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Fixing Person-Based Stakes in Distributive Theory²

This paper explores an often overlooked distinction in distributive theory and its importance. The paper illustrates that there are at least three ways to interpret substantive proposals of how to distribute goods based on what is at stake for different individuals (or their “claims” or “complaints”) and that the interpretation affects what the proposals recommend. It then argues that each of the interpretations is associated with significant problems since they all seem to violate plausible requirements of rationality. A fourth interpretation of how to understand person-based stakes is introduced, but some questions regarding whether this is compatible with distributive theories that appeal to such stakes are raised.

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1. Introduction

It is often thought that when different distributions of goods are evaluated one ought to evaluate them in terms of how well they cater to different individuals' valid interests, what I will in this paper refer to person-based *stakes*. What is at stake for different individuals is often framed in terms of *complaints* or *claims*. In the Scanlonian contractualist tradition, it is common to evaluate distributions in terms of the size of the complaints that individuals can charge against them or against the principles that would justify the distribution (Scanlon 1982, 1998; Reibetanz Moreau 1998). In Fred Feldman's desertarianism, "desert claims" are the basis for distributive judgments (Feldman 2016: ch. 2). One version of prioritarianism frames this theory in terms of claims: "people have stronger claims to receive some benefit the worse off these people are" (Parfit 2012: 437; see also: Adler 2012: 321–337). When Harry Frankfurt introduced the idea that inequalities between people who are sufficiently well off might not matter at all (what Paula Casal has called the "negative thesis" of sufficientarianism, Casal 2007: 299–303) he framed it in terms of claims: "It is possible for those who are worse off not to have more urgent needs or claims than those who are better off because it is possible for them to have no urgent needs or claims at all" (Frankfurt 1987: 35). But how are these stakes supposed to be fixed across possible worlds?

This paper highlights and discusses the importance of an often-overlooked distinction pertaining to distributive theories that make recommendations based on what is at stake for different individuals. The paper first shows that one can interpret distributive theories that make recommendations based on what is at stake for different individuals in at least three seemingly plausible ways and illustrates how these interpretations have different evaluative implications. Roughly put, the paper outlines how one might think about what is at stake for an individual when a certain option, *O*, is evaluated (i) in terms of how well off she is in *O* compared to how well off she is if nothing is done, (ii) in terms of how well off she is in *O* compared to all available alternatives, or (iii) in terms of how well off she is in *O* compared to how well off she is in each of the available alternatives. It then presents and discusses some challenges that arise for the different interpretations. A fourth interpretation that avoids the problems with the other three is finally introduced, but so are some questions regarding whether this interpretation is compatible with distributive theories that appeal to person-based stakes are raised.

One of the reasons the different interpretations of how to determine what is at stake for different individuals is rarely discussed might be that distributive theorists tend to focus on, and discuss, cases in which it does not seem to matter which interpretation one has in mind. Consider, for instance, Thomas Nagel's famous case

which Derek Parfit used to introduce prioritarianism (Parfit 1991: 1) and which Frankfurt discusses when he introduced sufficientarianism (Frankfurt 1987: 36):

Suppose I have two children, one of which is normal and quite happy, and the other of which suffers from a painful handicap. Call them respectively the first child and the second child. I am about to change jobs. Suppose I must decide between moving to an expensive city where the second child can receive special medical treatment and schooling, but where the family's standard of living will be lower and the neighborhood will be unpleasant and dangerous for the first child – or else moving to a pleasant semi-rural suburb where the first child, who has a special interest in sports and nature, can have a free and agreeable life (Nagel 1979: 123–124).

In this situation, it does not matter how one determines what is at stake for the different children. More is at stake for the second child regardless of whether one determines the person-based stakes by comparing moving to the city with each of the available alternatives, with available alternatives, or with how well off the second child is if nothing is done. Similar convergence of the different interpretations of what is at stake for different individuals will appear any time only two options are compared to each other. However, as I will describe in the following section, in richer choice situations, the different interpretations come apart.

2. Stakes

Many distributive theorists appeal to what is at stake for different individuals to describe and defend their theories. Examples are found both among those who think distributive theory should primarily ground betterness rankings of outcomes and those who think distributive theory should primarily tell us what distributors ought to do. Some go as far as suggesting that person-based stakes are the very object of fairness:

Claims, and not other reasons, are the object of fairness. Fairness is concerned only with mediating between the claims of different people. If there are reasons why a person should have a commodity, but she does not get it, no unfairness is done her unless she has a claim to it (Broome 1991: 195).

Roughly, the general idea for teleologically-minded distributive theorists is that studying what is at stake for different individuals in different outcomes tells one how to rank the outcomes, whereas the general idea for those who promote and discuss deontic distributive theories is that one ought to act in a way that is supported by the fact that one takes what is at stake for different people into account

in an appropriate way. How person-based stakes matter differs across distributive theories. Some aggregate all of them, some aggregate some of them, and some focus only on the strongest one.

