

How to be a Nonconsequentialist: A Defense of Deontological Constraints

Dissertation

Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy  
in the Graduate School of The Ohio State University

By

Christa M. Johnson, B.A.

Graduate Program in Philosophy

The Ohio State University

2018

Dissertation Committee:

Justin D'Arms, Co-advisor

Piers Turner, Co-advisor

Donald Hubin

Tristram McPherson

Copyright by  
Christa M. Johnson  
2018

## Abstract

I propose and defend a fully-relative nonconsequentialist normative moral theory, MATRC (*pronounced, may-trick*), that I argue is able to stave off both paradox and triviality, something several initially plausible versions of nonconsequentialism have failed to do. On my view, **C**onstraints are both **A**gent and **T**ime **R**elative. For example, while I certainly have moral reason to prevent you from killing innocent people, I am constrained from killing an innocent person in service of those reasons. Moreover, I am constrained from infringing a constraint now, just to prevent some future constraint infringement. So, on my view, there are moral constraints in virtue of which I, myself, cannot, at the present moment, permissibly perform certain actions, such as killing innocent persons, even if doing so would maximize the good. But, I argue that these constraints are moderate, rather than absolute (the “**M**” in MATRC). Absolute views maintain that constraint infringements are morally impermissible in all cases. However, I argue that in certain cases, such as to save a million people, constraint infringements are permissible.

In order to pave the way for MATRC, I begin by dispelling the charge of triviality, which comes from what has been dubbed the “Consequentializing Project”. This is the view that all normative moral theories can be “turned into” act consequentialist views. Accordingly, a surgeon is prohibited from harvesting the organs of

an innocent person to save five others not due to a constraint, but rather because saving the five results in a worse world relative to the surgeon. I argue that even if we *can* consequentialize, we ought not to insofar as the complications that arise when consequentializing ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs.

The charge of paradox traditionally comes from the so-called Paradox of Deontology. It seems whatever motivation a moral theorist has for adhering to constraints, we should be permitted to harm individuals when it would prevent a higher number of similar harms. A second challenge, I argue, comes from a hitherto underappreciated paradox, what I dub the intra-personal paradox of deontology. In these cases, an agent is faced with infringing a single constraint in order to minimize *her own* constraint infringements. After rejecting the view that the agent may perform such an infringement, I show how MATRC's agent- and time-relativity both exemplifies the underlying motivations for constraints while successfully responding to both the inter- and intra-personal paradoxes of deontology.

Finally, turning to the moderate nature of constraints, I work to show that moderate constraints are both coherent and justified. I argue that while respect for persons requires that agents not perform certain actions, one must also acknowledge those that may benefit from a constraint infringement. This acknowledgement provides the motivation for thresholds. Once a threshold has been met, however, I argue that an agent must continue to show respect for the rights holder through certain moral emotions. With moderate deontology understood, I turn to the question of where these thresholds might be, and develop a novel framework.

## Dedication

Dedicated to my parents who never once questioned my decision to pursue philosophy  
and to my wife who graciously puts up with it.

## Acknowledgements

They say it takes a village. This dissertation certainly provides evidence for that claim. I have three advisors and five committee members to thank, in addition to the countless other colleagues, friends, and family members that made all of this finally come to fruition.

First, to Tim Schroeder, my first advisor and mentor, this project would have never gotten off the ground if it were not for your guidance. You saw me through the beginnings of two completely different projects and were invaluable in helping me to navigate philosophical problems and prepare for the academic world. Piers Turner, co-advisor number two, I cannot begin to thank you for the countless pep talks and the grace you showed in helping me to transition my projects and my committee. Importantly, my dissertation and my philosophical work in general would not be what it is today without the countless discussions and general pushes you gave me over the years. Justin D'Arms, the other half of my co-advising team, I owe you a debt of gratitude for just making the time over and over again. I feel that I have only had a taste this semester of the sheer number of tasks that you dealt with the entirety of my dissertating years. Yet, you never failed to give me the feedback and challenges that I needed to raise my thinking and my writing to the next level. I threw more than a few bad ideas your way, and without fail, you pushed me to dig deeper, to work harder, and this is the result.

