenders alike.

IV. CONCLUSION

Endorsing the Slogan does not carry the conceptual cost that Temkin claims. It is compatible with our commitment to values such as freedom, autonomy, virtue and rights. Temkin's strongest point against the Slogan is that it appears incompatible with the notion of desert. However, the Slogan is only incompatible with the teleological conception of desert that Temkin endorses. It is compatible with deontological conceptions of desert, and it does not reduce the value of punishment to notions such as deterrence. The Slogan's ability to accommodate these ideals becomes apparent once one accepts both the

[33] Of course, one could deny this, and assert the intuitive judgement that the mass murderer's suffering still makes for a better outcome in at least one respect. The Slogan does not allow us to accommodate this intuition, but it does allow us to justify the institution of punishment by appeal to a robust conception of retributive justice.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press

proper scope of person-affecting concerns and the Slogan's flexibility regarding the weights and ranks we should attribute to persons' needs and interests. I conclude that the Slogan is a plausible moral principle, one that provides a suitable moral basis for the levelling-down objection to teleological egalitarianism.[34]

mramsay@acadiau.ca

[34] I would like to thank Larry Temkin for his extensive comments on this article. Samantha Brennan provided many helpful comments on several different versions of this article, beginning with a term paper I wrote for one of her graduate courses at the University of Western Ontario. Dennis Klimchuk and various members of the Moral, Political, and Legal Philosophy Research Group at UWO also provided helpful comments on earlier drafts. I would also like to thank Jan Narveson for his comments on a much earlier version of this article.

https://doi.org/10.1017/S0953820804001426 Published online by Cambridge University Press