Although stake-based distributive theories do not always provide precise accounts of why they emphasize the importance of person-based stakes, some general underlying motivations can be observed. What is at stake for different individuals is often ascribed importance because it is seen as a way of respecting individuals as persons (Scanlon 1982, 1998). Stake-based theories thus have a sense of person-centeredness which theories that merely focus on welfare levels in different outcomes seem to lack. Sometimes, this is associated with so-called second-personal ethics which suggests that ethical principles ought to be grounded in the second-personal relation that people who live together stand in with respect to each other (Darwall 2006). When I accidentally step on someone's foot, something is relevantly at stake *for her*. *She* – the person in front of me, who I can address in second-personal terms – has a valid complaint against *me* – the person who faces her – and can justifiably ask me to remove my foot. Based on how we as individuals stand in these second-personal relations to each other, we can develop distributive principles that reflect what we as individuals who relate to each other in second-personal ways can justifiably ask of each other (Darwall 2006: ch 12). Within approaches that aspire to respect individuals as persons and/or are based on second-personal relations, it is natural to focus on individuals' claims and complaints, what is at stake for different people. What is at stake for different individuals reflect what each individual brings to the table, so to speak.

Consider two typical presentations of stake-based approaches in distributive theory. First, Sophia Reibetanz Moreau's Minimax Complaints Model, which is an often referenced interpretation of Thomas Scanlon's contractualist view (see Scanlon 1998, 2013; Parfit 2003; Frick 2015; Kumar 2015; Suikkanen 2019; Bognar & Herlitz MS):

An individual can reasonably reject a principle if her level of well-being and burden, given widespread acceptance of that principle over her lifetime, combine into a complaint greater than that had by anyone else about some alternative principle, given widespread acceptance of that alternative over a lifetime (Reibetanz Moreau 1998: 300).

Second, Alex Voorhoeve's Aggregate Relevant Claims (which can be seen as a general description of claim prioritarianism if one sets aside point 4):

1. Each individual whose well-being is at stake has a claim on you to be helped. (An individual for whom nothing is at stake does not have a claim.)
2. Individuals' claims *compete* just in case they cannot be jointly satisfied.
3. An individual's claim is *stronger*:
 - a. the more her well-being would be increased by being aided; and
 - b. the lower the level of well-being from which this increase would take place.
4. A claim is *relevant* if and only if it is sufficiently strong relative to the strongest competing claim.
5. You should choose an alternative that satisfies the greatest sum of strength-weighted, relevant claims (Voorhoeve 2014: 66).

These views, which are clearly different in their substantive recommendations, share a subtle but important inconclusiveness: they leave it unspecified how one ought to understand and measure what is at stake for different individuals (i.e. the complaints/claims) when one uses the theories to rank outcomes and/or to determine what one ought to do. More precisely, they say nothing about which possible worlds matter for understanding what is at stake for different individuals when one uses the theories to rank outcomes and/or determine what one ought to do. To see this, consider three interpretations of how to rank options with respect to what is at stake for different individuals.

The input view: What is at stake for an individual when an option is evaluated is determined by comparing the individual's circumstances in that option and their circumstances such as they are if nothing is done.

On this view, what is at stake for the two children in Nagel's example when moving to the city is evaluated should be determined by comparing how well off the children would be if nothing is done and how well off they would be if the family moves to the city (and the person-based stakes associated with moving to the suburb should likewise be determined by comparing how well off the children would be if nothing is done and how well off they would be if the family moves to the suburb). This is the most literal reading of the quotes above. When Reibetanz Moreau refers to "an individual" and what complaints she might have toward different principles, it is natural to interpret this as a reference to an individual and their circumstances in the world such as it is unless something is done. When Voorhoeve describes how the strength of a claim depends on the "well-being from which an increase would take place," it is natural to interpret this as referring to the state of the world such as it is if there is no increase, no intervention. Generally speaking, the input view seems

plausible if one wishes to ground distributive views in respect for persons such as they are.

The global view: What is at stake for an individual when an option is evaluated is determined by comparing how well off the individual is in that option and how well off he or she is in all other options.³

On this view, what is at stake for the two children in Nagel's example when moving to the city is evaluated should be determined by comparing how well off the children would be in all other options (and likewise for the suburb). This is a less literal reading of the descriptions of stake-based distributive views. However, if one thinks of "an individual" in a more abstract way one can interpret Reibetanz Moreau's view in these terms. Furthermore, in light of how Voorhoeve determines what claims are relevant by appealing to what could be the case in some possible outcome, he is at least committed to making evaluations of what claims are relevant by considering how well off the best off person is in the outcome in which she is best off. This view reflects ascribing importance to what might be the case and expresses respect for the possibilities for each person.

The binary view: What is at stake for an individual when two options are compared is determined by comparing how well off the individual is in the two options.⁴

On this view, one ranks options by making pairwise comparisons of all alternatives. What is at stake for the two children in Nagel's example when moving to the city is compared to moving to the suburb should be determined by comparing how well off the children would be in each of options. This interpretation of how to fix claims might seem peculiar from the perspective of philosophical intuition and standard vernacular, but it is plausible in light of social choice theory and the Condorcet tradition which focuses on pairwise comparisons. There are thus some technical reasons that might lead one to embrace this interpretation. Furthermore, and perhaps for this reason, it is an interpretation that Matthew Adler – one of few distributive theorists who makes it clear how he interprets person-based stakes (claims) – has defended (Adler 2012: 331).