To Don Hubin, my consequentialist nemesis, my ethics center boss, my committee member, and friend, thank you for all of your support, in every facet of my graduate career over the years. To Tristram McPherson, thank you for stepping in late and treating this work as if I was your student all along. You always know how to challenge my work in new ways, and I am ever grateful for your kindness.

There are others in the department to thank as well. To Sigrún Svavarsdóttir and Richard Samuels, thank you for supporting me in my first defense. To Abe Roth, from whom I took many classes, thank you for all you taught me, and for always remaining open to my views, even when they critiqued your own. To William Taschek, whose feedback in my first graduate seminar still shapes my writing today. And to the Lisa's, Shabel and Downing, for being an inspiration for myself and the other women in the department.

I also would not be where I am today without the support of my fellow graduate students in the department. To my cohort, that has been supportive of each of our endeavors, both in and out of academia, thank you for the drinks, the conversation, and the friendship. To my dear friends ahead of me, you provided the path and mentorship to keep me going. And to those who came after, I can assure you, it gets better.

Although they did not aide me in finishing this dissertation in a timely manner, I'd also like to thank the departments at Denison University and Oberlin College for giving me the opportunity to get my feet wet in academia, while still pursuing my PhD. Through these experiences, I have been able to learn to balance teaching and research in a way that will be invaluable to my future.

To my parents, from what I understand from my students, most parents are not so thrilled when they find out their student wants to major in philosophy, much less pursue it as a career. But, throughout my life, you have never once questioned a single goal of mine. You have supported me through countless endeavors, and I cannot begin to express what that has meant to me over the years. To my siblings, to my nieces and nephew, and to my friends from all stages of life, you all have provided so much joy over the years, and it has never failed to keep me going.

Finally, to my wife, Jenn, I cannot imagine getting through the past few years without your support. My graduate career has been a whirlwind of different projects, mentors, and jobs. We have lived apart, and together, and apart again, all while both completing dissertations and transitioning to new job opportunities. You are my rock. And, I just would not be where I am today without you. You listened to more stressed out rants in the past few years than anyone should have to in a lifetime. You always believed in me, even when I felt like this would never come together. And, you have brought me more joy than I can begin to express. I am not sure that I can ever sufficiently show my appreciation for all that you are, so I hope you will settle for a note in my dissertation and lifetime of thank you's to come.



## Vita

2005.....Bishop Eustace Preparatory School

2009.....B.S. Philosophy, Ursinus College

2010 – 2011.....University Fellow, The Ohio State University

2011 – 2017.....Graduate Teaching Associate, Department of  
Philosophy, The Ohio State University

2014 – 2015.....Visiting Instructor, Department of Philosophy,  
Denison University

2016.....Graduate Administrative Associate, Department of  
Philosophy, The Ohio State University

2013 – present.....Graduate Administrative Associate, Center for Ethics  
and Human Values, The Ohio State University

2017 – present.....Visiting Instructor, Department of Philosophy,  
Oberlin College

## Fields of Study

Major Field: Philosophy

## Table of Contents

Abstract .....	ii
Dedication.....	iv
Acknowledgements .....	v
Vita.....	viii
Introduction .....	1
Chapter 1: The Consequentializing Project .....	19
Chapter 2: The Paradox of Deontology .....	70
Chapter 3: The Intrapersonal Paradox of Deontology.....	94
Chapter 4: A Theory of Thresholds .....	124
Chapter 5: A Framework for Thresholds .....	161
Conclusion: Moderate Agent-Time-Relative Constraints (MATRC) .....	189
References.....	198

## Introduction

Five innocent people are dying; each needs an organ transplant to survive. As luck, or a philosopher's thought experiment, would have it, another innocent person enters the scene, healthy and a perfect match for each of the five dying patients. May the surgeon kidnap the healthy individual and harvest his organs? Of course not! But, why not? In introductory, and even some advanced classes, we learn a simple answer: there is a moral constraint against harming innocent people that prevents the surgeon from permissibly acting. The complications behind this seemingly simple answer, however, fundamentally motivate and shape the chapters to come.

