

Chapter Thirteen

SOCIAL INJUSTICE: DISTRIBUTIVE EGALITARIANISM, THE COMPLETE-LIFE VIEW, AND AGE DISCRIMINATION

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There are “two different kinds of valuable equality” that might be distinguished within contemporary political thought.¹ The first kind is distributive in nature and specifies that justice requires benefits of a certain kind to be distributed equally. Equality of the second kind does not directly specify any particular distribution of benefits, but instead identifies a “social ideal” of “a society in which people regard and treat each other as equals.”² These two forms of equality can be labeled “distributive equality” and “social equality.” It is equality of the first kind that has been the focus of much contemporary liberal political philosophy over the last three decades since the publication of John Rawls’s *A Theory of Justice*,³ and it is that form of equality that is the focus of this chapter.

It might be argued that egalitarians should pursue both conceptions of equality simultaneously, perhaps because one is just an alternative expression of the other. Nevertheless, one of the main claims of this chapter is that these conceptions do in fact conflict, at least when it comes to the treatment of older persons. The reason they conflict is that for a distributive egalitarian theory to be plausible it must ensure that benefits are distributed diachronically between the separate complete lives of individuals, rather than at temporal synchronic moments within their lives. As we shall see, this in turn justifies age-discriminatory policies that are not compatible with the ideal of social equality. Rather they could only exist in a society that does *not* regard and treat all individuals within it as equals.

1. Distributive Equality and the Complete-Life View (CLV)

Although many contemporary political philosophers would describe themselves as “egalitarian” so far as distributive justice is concerned, there are few who would suggest that equality is more important than other things such as providing incen-

tives for the talented to be productive.⁴ Non-instrumental egalitarianism, the view that equality is an intrinsic good, is subject to the intuitively implausible implication that it would require us to prefer a society in which everyone was worse off but distribution of resources was more equal, to one in which everyone was better off, but inequality was greater. This is what is known as the “leveling down” objection.⁵ Given the opportunity, a non-instrumental egalitarian would reduce the standard of living of everyone in order to create a more equal society. However, there are two possible alternative distributive principles that “egalitarian” thinkers might adopt instead of strict equality: prioritarianism, whereby the worst off in society are prioritized; and the principle of a social minimum (SM), which determines a level of well-being necessary for a decent life below which no-one should be allowed to fall. John Rawls, probably the most prominent of recent liberal egalitarian philosophers, is usually described as a prioritarian rather than a strict egalitarian because his “difference principle” permits inequality insofar as it benefits the least advantaged in society,⁶ though it has also been argued that Rawls’s methodology would actually only justify a SM.⁷

Whether egalitarians favor strict equality or the priority principle, they must address a second distributive question. This question, described by Larry Temkin as “the unit of egalitarian concern,”⁸ involves the making of a decision about whether benefits should be distributed diachronically between the complete lives of separate persons or synchronically at temporal moments within those lives. This question is not relevant to the idea of the social minimum, as I will explain below, because its unit of concern is always synchronic. However, although rarely discussed within egalitarian theory, the issue of whether a synchronic or diachronic unit of egalitarian concern should be adopted is fundamental to distributive justice, because it determines exactly which individuals have claims of justice against the community. It is a question that Derek Parfit briefly addresses in his own discussion of priority and strict equality, where he gives three possible answers to the question of to whom egalitarians should give priority:

- (1) those who are worse off in their lives as a whole
- (2) those who are worse off at a particular time
- (3) those who have needs that are morally more urgent.⁹

Parfit notes that there is often a divergence between (1) and (2), but a convergence between (2) and (3). So, someone who is now among the worst off may have been quite well off in the past, but if someone is worse off at a particular time then her needs are also likely to be morally more urgent. However, despite his insight, Parfit assumes for the purposes of his article that “there is no difference between

those who are worse off at a time, and those who would be worse off in their lives as a whole.”¹⁰ Parfit therefore assumes what has been referred to as the complete life view (CLV): that egalitarians should ensure benefits are distributed equally or relatively equally to the complete lives of separate individuals.

Nevertheless, his assumption that those synchronically worse off are at the same time also diachronically worse off will often not hold. So the question remains: do the synchronic interests of those who are worse off at a time have a moral urgency that outweighs the moral importance of the CLV? This is precisely what a social minimum, otherwise known as the principle of sufficiency, does claim. The sufficiency principle logically appeals to the concept of urgency and of synchronic need (so, to Parfit’s groups 2 and 3), and is not concerned that the shares of separate individuals should be either strictly or relatively equal over the course of people’s complete lives. Nevertheless, like Parfit, most egalitarians and prioritarrians either implicitly assume the CLV or else explicitly embrace it. Another example is Thomas Nagel, who argues that “the subject of an egalitarian principle is not the distribution of particular rewards to individuals at some time, but the prospective quality of their lives as a whole, from birth to death.”¹¹ So, for distributive egalitarians the question of justice between the complete lives of separate individuals is viewed as a more fundamental issue than their temporal well-being relative to others at a particular time, and as we shall see below, the latter is often framed by the former.