³ Cp. Fleurbaey et al. 2009.

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Various substantive normative views can be interpreted in accordance with each of these views. In the Minimax Complaints Model, are complaints against an option fixed by comparing how well off individuals are in the option to how well off they are if one does nothing, by comparing how well off individuals are in the option and how well off they are in the option in which they are best off, or for each pairwise comparison of options by looking only at the features of *these* options? In Aggregate Relevant Claims, are claims to benefits fixed by comparing how well off individuals would be if they received the benefits to how well off they are if nothing is done, by comparing how well off individuals would be if they received the benefits and how well off they are in the option that is the worst for them, or for each pairwise comparison of options by looking only at the features of *these* options?

For many substantive normative views, the interpretation of how one fixes and measures person-based stakes will have significant implications when the view is put into practice. Not in all cases, but in some cases. Consider an illustration. Assume that one is concerned only with the distribution of well-being and that well-being is the appropriate currency of person-based stakes. And assume further that one wishes to evaluate three principles (A, B and C) with respect to the Minimax Complaints Model. How should the following options be evaluated? (Each number describes the lifetime well-being of an individual if the principle is widely implemented.)⁵

A	B	C
[4, 9, 16]	[9, 16, 4]	[16, 4, 9]

On the input version of the Minimax Complaints Model, these options should be evaluated based on the complaints that can be charged against the options such that the strength of the complaints charged against an option is determined by comparing how well off individuals are in that option and how well off they are in the option that reflects doing nothing, the world such as it is in case no distributor intervenes in it. This means that in the case above, the ranking is entirely dependent on which of these options is the option that represents not intervening in the world (the *input*). If A is the input, there is no complaint against A, the strongest complaint against B is charged by the third individual who would go from well-being level 16 to 4, and the strongest complaint against C is charged by the third individual again, who in that option would go from 16 to 9. The options are thus ranked $A > C > B$ (where “>” denotes *better than*). If B is the input, following the same reasoning, the options are ranked: $B > A > C$. And if C is the input, the ranking is $C > B > A$.

⁵ I am indebted to Daniel Ramöller for helping me working out the details of this illustration.

On the global version of the Minimax Complaints Model, the ranking is based on the complaints that can be charged against the options such that the strength of the complaints charged against an option is determined by comparing how well off individuals are in that option and how well off they are in the option in which they are best off. In the case above, this gives the following ranking: $A = B = C$ (where “=” denotes *equally as good as*), because in each option there is an individual at well-being level 4, and it is true for that individual that there is some option in which his or her well-being level is 16 (in A, the first individual has well-being level 4, and he or she could have had 16 (C); in B, the third individual has well-being level 4, and he or she could have had 16 (A); and in C the second individual has well-being level 4, and he or she could have had 16 (B)). This is the same ranking as the one provided by theories that only focus on the distribution of well-being in the different options and which makes no reference to claims at all (e.g., certain prioritarian views that rank outcomes “according to the sum of a strictly increasing and strictly concave transformation of well-being numbers”, Adler & Holtug 2019: 3). However, it is not generally true that these views are coextensive. To see this, consider a contracted set of options where A is no longer a member. On the global version of the Minimax Complaints Model, $B > C$ when only B and C are compared (the strongest complaint against B is charged by the first individual, who is at well-being level 9 in B and 16 in C, whereas the strongest complaint against C is charged by the second individual who is at well-being level 4 in C and 16 in B; the largest complaint against C is greater than the largest complaint against B).⁶

On the binary version of the Minimax Complaints Model, the ranking is established by pairwise comparisons of the options. In each pairwise comparison, there is some individual who in one of the options has well-being 4 and in the other has well-being level 16 (when A and B is compared, it is the third individual; when B and C are compared, it is the second individual; and when A and C are compared, it is the first individual). This is the largest complaint in each pairwise comparison of options, and the option in which this individual has well-being level 16 is the better one in each comparison. Since it is different individuals who have these complaints in each pairwise comparison, the following cyclical ranking of the options follows: $B > A > C > B$.

The purpose of the example above has been to illustrate the fact that how one fixes person-based stakes can have implications for how one evaluates different options. Although I have used the Minimax Complaints Model to illustrate the importance of how one interprets person-based stakes above, similar results arise for

⁶ It is, however, generally true that the global view is coextensive with the binary view in all cases where there are only two options.

several other theories. Yet, it should be noted that the exact nature of how the recommendations of a theory depends on how one fixes person-based stakes cannot be entirely separated from the substantive details of the distributive theory. For instance, for claim prioritarianism (and for the parts of Voorhoeve's Aggregate Relevant Claims model which are prioritarian) it depends entirely on how one specifies and applies the "priority weights", the premium ascribed to claims of the worse off. There is a specific way of thinking about priority weights for which it is true that the views are coextensive.⁷ However, there are other – perhaps more intuitive – ways to apply strictly increasing and strictly concave priority-weights-functions that generate different results depending on how one fixes claims.⁸ Since there are these differences between distributive theories, it is important for proponents of stakes-based distributive theories to explore what the implications of applying different interpretations of how to fix person-based stakes are for their distributive theory.