In what follows, I address the consequentializing project, two versions of the paradox of deontology, and the plausibility of thresholds for constraints (each described below). In weaving through these challenges, I develop MATRC (pronounced “may-trick”), a **m**oderate nonconsequentialist view that embraces **a**gent- and **t**ime-**r**elative **c**onstraints. In doing so, I show how MATRC is able to stave off both paradox and triviality, something I argue that several other popular and initially plausible versions of nonconsequentialism have failed to do.

As noted by the ‘ATR’ in ‘MATRC’, on my view, constraints are both agent and time relative. For example, while I certainly have a moral reason to prevent you from killing innocent people, I am constrained from killing an innocent person in service of those reasons. Moreover, I am constrained from infringing a constraint now, just to

prevent my own future constraint infringement. So, on my view, there are moral constraints in virtue of which in some cases I, myself, cannot permissibly perform certain actions, such as killing innocent persons, even when doing so would maximize the good.

Importantly, I defend a *moderate*, rather than an absolute, view of constraints, the ‘M’ in ‘MATRC’. Absolute views maintain that constraint infringements are morally impermissible in all cases. However, I argue that in certain cases, such as in order to save all of New York City, a threshold has been met, such that constraint infringements are indeed permissible. Although many have pointed to such views, there is a dearth of literature defending them. Thus, I work to explain what such a view of constraints amounts to and how it might be justified, as well as provide a novel framework for thresholds themselves.

I mentioned that MATRC is able to stave off both triviality and paradox. The charge of triviality comes from what has been dubbed the “Consequentializing Project”. This is the view that all normative moral theories can be “turned into” act consequentialist views. Accordingly, a surgeon is prohibited from harvesting the organs of an innocent person to save five others not due to a constraint, but rather because saving the five results in a worse world relative to the surgeon. I argue that even if we *can* consequentialize, we ought not to insofar as the complications that arise when consequentializing ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs. Thus, even if a consequentialized counterpart to MATRC is able to generate the same extension of right action and wrong action—which we will see is perhaps contentious—its moral explanations will differ significantly.

The charge of paradox traditionally comes from the so-called Paradox of Deontology. It seems whatever motivation a moral theorist has for adhering to constraints, it should lead to exceptions when overall constraint infringements would be minimized. That is, perhaps we should be permitted to harm individuals when it would prevent a higher number of similar harms. By embracing agent-relativity, however, I show how MATRC is able to handle this first paradox. The real challenge, I argue, comes from a hitherto underappreciated paradox, what I dub the intra-personal paradox of deontology. Imagine that the surgeon caused the illnesses of the five dying patients. Agent-relativity constrains him from killing the one, but also from killing the five, which he put in danger of dying. After rejecting the view that the surgeon may harvest the organs of the one in such a case, I show how MATRC's agent- and time-relativity both exemplifies the underlying motivations for constraints while successfully responding to both the inter- and intra-personal paradoxes of deontology.

## I.

The first chapter works to show that nonconsequentialist views are indeed relevant, that they are not simply notational variants of consequentialist views, by rejecting the Consequentializing Project (CP). Most of the literature responding to CP focuses on whether it is possible to consequentialize every normative ethical theory. While it is important to push here, clever consequentializers seem to rise to every challenge. Thus, I believe the more important question is whether we ought to consequentialize, especially in light of the methods required to consequentialize complex views. The overall strategy of my argument is to show that solutions to the complications that arise when

consequentializing ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs.

The consequentializing strategy is to take whatever is deontically important to a nonconsequentialist view and make it a part of the axiology, or the theory of the good, that the consequentialist claims agents must maximize. While some moral factors may be simple to consequentialize, opponents have raised a number of challenges: agent- and time-relativity, moral dilemmas, options, special obligations, and supererogation. Setting aside certain controversial sorts of moral dilemmas, defenders of CP have risen to each challenge. However, I argue that the compromises that must be made in order to accommodate these nonconsequentialist moral factors negate the benefits of consequentializing, and indeed incur costs.