Dennis McKerlie defines the CLV as the normative principle “that different people’s share of resources, or welfare, should be equal when we consider the amounts of those things that they receive over the complete course of their lives”.¹² While this definition may be applicable to non-instrumental strict equality, Temkin recognizes that the view can also be applicable to the principle of priority, and he therefore defines the CLV as follows:

The CLV: An egalitarian should be concerned about A’s being worse off than B to the extent, and only to the extent, that A’s life, taken as a *complete whole*, is worse off than B’s, taken as a *complete whole*.¹³

If egalitarian distributions are to be maintained over the complete lives of separate persons, then they may also justify significant inequalities between people at a certain time. This means that people can take turns to be rich and poor during their lives and yet be equal over their complete lives. It is in this way that a distributive egalitarianism based upon the CLV would also condone discrimination against older individuals. Geoffrey Cupit, for example, has noted that “the alleged injustice of age discrimination presents a puzzle,” because the “standard argument

against discrimination—the argument from equalizing benefits—seems not to apply.”¹⁴ It does not apply because equalizing benefits over the complete lives of separate persons might actually *justify* age discrimination rather than challenge it. It does this for the obvious fact that nowadays most of us have a turn to be old, and, by taking turns to be well-off or badly off, temporal or synchronic inequalities will even out over the course of people’s lives. So, Cupit argues that to say something is wrong with age discrimination is to say that there is something wrong with taking turns. If it is fair that we should take turns to be rich and poor at different parts of our lives, why would it not also be fair for those periods of affluence and relative poverty to coincide respectively with youth and old age?

The intuition that discrimination against the old might be justifiable arises from the idea that, in order for each of us to have as good a complete life as possible, benefits should be distributed in such a way that allows more to be consumed during the early part of a life when people are advancing their educational and employment opportunities and raising young families. In contrast, it might be thought that few new long-term projects can be pursued in old age, or indeed that older people would not wish to pursue them, and there consequently seems little point in saving much for that synchronic period of life. Indeed, it is quite possible we will not live to see it anyway. As we shall see below, it might be entirely rational for people to discriminate against their own future older selves. Age discrimination may be said to be fair because it treats everyone the same over their complete lives, and it may be in everyone’s interests because it allows the most efficient use of people’s equal diachronic shares of benefits.

The implications of the CLV are particularly important in light of the generational equity debate which has been fuelled by organizations like Americans for Age Equity (AGE) over the last couple of decades. It has been claimed by some that those who are currently old are now enjoying more than their fair share of benefits.¹⁵ As a social group the old are perceived to be better off not just than previous generations of the old, and not just better off than the younger age-groups of today, but more importantly to be in addition better off than the next generation of the old can hope to be. If such is the case then the CLV is not currently being respected. Indeed, if the CLV is morally sound then it would require society to restrict the benefits enjoyed by the current old and redistribute those benefits to younger age groups. Moreover, the strict egalitarian version of the CLV would go further than the advocates of generational equity in that it would require this restriction of benefits from the old *even if those benefits could not be redistributed to the young*. The reason for this is that greater complete life equality would be achieved simply by that restriction. As we shall see below, however, distributive egalitarianism and the CLV only justify ageist public policies when they are linked

to a prudential analogy (PA). At the same time, however, a PA is necessary in order for a distributive egalitarian theory, based upon the CLV, to provide plausible principles of justice on a societal scale.

2. The CLV and Personal Responsibility

There is of course a very good reason for egalitarian liberals to think it necessary to embrace an exclusive concern for the CLV, which is that it requires individuals to be personally responsible for the success of their own lives. If benefits are distributed on a diachronic basis then individuals must save and invest them wisely in order to ensure a good standard of living throughout their lives. An equal share of a particular benefit, which individuals can then freely dispose of as they see fit, will protect their equal liberty. In this way individuals are assured material autonomy from both other citizens and the state, and they have the equal opportunity to pursue their particular *conception of the good*. Synchronic distributions, on the other hand, would threaten that equal liberty and opportunity, and may seem to reward free riders. If individuals could expect to receive a new share of benefits at each temporal stage of their lives there would be no reason for them to be responsible. They might squander those benefits with impunity. This would have implications for the economic stability of the state, and would also be unfair to those who have been responsible with their share of goods. Responsible citizens would repeatedly find themselves required to redistribute some of that share to prevent the destitution of the imprudent. So, because the CLV obviously prevents free riding, any challenge to it would need at the same time to address this problem of free riding in order to claim any moral superiority.