3. Challenges

The previous section illustrated how it sometimes matters how one determines person-based stakes for evaluative purposes. Whatever reason one might have for

⁷ The views are coextensive if the priority weights are applied to all well-being levels before the claims are aggregated. For instance, let the square root function ($\sqrt{\cdot}$) be the function that expresses the priority weights. When evaluating the outcomes in A, B and C, apply $\sqrt{\cdot}$ to the well-being levels (4, 9 and 16) before ranking the options, i.e. transform them to 2, 3, 4. On the binary view, $A = B$, $B = C$ and $A = C$ (because in each pairwise comparison one individual will have a priority-weighted claim equal to 2 to one option and two individuals will have a priority-weighted claim equal to 1 to the other option. On the global view, $A = B = C$ (because for each option it is true that one individual has a claim equal to 2 to it, one individual has a claim equal to 1 to it, and one individual has no claim to it). On the input view, $A = B = C$ (because regardless of what the input is, the claims to the input option will be 0, and the claims to each of the other views will also be 0, since for one option one individual will have a claim equal to 2 and the other individuals will each have a claim equal to -1 and for the other option one individual will have a claim equal to -2 and the other individuals will each have a claim equal to 1). Since the claims within options view satisfies the permutation axiom it is obvious that it ranks the options in the same way.

⁸ Here is a simple illustration of how the binary view and the global view might differ from other prioritarian views, e.g. the view Adler and Holtug describe (Adler & Holtug 2019). Claims of individuals who are at well-being level 4 are weighted by 7. Claims of individuals who are at well-being level 9 are weighted by 4. Claims of individuals who are at well-being level 16 are weighted by 0.5. The function is strictly increasing and strictly concave. Compare the following two options: A and B from above, i.e. {4, 9, 16} and {9, 16, 4}. On Adler and Holtug's prioritarian view, the options are equally good. On the binary view and the global view: $A > B$ (because the third individual's claim to A is 12×7 and the negative claims of the other individuals are $5 \times 4 + 7 \times 0.5$, which gives a total priority-weighted claim to A = 60.5, while the priority-weighted claim to B = $5 \times 7 + 7 \times 4 - 12 \times 0.5 = 57$). But also the choice of whether to go for the binary view and the global view might matter for prioritarrians. To see this, use the same priority weights as above and add that claims of individuals who are at well-being level 1 are weighted by 50. Apply these priority weights and evaluate the following three options: $A = \{4, 9, 16\}$, $B = \{9, 16, 4\}$ and $Z = \{4, 1, 4\}$. Whereas the binary view provides the following ranking: $A > B > Z$, the global view gives the following ranking: $B > A > Z$ (because on the global view the priority-weighted claims to A is merely $0 + 8 \times 50 + 12 \times 7 = 484$, whereas the priority-weighted claims to B is $5 \times 7 + 15 \times 50 + 0 = 785$).

espousing a stake-based approach to distributive theory, there are various formal challenges that arise for different interpretations. This section introduces some such challenges. To some extent, also the challenges depend on the substantive nature of the distributive theory. However, they merit a general discussion because stake-based approaches to distributive theory are so common, and it is important to know what problems they face.

3.1 The input view, Normative Invariance, Satisfiability and the Stability Condition

The input view faces a wide range of challenges. For instance, ascribing substantial importance to the input world – the world such as it is if one does not intervene in it – requires that one knows what the input world actually is, and sometimes that is not obvious: is continuing an ongoing treatment plan not to intervene or is it an intervention? Furthermore, views that base their recommendations on how well off people are in the world such as it is if one does not intervene in it have difficulties informing choice when the population changes, i.e. when some people will come into existence if one acts in one way and other people will come into existence if one acts in a different way (Herlitz & Eyal MS).

However, input interpretations of stake-based views also face more formal challenges. First, they appear to violate Normative Invariance (see Carlson 1995; Bykvist 2007; Arrhenius & Rabinowicz 2014):

Normative Invariance: An action's normative status does not depend on whether or not it is performed (Bykvist 2007: 99).

Consider again the distribution from the previous section and what claim prioritarrians who adopt the input view would say:

A	B	C
[4, 9, 16]	[9, 16, 4]	[16, 4, 9]

If A is the input, a prioritarian input view implies that one ought to choose C, yet once one has made that decision – performed the choice act – the input changes to C, and when C is the input choosing C over A is impermissible (since input prioritarianism ranks the options in the following way when C is the input: $B > A > C$).

However, since input views ascribe significant importance to what the world

looks like if nothing is done, it might be plausible to accept that making a choice has implications for how alternatives ought to be individuated (see Herlitz 2020a). Perhaps choosing C when A is the input is not the same as sticking with C when C is the input. If that were the case, Normative Invariance would not be formally violated.

Second, they seem to violate Satisfiability:

Satisfiability: For any agent and any possible situation, there is an action such that if the agent were to perform the action in this situation, then she would conform to the theory (Bykvist 2007: 116).

If a distributive theory tells one to choose C, but implies that when one has chosen it A is better, has one “conformed to the theory”? This seems doubtful.