On the benefit side, consequentializers submit that CP allows for previously nonconsequentialist views to capture the compellingness of consequentialism. There are two schools of thought concerning what exactly is so compelling about consequentialism. On the one hand, if the compelling idea is a matter of maximizing an agent-neutral ranking of state of affairs, I argue that agent-relative views will be unable to accommodate the idea, whether they are consequentialized or not. If, instead, the compelling idea is a matter of maximizing rationality, I show that non-consequentialist views can accommodate the idea without the help of consequentialism. Another benefit of CP is its appeal to value in its deontic explanations. The issue here is that the concept of value employed by consequentialized views is theoretically contrived. Such a thin notion, I argue, does not capture the value explanations of traditional consequentialism. Moreover, if it is argued that the value explanations provided are indeed sufficient to meet the value

explanation desideratum, I argue that non-consequentialist views can adopt equally contrived value explanations without consequentializing. CP is also said to capture the theoretical simplicity that many find appealing in consequentialist views. Here, I argue here that the complications that arise in accommodating relativity and moral dilemmas especially, requires leaving behind the simplicity of traditional consequentialist views. Finally, I argue that while it may be a benefit to put all normative ethical views into a single framework, a deontological framework could work equally well.

With the benefits of CP set aside, I turn to two kinds of costs that are associated with consequentializing. I argue that the project leads to an order of explanation problem due to the different evaluative focal points of consequentialism and non-consequentialism: states of affairs and actions respectively. Moreover, I argue that consequentializing either complicates our practical moral decision-making or else requires defending a two-level moral theory that will need to answer to worries related to alienation and moral motivation. With the benefits lost and costs levied, I conclude that consequentializing fails to be an attractive project. Although consequentialists may be able to capture the insights of deontology, it remains worthwhile for those with non-consequentialist moral intuitions to work to improve the view from within. A project I take up in the rest of the dissertation.

## II.

Chapter Two introduces and responds to the paradox of deontology (POD). In opposition to classic consequentialist views that hold that moral agents should perform whatever action leads to the most good, deontological views typically hold that there are strict constraints on the types of actions that moral agents may perform. Paradigmatically,

deontologists argue that an agent is not permitted, for instance, to kill one person in order to save five. The first question facing the deontologist is why prioritize the right over the good in this way? That is, why not allow an agent to lie, cheat, or steal if it would lead to better results with respect to the good? Commonly, the answer to this has been broadly Kantian in nature: we ought to respect the dignity of persons and doing so requires non-consequentialist constraints on our actions. But whatever motivation the deontologist has for adhering to constraints, it seems that it should lead to exceptions when overall constraint infringements would be minimized. Even if agents are not permitted to kill one to save five, they ought to be permitted to kill one in order to stop five *killings*. After all, killing unjustly violates the dignity of persons, and in this case, by disrespecting the dignity of one, you will protect the dignity of five. If protecting dignity is what led you to constraints in the first place, then in these cases, your view ought to allow agents to do their best to protect dignity overall. The “paradox,” then, is simply that deontologists do not permit such infringements.

This chapter functions as a survey and rejection of existing responses to this paradox, as well as a first pass at what deontology must look like in order to avoid paradox. I first consider whether the nature of human dignity itself can attest for the impermissibility of single constraint infringements in pursuit of the minimization of overall constraint infringements. The most notable response of this sort is put forth by Frances Kamm (1992, 1996). The basis of Kamm’s argument depends on the relationship between inviolability and dignity. According to Kamm, the more inviolable a moral agent, the more dignity she possesses. Using this relationship, Kamm points out that an agent is less inviolable on a view that allows agents to kill someone in order to prevent



other killings than a view that prohibits such acts. In this way, she argues that prohibiting minimizing infringements (MIs) is not paradoxical, but rather in keeping with the deontologist's focus on human dignity. In response, I argue along with Kasper Lippert-Rasmussen (2009) that in her argument, Kamm neglects other contributions to both inviolability and human dignity, such that views that *allow* such infringements may actually better support human dignity. For instance, a view that allowed exceptions in these paradoxical cases would ensure more cases in which agents are protected from being killed. If this is a contribution to human dignity, then it may outweigh the added inviolability that prohibiting MIs adds.