Distributive egalitarians, or what Elizabeth Anderson has described as *luck egalitarians*,¹⁶ also make a moral distinction between *brute* luck on the one hand, which relates to our unchosen circumstances, and *option* luck on the other, which relates to personal choice. Although Anderson identifies various distributive versions of luck egalitarianism, including “equality of resources,”¹⁷ “equal access to advantage,”¹⁸ “equal opportunity for welfare,”¹⁹ and “equality of fortune,”²⁰ the fundamental principle underlying each variant is a common conception of fairness. That conception requires that society should compensate individuals for disadvantages for which they are not responsible, but require them to bear the full costs of the adverse consequences of their choices. That is to say, individuals are held personally responsible for the success of their lives. It seems legitimate to do this because each individual then has an equal opportunity to make their life a success. As Gerry Cohen points out, by giving a central role to the ideas of personal respon-

sibility and choice in this way, egalitarians can sidestep one of the most compelling criticisms from the anti-egalitarian right: the criticism that egalitarians wish to equalize the *outcomes* for all persons irrespective of how much effort or personal responsibility they display.²¹

So, distributive luck egalitarianism is based upon two premises: first, that diachronic equality is viewed as the fairest form of distribution; and second, that the cut between choice and circumstance is morally important because it maintains diachronic equality between separate persons. It also has the effect of promoting personal responsibility. The CLV is integral to distributive egalitarianism, because only by giving exclusive concern to the diachronic equality between individuals can it give full expression to these two premises.

3. What Benefits Should be Distributed Over a Complete Life?

A further issue for distributive egalitarians is to determine what should comprise the benefits that are to be distributed over a complete life.²² This issue refers to the debate between distributive egalitarians as to what standard of interpersonal comparison should be used to identify those individuals who are worse off than others, or how we should operate what Cohen has termed the “currency of egalitarian justice.”²³ Because distributive egalitarians are concerned that individuals should have the opportunity to pursue their own conceptions of the good in their own ways, they have tended to embrace currencies such as welfare and resources (or a combination), which are seen either as subjective or as necessary conditions for pursuing any conception of the good, instead of trying to compile an objective list of “goods” for interpersonal comparison.²⁴ (“Objective list” theorists hold that some goods are intrinsically good or bad irrespective of whether they are desired by individuals, and consequently can be criticized as being “perfectionist” or “paternalist.”) The two metrics of welfare and resources differ in many details that cannot be adequately covered here, and for that reason I will mention only the main distinctions between them, and those that have direct implications for the CLV.

Welfare is here understood as the satisfaction of an individual’s informed desires. Resources, or the means to achieve our ends, take the form of impersonal goods and money. Welfare egalitarians argue that people only value resources for the welfare they bring, and that resources are merely instrumental goods.²⁵ However, there are many criticisms of the welfare metric. There are intense practical problems in measuring how much welfare each individual in a society is getting, and in quantitatively or even qualitatively comparing one person’s happiness, or desire-satisfaction, with that of others. This would be exacerbated if welfare had to

be equalized between the complete lives of separate individuals. The fact that there is some degree of mental and physical decline involved with ageing means that the well-being of people is likely to naturally diminish as people get older. Consequently, older people may require greater resources in order to achieve the same level of welfare as younger people. The changing of a person's conversion ratio of resources into welfare as we age also means that the equality-of-welfare metric would need to find a way of simultaneously comparing the interpersonal welfare between people who are young, middle-aged, and old. However, this process of measuring the respective welfare of people in society would be further complicated because the relative decline that each older individual experiences will proceed at different rates.

Equality of resources, by contrast, would as an administrative task be far simpler to establish and maintain than equality of welfare. Moreover, the use of what might be called a prudential analogy (PA) would allow resources to be distributed justly across lives as well as between them. The PA is a hypothetical thought experiment that requires us to imagine the way in which a rational individual would invest her equal share of complete life resources to pay for insurance against the likely eventuality that she would suffer disability, disease, or accident. This hypothetical insurance scheme would then dictate what levels of resources should be distributed over time to those in society who suffer from such health problems.

Another criticism of the welfare metric is the dilemma it seems to face between expensive and cheap tastes. The criticism is that, since individuals with more expensive tastes require more resources to reach the same level of preference satisfaction as others, welfarism will require people who have cheaper tastes to have fewer resources directed toward them,²⁶ so that people who have more control over their desires will be required to finance those who are more extravagant. Welfarists will reply that an individual may have expensive tastes for which they are not responsible, such as the desire for mobility amongst the disabled.²⁷ They have argued that resource egalitarians are unable to distinguish between the involuntary expensive tastes of the disabled, and the extravagant expensive tastes for which an individual should be held responsible, such as a preference for drinking lots of Champagne.²⁸

Resource egalitarians, such as Ronald Dworkin, argue that the important moral difference between an individual's expensive voluntary and involuntary tastes can be captured with the distinction between her share of "impersonal" resources, such as divisible goods and money, and "personal" resources, such as her intelligence, skills, and abilities. A just distribution of personal goods can be determined within a resource metric by allowing individuals the freedom to use their

equal purchasing power to secure the goods for their preferred conception of the good in a free and competitive market. So, if an individual has tastes that are expensive to satisfy, but for which she is responsible, she may purchase these with her equal purchasing power. If on the other hand that person is disabled, and so has an involuntary expensive taste for mobility, then she is lacking a personal good enjoyed by the able-bodied. A lack of such personal goods can be compensated for using the same hypothetical insurance analogy outlined above. Both Dworkin and Norman Daniels combine the CLV with a PA in order to secure justice across the lives of individuals, and so in effect between age groups. The following two sections briefly critique the PAs of these two egalitarians.