Third, consider the following condition:

The Stability Condition: A decision method/normative theory, P, meets the stability condition if and only if it is always true according to the method/theory that if an option, X, that according to the method/theory is maximal (i.e. not worse than any alternative) in a set of alternatives, C, is chosen, then the transmutation_X of X, X_X, is also maximal according P in C_X, the set of alternatives consisting of the transmuted_X alternatives in C (Herlitz 2020a: 6).

Transmutation_X is defined as follows:

Transmutation_X: A transmutation_X of an alternative, Y, in a set of alternatives, C, of which both X and Y are elements, into a transmuted_X alternative, Y_X, is the transmutation of Y that appears in the choice set, C_X, that is the set of alternatives C in which the negative and positive values associated with choosing X have been dispersed across the alternatives in C (Herlitz 2020a: 5).

In the example above, following the input-prioritarian principle and choosing C from {A, B, C} turns C into the transmuted_C C: C_C. Since C in {A, B, C} is a maximal alternative according to the input-prioritarian principle and C_C in {A_C, B_C, C_C} is not a maximal alternative according to the input-prioritarian principle this principle violates the Stability Condition.

Following a principle that violates the Stability Condition implies that one’s choices are not stable; they fail to remain robustly supported by the principle after they have been made. Consider an illustration of what it means to violate this con-

dition. Imagine someone walking into a pizza parlor bombastically declaring his order: “I’ll have the Margarita, unless I’ve already ordered that, in which case I’ll go for the Napoletana! Although, were you to think that was my order I’ll order the Margarita!” This behavior is strikingly irrational.

3.2. The global view, Basic Contraction Consistency and “irrelevant” alternatives

As the attentive reader might have already noted, the global view seems to violate what many take to be a basic requirement of rationality, so-called *Basic Contraction Consistency* (sometimes called “alpha” or “the Chernoff Condition”; see Chernoff 1954; Sen 1970, 1993; Fleurbaey et al. 2009; Voorhoeve 2014; Herlitz 2019a, 2020a):

Basic Contraction Consistency: If an option, X , is permissible in a set of alternatives, it is also permissible in a subset of these options containing X .

As pointed out in the previous section, if the Minimax Complaints Model is interpreted in line with the global view it states that A , B and C are all permissible if the set of alternatives is $\{A, B, C\}$, while only C is permissible if the set of alternatives is $\{B, C\}$. $\{B, C\}$ is a subset of $\{A, B, C\}$ and B is a member of both sets, but although B is permissible in the larger set it is not permissible in the contracted, smaller set. Basic Contraction Consistency thereby seems to be violated.

A somewhat common response to the accusation that one’s view violates Basic Contraction Consistency has been that the argument fails to take into account the importance of individuating the alternatives appropriately (see Sen 1993; Arrhenius 2009; Voorhoeve 2014; Herlitz 2019a, 2020a; Brown 2019). If the alternatives change together with the changes in the choice set, they ought to be differently individuated, and with a different individuation there is no violation of Basic Contraction Consistency. The fact that A , B and C are all permissible in the choice set $\{A, B, C\}$ but only C^* is permissible in the choice set $\{B^*, C^*\}$ does not show that Basic Contraction Consistency has been violated. It is true that B is permissible in the first set and B^* is not permissible in the second set, but B and B^* are not the same option, so the second set does not contain an option that was permissible in the initial set (and $\{B^*, C^*\}$ is not a subset of $\{A, B, C\}$).

The extent to which this response is successful partially depends on what status one ascribes to rationality axioms such as Basic Contraction Consistency and partially on what substantive distributive theory one evaluates. As John Broome has pointed out, of course all options can in principle be individuated differently in all instances, but if one takes such a radical approach, it is meaningless to even discuss

requirements of rationality (Broome 1991: ch. 5). One must thus ask: when *ought* one change the individuation of an alternative?

A common answer to that question is that one ought to individuate alternatives so that the features that are pertinent grounds for choice in light of the principle one uses are included in the individuation (Broome 1991: ch. 5; Voorhoeve 2014; Herlitz 2020a, 2019a). On the global view the option in which an individual is worst off partially determines what one ought to choose. If that changes when the set of options is contracted, it seems reasonable to accept that also the individuation ought to change (see Voorhoeve 2014). This means that Basic Contraction Consistency is not violated.⁹

But there is a different, somewhat similar, challenge for the global view: it ascribes a peculiar amount of importance to options that at an intuitive level are obviously irrelevant. Consider the case from the previous section again:

A	B	C
[4, 9, 16]	[9, 16, 4]	[16, 4, 9]

If {A, B, C} is the entire choice set (i.e. all options available), the global view deems A, B and C to be equally good options. However, if there were *more* options in the choice set, this is not necessarily true any longer. To see this, consider the same case with an added option, D, which is by no means an appealing option, and no serious normative view would suggest anyone to choose it, but which still has significant importance according to the global view:

A	B	C	D
[4, 9, 16]	[9, 16, 4]	[16, 4, 9]	[1, 2, 2]

Everyone is worse off if D is chosen, and no serious stake-based distributive theory suggests that one ought to choose D (regardless of how one interprets how person-based stakes are fixed). Nevertheless, the fact that the first individual is worse off than the others in D has implications for how the global view evaluates the *other*