Moving away from considerations of the dignity of the moral patient, I turn to the reasons facing the moral agent. The most clearly articulated responses to POD come from Richard Brook (2007) and Ulrike Heuer (2011). Both views maintain that the prohibition of MIs is not paradoxical because, when an agent is faced with preventing another from infringing a constraint, she actually has no reason at all to do so. Not wanting to abandon the idea that agents may indeed have such reasons, I present my own agent-centered response to POD, beginning with a first pass of my view of deontological constraints:

**Agent-Relative Constraint (ARC):** an important moral stricture in which, for all agents, A, and for certain action types X: it is ordinarily impermissible for agent A to perform a token of action type X, even when doing so would maximize the good

Importantly, ARC highlights the agent-relative nature of deontological constraints. That is, the reasons that deontological constraints capture are reasons that each particular agent has to not perform certain actions. These are reasons that outweigh all but perhaps,

extreme, threshold-meeting reasons. Of course, deontological constraints do not capture the only moral reasons that agents have. There are others. There are harm-based reasons and reasons to help. There may even be reasons to prevent the constraint infringements of others, contrary to the views of Brook and Heuer. What the agent-relativity of deontological constraint captures, however, is the idea that there are certain types of actions an agent cannot perform even if it would produce a better outcome. Thus, when faced with killing in order to stop five others from killing, whatever reasons she may have with respect to the killings of others are outweighed by her agent-relative constraint-based reasons. In this way, the reason the agent is prohibited from killing is not paradoxical. It is just the same reason she is prohibited from killing in every other case.

### III.

Chapter Three turns to a second paradox, which arises due to the appeal to agent-relative reasons to solve POD. Although the agent is constrained from killing in order to minimize killings overall by agent-relativity, it seems that she might not be constrained from minimizing *her own* killings. Consider the following case:

**Bomb:** Scott has set a bomb to go off that will kill five innocent people. Now, feeling guilty about his actions, Scott realizes that the only way to stop the bomb from going off is to throw a body onto the bomb. Scott knows that he is too small, but there is an innocent person nearby large enough to prevent the damage. Thus, the only way to stop Scott from killing five is for Scott to kill the one.

What does the deontologist tell Scott to do in this case?

In this chapter, I first consider the response that agents ought to minimize their own constraint infringements, which I call “merely agent-relativity” (MAR). The first worry with MAR is that in allowing for constraint infringements, there may be cases that conflict with deep deontological intuitions. For instance, consider the famous surgeon

case, in which deontologists maintain that a surgeon may not kidnap and harvest the organs of an innocent person in order to save five lives. MAR seems to contradict deontological intuition insofar as it would actually *require* a surgeon to kidnap and harvest the organs of an innocent if it was the surgeon who got the five patients sick.

In addition to conflicting with classic deontological intuition, I argue that MAR leads to a vicious clean hands worry, insofar as agents are permitted to dirty their hands only in cases in which it keeps their own hands overall cleaner. Moreover, on this view, constraints are treated more like agent-relative goals than constraints. That is, instead of being constrained from killing, agents are given the goal of minimizing killings over the course of one's life. I argue that this is problematic for deontologists interested in defending constraints. Finally, I raise worries for a "hybrid" view, such as MAR. MAR maintains that constraints are agent-relative, but time-neutral. Borrowing from Derek Parfit and Thomas Nagel, I argue that such views are difficult to defend and so we would be better to move to a "pure" view.

In light of the problems for MAR and the difficulty of defending a hybrid view, I then present and defend a view of constraints that is both agent- and time-relative (ATRC). According to ATRC, constraints take the following form:

**Agent-Time-Relative Constraint (ATRC):** an important moral stricture in which, for all agents, A, for all times, t, and for certain action types, X: it is ordinarily impermissible for agent A, at time t, to perform a token of action type X, even when doing so would maximize the good

On this view, when an agent is weighing her constraint-based reasons, only present constraint infringements provide reasons. Consider two possible constraint infringements Rippen is facing, one at present, time t, and two in the future, at time t+1. What ATRC

generates for Rippen is that it is impermissible for him, at time  $t$ , to infringe the constraint, and it is also impermissible for him to infringe two constraints at time  $t+1$ . Granted, ARC generates the same result without time-indexing. The problem, however, is that without time-indexing, all three constraint-based reasons would function as constraints for Rippen now. According to ATRC, however, given that it is time  $t$  now, Rippen's only constraint-based reason that functions as a constraint concerns the impermissibility of infringing the single constraint now. It is only at time  $t+1$  that the two reasons against infringing constraints at  $t+1$  will function as constraints.