4. Ronald Dworkin's Prudential Analogy

As a resource egalitarian, Dworkin makes a distinction between the impersonal and personal resources that individuals enjoy, and he utilizes what he calls an "envy test" to determine what justice requires. The envy test requires that each person in a just society be satisfied with the level of both personal and impersonal resources they end up with, but also that each person should take responsibility for how her tastes are satisfied. A hypothetical auction divides all divisible goods into separate lots and bundles, and each individual can then bid for those goods with an equal initial purchasing power. Because everyone has equal purchasing power, the particular bundles of goods they end up with will reflect their level of desire for those goods, so that the outcome of the auction is one that satisfies the envy test, because no-one would prefer anyone else's bundle to their own.

However, Dworkin wishes to maintain the distinction between personal choice and unchosen circumstances, and to ensure that his principles of justice are therefore endowment-insensitive. We are not responsible for our abundance or lack of natural talents, or for any natural disability: it is a matter of brute luck. If a distribution is to be endowment-insensitive, a society is required to compensate each individual for shortfalls in their personal resources with a greater level of impersonal resources. To do this Dworkin posits a hypothetical insurance market in which he asks us to think about how much we would insure against being born with handicaps and other natural disadvantages, on the assumption that all are equally likely to suffer from that bad brute luck. The distributive pattern justified by this ideal-world hypothetical thought experiment would then be replicated in the real world of practice by appropriately arranging taxation and public expenditure policies.

The CLV is explicitly embraced within Dworkin's PA. He insists that "we must apply the envy test diachronically"²⁹ in order that no-one should envy the occupation and bundle of resources at the disposal of anyone else *over time*, even though it is possible that someone may envy another's bundle at a *particular time*. As Dworkin argues:

If we look for envy at particular points in time, then each envies [Person B's] resources at the end of the year, and the division is therefore not equal. But if we look at envy differently, as a matter of resources over an entire life, and we include a person's occupation as part of the bundle of goods, then no-one envies [Person B's] bundle, and the distribution cannot be said to be unequal on that account.³⁰

Dworkin therefore seeks a just distribution of society's goods to the temporal stages of individual lives by combining the CLV with a PA. Some people will wish to work hard and accumulate their resources, while others will wish to enjoy more leisure and consequently fewer resources. For this reason it is viewed as fair to suggest that in order for someone to legitimately envy the bundle of resources of another she would also have to envy the level of hard work that the other person had done in order to accumulate those resources. Thus, while person A might envy Person B's bundle of goods a year after an initial distribution, she could not envy Person B's complete life and all the work he has had to do in order to accumulate his final complete life share.

Dworkin applies his hypothetical insurance model to the issue of justice in the distribution of healthcare.³¹ After equalizing resources along the lines of the CLV, prudential agents are asked whether they would buy in to an insurance plan that would guarantee certain medical treatments and diagnostic procedures but would deny others. Dworkin tries to determine what we would rationally spend on healthcare in competition with the other goods we may wish to purchase, assuming that each person's purchasing power is equal and finite. The idea that shares should be equal and finite means we can measure the cost of any preference we have for one good in terms of the absence of another good of similar value. If individuals would purchase certain healthcare goods (emergency medical treatment) and not others (life-extending treatment when very old), then society should emulate those hypothetical decisions in order to provide a just distribution of healthcare resources. Thus, the central idea of Dworkin's PA is that we should aim in practice to make collective, social decisions about the quantity and distribution of healthcare so as to match, as closely as possible, the decisions that people in the community would make for themselves in the appropriate conditions.

The first of these conditions is, as already outlined above, that the economic system of society should provide a “fair equality” in the distribution of resources, and Dworkin argues that only by doing so can we treat all citizens with equal respect and concern. The second condition involves individuals having full awareness of the value, cost, and side effects of all medical procedures. The third condition is a type of Rawlsian “veil of ignorance” that hides individual rational deliberators from knowledge of their own probability of contracting any disease or becoming victim to any kind of accident or violent incident. If we could keep as close to these conditions as is practically possible, then the decision that people in the community would have made for themselves would be the ones that the state should emulate on a societal basis.

This, then, is the application of the insurance analogy to the problem of justice of healthcare distribution. However, what Dworkin deems to be just are the decisions that people would make for themselves “if they were looking *from youth down the course of their lives* and trying to decide what risks were worth running in return for not running other kinds of risk.”³² This phrase “looking from youth down the course of their lives” leaves Dworkin’s use of prudence open to the criticism that it is ageist. The conditions of Dworkin’s PA might be ageist because they are based upon the choices that a young person would make, whilst aware of her current age and goals, and the result of that choice will consequently be biased in favor of the young and against the old.³³ We might argue that this represents a “tyranny of youth,” because the decisions that the younger person makes will limit the opportunities of the same person when they become older.