⁹ The fact that Basic Contraction Consistency is not violated because one is warranted in changing the individuation of the options solves the formal problem this argument points toward, but there might remain practical problems. For instance, changing the individuation of the alternatives does not undermine the possibility of making money-pump arguments, so if such arguments have any bearing on what distributive theory is plausible the global view can be challenged on such grounds (see Herlitz 2019a).

options. Consider, for instance, stake-based theories that ascribe greater weight to benefits to the worse off. If person-based stakes are fixed with the global view, those theories imply that C is the best option, because compared to D (the option in which everyone is worst off in this example), C is the option with most benefits to the worst off (the first individual).¹⁰

To grasp how counterintuitive this implication is, consider an illustration. Imagine that I have two equally good students, Aya and Monika, who are both on the job market competing for the same jobs. Both of them ask me to help them. I am impressed by both of them and happy to provide them with guidance and whatever reference letters can help. I also do not play favorites when I write these letters, because I find it really hard to rank them and I truly think they are equally good. One day, I learn that my close friend Emmanuelle chairs the hiring committee at a department that would suit both Aya and Monika perfectly. I know Emmanuelle well, so I am confident that if I call her and push for one of my students, this will significantly increase her chances, but if I call and try to push for both of them, Emmanuelle will not take me seriously, so it will have no impact at all on their prospects. I must choose: should I call Emmanuelle and push for Aya or call and push for Monika? I could of course also decide to not call Emmanuelle at all, or to call and push for both my students. The latter options have identical implications for Aya and Monika. I determine that calling to push for Aya and calling to push for Monika are the two best options, and they are equally good. Aya and Monika have identical person-based stakes in the situation. The best I can do is to randomize, flip a coin. But then it strikes me: many, many years ago, Aya expressed fascination for and had an interest in writing about Friedrich Hayek. I know Emmanuelle *hates* Hayek. So, if I were to call Emmanuelle in order to try to make my students' chances *worse*, I would be more successful at discouraging Emmanuelle from hiring Aya than I would be at discouraging her from hiring Monika. If I compare how badly off Aya is in the option that is worst for her and how badly off Monika is in the option that is worst for her, it is obvious that Aya is worse off. That settles it! Since I can ruin Aya's life more effectively than Monika's, I ought to call Emmanuelle and promote Aya. This is the radically implausible implication of the global view combined with priority to the worse off.

There are some recent attempts at dealing with cases like this by qualifying

¹⁰ It could be objected that egalitarianism is a serious distributive theory and that egalitarianism implies that D is the best of all options. It is true that an extreme egalitarian would favor D over the other options, but most egalitarians reject the idea that one ought to choose an option in which everyone is made worse off and say that although equality matters it is not all that matters (e.g. Temkin 2003). Furthermore, one can construe examples where not even an extreme egalitarian would be attracted by the option that the global view ascribes importance in this way. For instance, should one choose E, F, G or H, where $E = \{10, 9, 9\}$, $F = \{9, 10, 9\}$, $G = \{9, 9, 10\}$ and $H = \{1, 5, 5\}$? Is it plausible to think that E is the best option in virtue of the fact that H is available in this case?

which options are allowed to matter when one evaluates a set of options. For instance, Michael Otsuka has in a recent paper suggested that certain options should be excluded from the set of options that influence one's evaluations (Otsuka 2017). As he puts it: when making distributive decisions, one ought to only care about "genuine moral options", options that are not "manifestly unreasonable" (Otsuka 2017: 200). Intuitively, neither D nor calling Emmanuelle in order to ruin Aya's chances to get hired are what Otsuka calls "genuine moral options", and most would agree that they are in fact "manifestly unreasonable".

However, Otsuka's proposal is quite unsatisfactory in that it is very imprecise and relies merely on intuition. The problem is structural and solutions that rely on vague notions such as "genuine moral options" and "manifestly unreasonable" are unsatisfactory. On the one hand, there will be a plethora of cases in which it is not clear whether an option should be considered a genuine moral option or not. On the other hand, one wants an explanation of what makes something a genuine moral option, which Otsuka does not provide.

Perhaps there are ways of making views like Otsuka's more precise, but this is no easy task. For instance, one could define "genuine moral options" in terms of options that are not Pareto dominated, i.e. options for which it is true that there is no alternative in which someone is better off but no one is worse off. That would certainly rule out D from the set of options that are allowed to influence one's evaluation in the example above. However, and here is why this kind of approach must be explored in much more depth than I can afford it in this paper: can we be sure that it would rule out calling Emmanuelle to ruin Aya's chances? No. If I decide to call Emmanuelle to ruin Aya's chances, I *de facto* improve the chances of all *other* applicants. Their chances will of course not improve by much but removing one competitor must still count as a benefit to them. This means that this option is not Pareto dominated. It might seem Pareto dominated by the option "do not call Emmanuelle at all", but the option is in fact worse for the other candidates, so it is not Pareto dominated.

3.3 The binary view and cycles

As noted already above, the binary view occasionally generates cyclical rankings of options (see Norcross 2002; Parfit 2003; Fleurbaey et al. 2009). The Minimax Complaints Model together with the understanding that complaints should be fixed according to the binary view ranked the three options as follows: $A > B > C > A$. This means that the better than relation (i.e. $>$) that ranks the options violates transitivity:

Transitivity: R is transitive if and only if, for all a, b and c , if aRb and bRc , then aRc .