To fill out the view, I first argue that actions, and thus the reasons for them, ought to be individuated by instances of agency, insofar as moral agents are agents at a time. One might worry, however, that agents are also moral agents over a lifetime. In response, I do not deny that agents have reasons with respect to their future and past selves. However, just as in response to POD, I argue that one may not infringe a constraint merely in service of these other reasons.<sup>1</sup> Just as an agent cannot kill one in order to stop five other killings, she may not kill one in order to prevent her own five killings.<sup>2</sup> Put another way, while the infringement of constraints, both my own and that of others, ground moral reasons, they do not function as constraints on my actions unless they are my own infringements at the current moment.

---

<sup>1</sup> This is meant to be intentionally vague regarding whether there are *any* reasons in service of which one may infringe a constraint. At this point, I want to remain neutral with respect to whether constraints are absolute or moderate. In the next chapter I will lay the groundwork for a moderate view. However, the solution here is available regardless of one's stance on absolutism.

<sup>2</sup> Of course, it may be that my reasons with respect to my future infringements are stronger than my reasons with respect to the infringements of others. This seems plausible given the extended nature of agency. However, I argue that, stronger or not, one's reasons with respect to one's future agency still do not outweigh the agent-time-relative constraint.

By the conclusion of Chapter Three, then, I have on the table a fully articulated and motivated nonconsequentialist view that has passed the paradoxicality test, the ATRC of MATRC. What remains is to consider the “M”, moderate deontology, the theme of Chapters Four and Five.

#### IV.

Moderate deontologists hold that deontological constraints are not absolute, but rather admit to what are called thresholds.<sup>3</sup> The idea is that while, for instance, killing one innocent person to save five is impermissible, doing so would be permissible if perhaps a million lives were at stake. On this view, constraints still restrict the permissibility of certain actions even when more good would be promoted by that action. However, according to the moderate deontologist there is a point at which, if enough good might be done by such an action, a threshold has been met, and the action is then permissible, perhaps even required.

A number of questions arise concerning the moderate deontologist’s position. Why think that an agent can *ever* permissibly infringe a constraint? When an agent is permitted to act contrary to a constraint, is the agent still constrained? If constraints can be outweighed by other considerations, does the moderate concede too much to the importance of consequences to maintain genuine constraints? If all of these questions are answered, the moderate deontologist then faces the questions of the circumstances in which an agent may infringe a constraint. Importantly, why those circumstances and not others?

---

<sup>3</sup> See, for instance, Thomson (1990), Brennan (1995), and Alexander (2000).

The focus of this chapter and the next is to answer these questions. I begin this chapter by discussing the nature of a constraint that admits to thresholds. I work to show that moderate deontology is a coherent view by showing that there is conceptual room for the view that holds an agent is constrained from an action while allowing that there are instances in which an infringement of such a constraint is permissible. Once we understand what the view amounts to, I will show that it is a thoroughgoing deontological view. That is, it is well motivated by typical deontological foundations. Insofar as there is a dearth of literature on these issues, my primary goals in this chapter are to show that moderate deontology is both coherent and justified. After accomplishing this, however, I go on in the next chapter to investigate the question of where thresholds might lie.

Focusing now on moderate deontology, I begin by showing how the final piece to MATRC falls into place:

**Moderate Agent-Time-Relative Constraint (MATRC):** an important moral stricture in which, for all agents, A, for all times, t, and for certain actions, X: it is impermissible for agent A, at time t, to perform a token of action type X, even when doing so would maximize the good, *unless a threshold has been met*

While it is easy to simply add the threshold caveat to ATRC, what is less simple is explaining what exactly MATRC amounts to. Importantly, I work to show the way in which an agent remains in some sense constrained, even when the threshold has been met. Moreover, I show that MATRC straightforwardly arises from deontological motivations for constraints.