What, then, does Dworkin believe would be the result of this insurance analogy? He believes that almost no-one would purchase insurance that would provide life-saving treatment once they had fallen into a permanent vegetative state (PVS), and no-one would purchase insurance for expensive medical treatment after they had entered the later stages of Alzheimer’s disease. Most contentious of all, perhaps, few would insure for the provision of “heroic medical intervention” that would keep them alive for an additional four or five months or “technology whose main results benefit people in relatively old age.”³⁴ The reason that people would not so invest is that they could better spend those premiums on training, experience, culture, or investment while they were younger. Although Dworkin acknowledges that many people want to remain alive as long as possible, provided they remain conscious, alert, and relatively free of pain, he nevertheless makes the following claim:

My point is ... that they would not want those additional months at the cost of the sacrifices in their earlier, vigorous life that would be necessary if they had

to make that choice. They would think the money better spent, earlier, on job-training or education or investment or on something else that would *benefit their lives as a whole* more than just taking on a few months of very limited life at the end.³⁵

What this represents, in addition to a tyranny of youth, is a conflict between the synchronic and diachronic interests of a person. The synchronic interests of the older person is to live a few more months, or to undergo certain beneficial treatments, while the diachronic interests of the person is perhaps that the resources be diverted from financing these later benefits and used to provide benefits for the younger self. If we followed Dworkin's reasoning it would mean harming the synchronic interests of our own later selves by allowing the synchronic interests of our younger selves, or what we at any temporal point perceive to be our diachronic interests, to dictate the distribution of a finite share of resources over a complete life. But one might object that there is surely more to what justice requires than the way that prudent people in their youth would determine to allocate a finite set of resources "down the course of their lives." It is plausible to imagine a doctor at a patient's bedside giving the following homily:

I'm sorry Mrs Smith, but I'm afraid we are going to deny you the medical treatment that would give you five more months of life. The reason we deny you this is because, although you think you want those months of life now, if you were a rational twenty year old deciding how to spend your finite share of goods down the course of your life, you would elect to spend the money that would have paid for this treatment on a youthful culture trip to Italy instead.

It is possible that Mrs Smith would acknowledge the truth of the doctor's words and accept that she must die, but it is not obvious that she would.

5. Norman Daniels's Prudential Analogy

Norman Daniels is another egalitarian liberal who has combined the CLV with a conception of the PA in order to determine the just distribution of goods such as healthcare and income support. There are two assumptions that condition the circumstances in which prudential agents deliberate within Daniels's PA: the standard theory of a maximizing rationality, and the Requirement of Equal Concern.³⁶ The first of these, the assumption of a maximizing rationality, is based upon the central

claim of the classical theory of individual rationality, described by Parfit as the Self-Interest Theory.³⁷ The central claim is that for each person, there is one supremely rational ultimate aim: that his life go, for him, as well as possible. This central aim involves further claims, the most significant for our purposes being that what it would be rational for anyone to do is what will bring him the greatest expected benefit.³⁸ Together these two principles are what we can refer to as the maximizing of rationality. Daniels notes that in his conception of the PA, which he describes as the Prudential Lifetime Account (PLA), the greatest expected benefit is to be aggregated over a complete life.³⁹ That is to say, the prudent deliberators behind Daniels's version of the veil of ignorance will choose the intrapersonal distribution that promises to maximize the greatest expected diachronic benefit. This is important because the intrapersonal distribution that brings about the greatest diachronic benefit may well be that which also creates significant negative benefit at certain synchronic temporal periods.

The second assumption that conditions Daniels's PA, and the decision procedure it involves, is what Parfit has referred to as the Requirement of Equal Concern: that a rational person should be equally concerned about all the parts of her own future.⁴⁰ This might also be called the age-neutrality principle because it assumes an attitude of moral neutrality toward the intrinsic worth of the different ages of a life. Such an impartial concern would mean that "a smaller present good is not to be preferred to a greater future good."⁴¹ We must therefore assume that the prudent deliberator is concerned about the diachronic well-being she will enjoy over her complete life, and is not more concerned with the success of one part of that life than with other parts. Given these assumptions, Daniels argues, resources should then be distributed between people of different ages in the way that prudential agents would divide them over the corresponding temporal stages of a single life. Daniels believes that once these two conditions of the PA have been secured regarding the decision procedure, then "[w]hatever is prudent from this perspective constitutes what is just."⁴²

So, Daniels assumes for the purpose of his theory that intrapersonal justice is "framed" by the issue of interpersonal justice, and therefore, certain inequalities that egalitarians might otherwise permit in order to maximize the overall social product are not necessary. Therefore, "[i]nequalities in income levels between the stages of life work only as a zero-sum game, making one period of life better off at the expense of another period of life."⁴³ As a consequence, Daniels believes that "the prudent course of action would be to allocate resources in such a way that income ... would remain roughly equal over the lifespan."⁴⁴ If an individual could know that his plan of life contained preferences which at all stages of life would make an unequal distribution preferable, then an unequal intrapersonal distribution

would be a better one for that individual. This is what Dworkin's PA allows, but Daniels's does not. The reason that Daniels hides this knowledge from prudential deliberators behind his veil of ignorance is that, as he acknowledges, "we revise plans of life, often in fundamental ways, as we age."⁴⁵ It is this fact of uncertainty that leads Daniels to believe the Income Preservation Principle (IPP) would be chosen: a principle that ensured people sufficient resources at each stage of their lives to pursue whatever plan of life they may have at each particular stage.