All conventional positive comparative relations (i.e. *more F than*, *less F than*, *equally as F as*) are usually considered to be transitive.¹¹ And accepting a principle that implies that a conventional positive comparative relation violates transitivity is by many considered irrational.

Although there are exceptions (most notable in the contemporary philosophical literature: Larry Temkin (1996, 2012)), few are willing to accept that a normative principle that generates cyclical rankings (and implies intransitive better than-relations) is even remotely plausible. As Broome puts it, giving expression to a very strong view on the matter:

A comparative relation is necessarily transitive. This is an analytic feature of the operator ‘more...than’: the meaning of ‘more...than’ implies that ‘more F than’ is transitive. The more formal features of the meaning of a term are often called the ‘logic’ of the term. Deontic logic is the logic of ‘ought’, for example. In this sense, transitivity is a feature of the logic of ‘more...than’ (Broome 2004: 50).

Since the binary view together with certain substantive views of how to evaluate person-based stakes generate cyclical evaluations, this view seems to come with a significant shortcoming: one must abandon what Broome calls “the logic of ‘more...than’”.

Nevertheless, it is worth pointing out that there might be ways of making this position less unpalatable. One problem with accepting cyclical evaluations is that principles that generate cyclical rankings of options seem unable to guide choice: whatever one chooses, there is an option that was ranked above it (see Handfield 2015). According to standard rational choice theory that says that it is irrational to choose an option that is worse than some alternative, rational choice seems impossible. More strongly, some believe that cyclical rankings not only undermine the possibility of rational choice, but the possibility of practical reasoning as such:

If transitivity fails, then it may seem impossible for the better than relation to guide our choices or attitudes in many cases. This is because, for any outcome we choose or prefer, there may be some better alternative that we ought to have chosen or preferred instead. The rejection of transitivity might, therefore, lead to

¹¹ This is, by contrast, not true for non-conventional positive comparative relations (e.g. “parity”, “incommensurability”, “imprecise equality”) such as these have been defined and discussed in the recent value-theoretical literature (see Chang 2002; Rabinowicz 2008; Carlson 2010; Parfit 2016; Herlitz 2019a).

skepticism about practical reasoning, or at least about the role of the good in practical reasoning (Nebel 2018: 875).

There is no space to present the details of these approaches, but it should at least be noted that there are alternative approaches to rational choice that can be used together with principles that generate cyclical rankings so that these principles preserve at least some element of being able to guide choice. For instance, approaches that suggest that a rational choice is a choice of an element in the so-called Schwartz Set and approaches that suggest that a rational choice is a choice of an element in the set of Strongly Uncovered options can both be combined with principles that generate cyclical rankings so that these principles preserve some element of action-guidingness.¹² Just as an illustration, imagine that a principle, X , ranks the options a , b , c and d in the following way:

$a > b$; $b > c$; $c > a$; $a > d$; $b > d$; $c > d$

X generates a cyclical ranking (of a , b and c) and there is no option that is not worse than any alternative with respect to X . Whether X is action-guiding can thus be questioned. However, only a , b and c are in the Schwartz Set, and only a , b and c are Strongly Uncovered, so if one uses any of these criteria for what it means to follow a principle one must admit that X has *some* action-guidingness; it says: do not choose d .

4. Person-based stakes within options?

It might seem, thus, as if proponents of stake-based approaches to distributive theory ought to reject the input view, the global view, and the binary view. There is, however, an alternative – and arguably far less intuitive – way to think of person-based stake:

The within options view: What is at stake for an individual when an option is evaluated is determined *within each option*, and without any reference to any other possible option.

¹² The Schwartz Set is a subset of the set of options that consists of the alternatives in all Schwartz Subsets, i.e. the subsets of the set of options such that (1) every element of the subset is pairwise unbeaten by every non-element in the subset, and (2) there is no non-empty subset of the subset that satisfies the first condition (see Schwartz 1972, 1986; Herlitz 2020b, 2020c). An option is Strongly Uncovered if no alternative strongly covers it. An option, x , strongly covers an alternative, y , if and only if it is true that $x > y$ and compared to any other alternative, z , if $z > x$ then $z > y$, and if $y > z$ then $x > z$ (see Duggan 2013; Herlitz 2020b, 2020c).

Recall the case from above:

A	B	C
[4, 9, 16]	[9, 16, 4]	[16, 4, 9]

On the within options view, these options are equally good. The within options view fixes the size of each person-based stake only on the basis of the features each individual has in each option. The view thus satisfies what Broome calls “impartiality” and what Matthew Adler calls “anonymity” or the “permutation axiom”: it does not matter which individual has what features, only the pattern of the features matter (Broome 2004: 135; Adler 2012: 52). Since the pattern of the distribution of well-being is identical in the three options (one individual at level 4, one at level 9, and one at level 16), the options have the same normative status. This specification gives the following ranking: $A = C = B$.