However, if we accept the CLV, the standard assumption of a maximizing rationality of self-interest, and the conditions of Daniels's PA, it is still arguable that rational deliberators would not in fact decide upon the IPP. In other words, they would not distribute their finite share of resources "roughly equally" across a life. In fact it is possible, as McKerlie has argued, that in order to maximize expected diachronic benefit over a complete life, it may be necessary to allocate disproportionate shares between younger and older selves, and it is consequently quite possible that prudence "would treat the very old harshly."⁴⁶

McKerlie's claim is that, given the goal of maximizing diachronic well-being, people might rationally follow the classical theory of practical reasoning and yet favor a life that did in fact involve synchronic inequalities, *even if by doing so they did not increase the total complete life benefits they could enjoy*. Maximal diachronic well-being might *require* unequal consumption throughout a life. Daniels does in fact point to this possibility himself. He claims some "qualifications" are necessary to the IPP and that income distribution must be adjusted if it is to count as a measure of well-being at different points in the lifespan, because what we are really interested in is a person's "standard of living." But equal income levels at different stages of life may not represent equal standards of living. The example he uses is income spent on raising children, including advancing their educational opportunities. This investment is at least in part inelastic, and if it represents a "durable good" that produces benefits to parents over their complete lifespan, then we should readjust the post-retirement income levels of the parents by subtracting some portion of income to be spent on their children.⁴⁷ If we violate the IPP in the way Daniels himself suggests, then this may not be enough to create or justify age-discriminatory policies. But if we combine it with other likely reasons for detracting from the IPP, then the aggregated consequences may result in a significant restriction of benefits from the old.

What then are the other possible reasons that prudential deliberators would fail to preserve sufficient resources for their old age as the IPP suggests they would? First, individuals behind the veil of ignorance do not know how long they personally will live, although they do know the average life expectancy one can expect to enjoy within their society. If that average is something like seventy-five,

then they know that although they can expect to reach that age they are far less likely to reach eighty-five, and quite unlikely to make ninety-five. It must seem at least plausible then that rational deliberators, thinking about their own lives, would not save very much for the slim possibility that they might live that long. While it might be prudent to save resources for great age it certainly does not seem *imprudent* to decide not to save the same “roughly equal” share of income at that life stage as every other. To do so would be to risk wasting a significant share of your complete life resources. As McKerlie points out, this consideration does not violate the age-neutrality principle because it is not necessary to assume that the older life segments are of less intrinsic value than any other segment of a person’s life.⁴⁸ An age-neutrality principle by itself does not therefore prevent age discrimination. For the very old to be neglected it is only necessary to acknowledge that the prudential deliberators, behind a veil of ignorance, would know that they are very unlikely to live long enough to enjoy any benefits set aside for the very old age group.

A second reason that prudential deliberators may not choose the IPP is that people would not necessarily find it imprudent to consume a greater share of their finite resources while young. As we have seen, Daniels stipulates that the budget to be distributed intrapersonally has already been framed by interpersonal justice, and that therefore prudential deliberators could not seek to expand their lifetime share by allocating it in certain ways, perhaps by investing in their human capital while young. Daniels believes that because such a disproportionate youthful allocation would not increase your complete life share of resources, consequently people would not distribute it in that way. However, it does not seem irrational to consume more of your resources while young, either in education or developing yourself in other ways, *even if it does not increase your complete life earning power*. For example, education, cultural experience, and travel may increase your diachronic well-being for psychological rather than merely materialistic reasons, and we might invest in them even if by doing so we simultaneously reduced our lifetime shares. As we saw in the last section, Dworkin is quite explicit that such considerations would justify restricting resources from the very old. Daniels, on the other hand, seems to deny that such justifications would be considered.

A third criticism, again outlined by McKerlie, is a consequence of the calculations that would be inherent in maximizing rationality: that “prudence will only save for old age if the sacrifice that such saving requires early in life is less than the eventual gain when the resources are used during old age.”⁴⁹ It is an unfortunate fact that with the onset of old age, our physical and mental powers usually begin to decline and this makes it more difficult to use our resources to improve our lives. It is also increasingly unlikely that we would expect to want to “radically revise” our conceptions of the good life as we grow older. One reason for this

might be that we would simply lack the energy and motivation. Another reason is anticipated by Daniels himself in a footnote in which he acknowledges that rationally prudent individuals may well discount their later years from the consideration of the *fecundity* of the benefits they can expect from them, or that fewer opportunities exist for further personal development when we are older. Thus, Daniels recognizes that:

If this is so, then, other things being equal, a later year is worth less than an earlier one because whatever opportunities for generating further benefits from activities pursued in a later year are less than those generated at an earlier year.⁵⁰

Again, however, it is not necessary that by favoring earlier years in this way we would violate the age-neutrality principle. It would simply not be a prudential calculation to invest as much in to later temporal periods of our lives as Daniels's IPP would suggest, given the overall goal of maximizing the greatest diachronic benefit over a complete life.

These considerations suggest that it is quite plausible that given the conditions of Daniels's PA, combined with his commitment to the CLV and maximizing rationality, that prudential deliberators would not choose his IPP. Indeed, rather than saving a roughly equal share of income for each stage of life, it is quite plausible that the later stages will be neglected to some extent. Moreover, while each of these considerations might lead to only a small deviation from the IPP, taken together they may well collectively lead to justifying a certain amount of age discrimination. One of Daniels's fundamental assumptions is that prudence should dictate justice, but if it is not imprudent to leave little for your own very old age, it does not follow that justice does not require society to provide a sufficient income for people who live to the age of ninety-five and beyond. This consideration points to the strong possibility that justice cannot simply be reduced to the prudent decisions that individuals would make about their own lives, irrespective of whether they would, in a hypothetical situation involving an informational constraint, have made provision themselves.

6. A Return to Social Equality

We have seen that there are good reasons for distributive egalitarians to accept the CLV, both because it rewards personal responsibility and maintains "fairness" between separate persons. We have also seen that for a distributive egalitarian theory

to provide plausible principles of justice appropriate for societies, rather than just for individuals, the CLV requires the employment of a PA. Different thinkers such as Dworkin and Daniels have deployed different conceptions of the PA, but those conceptions nevertheless involve prudential agents deliberating behind a more or less extensive veil of ignorance, which is designed to ensure that the principles of justice decided upon are disinterested and unbiased. Nevertheless, we have also seen that, even by the conditions of these PAs, the types of policies they would suggest for society might treat the old quite harshly.

McKerlie points out that the combination of the CLV and the PA is reductionist in several ways. It supposes that questions of synchronic distribution between individuals at a time can be reduced to the question of diachronic lifetime distributions. It supposes that interpersonal justice can be reduced to a question of intrapersonal justice. Finally, it supposes that questions about justice can be reduced to a question concerning individual prudence.⁵¹ The first two criticisms refer to the CLV, the third to the PLA. But the use of prudence within the PLA would have no meaning if there were not lifetime shares to prudentially distribute across your life. Contrary to Daniels's defense of the PLA, McKerlie argues that the appeal to prudence is "a kind of trick," and that there are real conflicts between the claims of the young and the old that are "neither transcended nor plausibly resolved" by assuming the CLV and reducing justice to prudence.⁵² As we have seen in the previous sections, the CLV and PA combination has implications that are intuitively unacceptable.

The CLV and the PA are integral to distributive "luck" egalitarianism, which remains the dominant position within contemporary political philosophy. Nevertheless, as Samuel Scheffler points out, a "project of critical examination" of that philosophical position has been initiated by Anderson and others.⁵³ This project questions the distributive egalitarian assumption that egalitarians should focus so extensively on the distribution of divisible goods because it argues that there is something else more fundamental to egalitarianism than simple distribution, for example the social relationships between citizens. This leads us to consider the second kind of "valuable equality" mentioned in my introduction, that of a social ideal in which people regard and treat each other as equals. That equal distribution is not the only important, or even the most important, element of egalitarianism is recognized by Cohen when he acknowledges that "it seems quite unclear that a state which forthrightly refuses to pursue a norm of strict distributive equality *ipso facto* shows failure to treat its subjects with equal respect and concern."⁵⁴ Nevertheless, as we have seen above, the state's pursuit of equality or priority over a complete life may well lead to a society that fails to treat its subjects with equal concern and respect.

David Miller believes that the ideal of social equality is more deeply embedded in the contemporary moral consciousness,⁵⁵ and, as Timothy Scanlon notes, “the ideal of a society in which people all regard one another as equals ... has played a more important role in radical egalitarian thinking than the idea of distributive justice which dominates much discussion in our time.”⁵⁶ Indeed, both Anderson and Scheffler claim that distributive egalitarianism is not what egalitarian political movements have historically sought to achieve. Instead, they have pursued the social and political ideal of equal social relations between citizens. This is as true for anti-sexists and anti-racists as it is for those who challenge the prejudices and inequalities that disadvantage older people, and it is this *social* form of equality to which anti-ageists should appeal.

A social equality of this kind would have no need for a commitment to the CLV, a PA, or the age discrimination they may justify. Instead, it would be concerned only that relations between citizens remain equal. Integral to such a concern would be the view that the moral force of synchronic interests is greater than any concern for diachronic equality. Thus, in Parfit’s terms, as far as the distribution of divisible goods is concerned both those who are worse off at a time, and those whose needs are morally more urgent, would be given priority over those who were worse off in their lives as a whole (provided the latter were not currently in either of the two former categories). This means that social equality would, at the very least, ensure something like the sufficiency principle. However, as noted above, if we reject the CLV and distribute at least some benefits on a synchronic basis we are faced with the problem of the free rider, and the question of how we ensure that people continue to be personally responsible for the success of their lives. Nevertheless, the following chapter discusses another defense of ageism, the fair innings argument (FIA), which also neglects the importance of the personal responsibility of individuals, although this has not diminished its influence within rationing decisions.

NOTES

1. David Miller, “Equality and Justice,” *Ideals of Equality*, ed. Andrew Mason (Oxford: Blackwell Publishers, 1998), p. 23.

2. *Ibid.*, p. 23.

3. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).

4. Derek Parfit, “Equality or Priority?” *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams (Basingstoke: Palgrave Macmillan, 2002), pp. 81–125.

5. Larry Temkin, "Equality, Priority, and the Levelling Down Objection," *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams (Basingstoke: Palgrave Macmillan, 2002), pp. 126–161.
6. John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, Revised Edition, 1990).
7. Jeremy Waldron, "John Rawls and the Social Minimum," *Liberal Rights: Collected Papers 1981–1991* (Cambridge: Cambridge University Press, 1993), pp. 250–270.
8. Larry Temkin, *Inequality* (New York, NY: Oxford University Press, 1993), Chapter 8.
9. Derek Parfit, "Equality or Priority?" p. 101.
10. *Ibid.*, p. 103.
11. Thomas Nagel, *Equality or Partiality* (Oxford: Oxford University Press, 1991), p. 69.
12. Dennis McKerlie, "Equality and Time," *Ethics* 99:3 (April 1989), pp. 475–491.
13. Temkin, *Inequality*, p. 233.
14. Geoffrey Cupit, "Justice, Age, and Veneration," *Ethics* 108:4 (July 1998), p. 702.
15. Henry Fairlie, "Greedy Geezers: Talkin' 'Bout My Generation," *New Republic* 28 (March 1988), p. 19.
16. Elizabeth Anderson, "What is the Point of Equality?" *Ethics* 109 (January 1999), pp. 287–337.
17. Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, MA: Harvard University Press, 2000), Chapter Two.
18. G.A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99:4 (July 1989), pp. 906–44.
19. Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56:1 (1989), pp. 77–93.
20. John E. Roemer, *Theories of Distributive Justice* (Cambridge, MA: Harvard University Press, 1995).
21. Cohen, "On the Currency of Egalitarian Justice," p. 933.
22. Amartya Sen, "Equality of What?" *Equal Freedom: Selected Tanner Lectures on Human Values*, ed. Stephen Darwall (Ann Arbor, MI: The University of Michigan Press, 1995), pp. 307–330.
23. Cohen, "On the Currency of Egalitarian Justice."
24. Anderson, "What is the Point of Equality?"
25. Arneson, "Equality and Equality of Opportunity for Welfare," p. 237.
26. Dworkin, *Sovereign Virtue*, Chapter Two, Section VIII.
27. Arneson, "Equality and Equal Opportunity for Welfare," pp. 230–231; Cohen, "On the Currency of Egalitarian Justice," pp. 522–523.
28. Richard Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare," *Philosophy and Public Affairs*, 19:2 (Spring 1990), pp. 190–191.
29. Dworkin, *Sovereign Virtue*, p. 85.
30. *Ibid.*, p. 83.

31. Ronald Dworkin, "Justice in the Distribution of Healthcare," *McGill Law Journal*, 38:4 (October 1993), pp. 883–889.
32. *Ibid.*, p. 888.
33. Richard Posner, *Aging and Old Age* (Chicago, IL: University of Chicago Press, 1995), pp. 266–7.
34. Dworkin, "Justice in the Distribution of Healthcare," p. 890.
35. *Ibid.*, p. 891.
36. Dennis McKerlie, "Justice Between the Young and the Old," *Philosophy and Public Affairs*, 30:2 (Spring 2002), pp. 152–177.
37. Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984), p. 4.
38. *Ibid.*, p. 8.
39. Norman Daniels, *Justice and Justification: Reflective Equilibrium in Theory and Practice* (Cambridge: Cambridge University Press, 1984), p. 285.
40. Parfit, *Reasons and Persons*, p. 313.
41. Henry Sidgwick, *Methods of Ethics* (Indianapolis, IN: Hackett, 1981), p. 381.
42. Norman Daniels, *Am I My Parents' Keeper?* (New York, NY: Oxford University Press, 1988), p. 92.
43. *Ibid.*, p. 121.
44. *Ibid.*, p. 121.
45. *Ibid.*, p. 120.
46. Dennis McKerlie, "Equality Between Age Groups," *Philosophy and Public Affairs*, 21:3 (Summer 1992), p. 287.
47. Daniels, *Justice and Justification*, p. 162.
48. McKerlie, "Justice Between the Young and the Old."
49. *Ibid.*, p. 160.
50. Daniels, *Justice and Justification*, p. 282, n. 1.
51. McKerlie, "Justice Between the Young and the Old," p. 157.
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53. Samuel Scheffler, "What is Egalitarianism?" *Philosophy and Public Affairs*, 31:1 (Winter 2003), p. 7; Jonathan Wolff, "Fairness, Respect, and the Egalitarian Ethos," *Philosophy and Public Affairs*, 27:2 (Spring 1998), pp. 97–122; Timothy Hinton, "Must Egalitarians Choose Between Fairness and Respect?" *Philosophy and Public Affairs* 30:1 (Winter 2001), pp. 72–87.
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55. Miller, "Equality and Justice," p. 32.
56. T. M. Scanlon, "The Diversity of Objections to Inequality," *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams (Basingstoke: Palgrave Macmillan, 2002), pp. 41–60.