On this view, there are no cyclical rankings, no violation of Basic Contraction Consistency, no importance is ascribed to seemingly irrelevant options, and there is no violation of the Stability Condition. However, one might wonder what a person-based stake that is established within an option and only there actually is. Person-based stakes such as claims and complaints refer to the absence of something; they are directed toward something that is not there. What could that be if one accepts the within options view?

Whereas there are views that are naturally understood as within options views,¹³ it seems one must resort to quite unconventional and rather creative interpretations of “claims” and “complaints” to combine other distributive theories with the within options views. Claims and complaints are naturally understood in *comparative* terms. They make reference to different states or positions that an individual can inhabit. In the most obvious case: the state that an individual is in and the state that she ought to be in. For egalitarians, the relevant comparisons are the comparisons between how well off different individuals are, and it is obvious that one very plausible interpretation of egalitarianism is that what matters is how well off different individuals are within one and the same option. Other distributive theories do not ascribe importance to comparisons between individuals. In fact, other distributive theories often make it a virtue that they are not comparative in this sense. But what is then the comparative element of the person-based stakes? On the within options view, there is none.

¹³ Temkin’s egalitarianism is naturally understood in such a way for example, see Temkin 1993; Adler 2012: 321-328. And sufficientarian theories that refer to sufficiency levels can easily be understood in these terms, see Frankfurt 1987; Casal 2007; Herlitz 2019e.

Consider again Broome's remarks regarding the transitivity of conventional comparative relations:

A comparative relation is necessarily transitive. This is an analytic feature of the operator 'more...than': the meaning of 'more...than' implies that 'more F than' is transitive. The more formal features of the meaning of a term are often called the 'logic' of the term. Deontic logic is the logic of 'ought', for example. In this sense, transitivity is a feature of the logic of 'more...than' (Broome 2004: 50).

Broome suggests that transitivity is a feature of the logic of 'more...than', and those who suggest that better than is not a transitive relation fail to respect the logic of the term. A similar argument can be made against (certain) stakes-based approaches that suggest that person-based stakes are fixed within each option and without any reference to any other options.

Here is how David Gauthier presents the role that claims play in a bargaining situation:

- (4) A *claim* is a demand by a prospective co-operator for a particular co-operative surplus, made initially in the bargaining.
- (5) The *claim point* is the point in utility space representing the (possibly hypothetical) outcome that would afford each person a utility equal to that of his claim; it is feasible if and only if it is a point of the outcome-space (Gauthier 1986: 142).

Using Gauthier's language: what is the *claim point* if claims are fixed within an option and with no reference to any other option? For the Minimax Complaints Model, Aggregate Relevant Claims and claim prioritarianism, there cannot be any claim point at all if they are combined with the within options view.

But what is a claim if there is no claim point? What is a person-based stake if there is no claim/complaint to or against something? Analogous to Broome's point, it can be suggested that those who rely on conceptions of person-based stakes that have no claim points fail to respect the logic of these terms.

5. Discussion

This paper emphasized an ambiguity in stake-based approaches to distributive theory. A distributive theory that holds that distributive judgments ought to be based on what is at stake for different individuals in different options generates

different recommendations depending on how these person-based stakes are fixed. I outlined three interpretations of how to understand how person-based stakes should be fixed and illustrated how the choice of interpretation has significant implications for what the contractualist Minimax Complaints Model, Voorhoeve's Aggregate Relevant Claims model and claim prioritarianism say. Although it is impossible to in a single paper present a general overview of how this issue matter for all stake-based approaches to distributive theory, I believe the arguments of this paper show that there is good reason to suspect that similar problems will arise for most if not all stake-based approaches. In other words, I hope to have shown the importance on being clear on what one means by person-based stakes (or claims/complaints) when these notions are used to describe a distributive theory.

In the second part of the paper, I presented a series of challenges that different interpretations of how person-based stakes should be fixed for evaluative purposes face. I showed that the view risks leading to cyclical evaluations, that the global view seems to violate Basic Contraction Consistency and also ascribe an unreasonable amount of importance to seemingly irrelevant alternatives, and that the input view fails to generate stable recommendations. I also introduced a view that seems to avoid the formal challenges: the within options view, but noted that this view faces what might be seen as an even greater problem: it fails to respect the logic of the person-based stakes.

This somewhat somber result gives one reason to pause and to question the usefulness of at all using person-based stakes and concepts such as claims and complaints in distributive theory. Why at all embark on the perilous path of presenting a stake-based view that run significant risk of violating basic requirements of rationality when one can formulate much simpler distributive theories that provide action-guiding recommendations based only on the internal features of the alternatives and which do not risk violating any rationality requirements?

The answer might lie in the desire to ground distributive theory in concerns for persons and their interests. If persons and their interests are what matters when we make distributive judgments, then we need a concept that describes different individuals' interests. Person-based stakes, claims and complaints are such concepts. But if these concepts are indeed unavoidable, we should also recognize the general challenge this actualizes: stake-based distributive theories violate basic requirements of rationality *unless they have certain substantive features*, i.e. unless they aggregate and weigh person-based stakes in specific ways. Proponents of stake-based distributive theories might in other words find themselves forced to find compromises between formal rationality requirements and well-grounded substantive distributive criteria. This is not the place to determine whether it is possible to develop and defend such compromises that remain attractive.

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