Consider first the nature of constraint when a threshold has been met. Progress can be made when we compare two cases: one in which an agent must donate an insignificant (to her) piece of her fortune to save 10,000 lives and one in which an agent

must kill an innocent person to save 10,001. Supposing both agents are morally required to act and a net of 10,000 lives are saved, what is the difference between the cases? In the donate case, imagine the agent is excited that she is able to save these 10,000 lives. She is proud of her actions. She does not hesitate nor does she give the money only reluctantly. If this were how the agent behaved, we would praise her moral character. In the second case, however, imagine the agent had the same reaction. In this case, we would be deeply concerned with the agent's moral character. She is required to kill an innocent person. She should recognize the gravity of what is morally required of her. Of course, she might feel pride at overcoming that hesitation and saving 10,001 other lives. But, a mourning period would be apt, as would a sense of regret that this is the only way those lives could be saved.<sup>4</sup> The differences in how we think it appropriate for the agent to behave and feel in these cases, along with how we would judge their characters, show that there is a kind of moral residue left over when a constraint's threshold has been met.<sup>5</sup> Characterizing this moral residue, I argue, is key to showing that there is a normative force of the constraint that remains in effect. Although this force does not affect the choiceworthiness of the action, feeling a sense of what I call tragic-remorse allows the moderate deontologist to continue to in some way respect the dignity of a person, even when a situation might require sacrificing it.

---

<sup>4</sup> It may of course be that in the former case, regret is apt if the money donated was indeed significant to the agent. I set up these two extreme cases here to motivate the general plan for the chapter. I will discuss these further complications in the chapter.

<sup>5</sup> J.J. Thomson (1980, 1990) first draws attention to this moral residue in cases in which agents cannot keep all of one's promises.

This conception of constraints leads then to its justification. Absolute deontologists and consequentialists alike have raised doubts about justifying moderate deontology.<sup>6</sup> Absolute deontologists hold that constraints are absolute, i.e. they can never be permissibly infringed. Their charge against the moderate deontologist varies, but two prominent complaints are (i) that the moderate, in conceding that consequences can outweigh constraints, has conceded that consequences are really the moral bottom line, thus giving up deontology, and (ii) that the moderate does not properly respect the dignity of persons, insofar as her view treats one's dignity as something that can be weighed against the good (or in some way infringes whatever other motivation the deontologist might have for defending constraints). Consequentialists, likewise, agree that the moderate has in some sense conceded to consequentialism. Furthermore, once consequences are given priority, the moderate can no longer consistently defend meaningful constraints. Thus, the task in front of us is to show how moderate deontology may indeed be justified as a genuine deontological view.

My strategy is to recognize that while respect for the dignity of persons generates constraints, we must also recognize that the potential beneficiaries of my infringing a constraint have dignity, too. Absolutism maintains that respect for dignity requires only that we abide by constraints. However, I suggest that this view is short-sighted. It requires that we in some way ignore the dignity of all but the rights holder. It may be that absolutists can require that agents in some way notice the would-be beneficiaries of their constraint infringement. However, as I will argue, it remains the case that their dignity will never have a meaningful effect on moral deliberation. Thus, I argue, instead, that we

---

<sup>6</sup> See for instance, Alexander (2000), Davis (1991), and Freid (1978).



need to find a way to respect the dignity of each and every person living in New York City even when saving them would require the sacrifice of a single person.<sup>7</sup> This, I suggest, is where thresholds come into play.

In developing the view, I first show how it amounts to respecting, as opposed to promoting, dignity, in threshold-meeting cases. I then explain why it is that respect for dignity requires adhering to constraints in some cases, while infringing in others. My view crucially depends on a notion of acknowledgement. Respect requires that agents not treat persons in certain ways. Thus, when faced with treating a person in such a way, an agent who respects persons initially rules out that action in moral deliberation. However, in order to respect the dignity of all persons, the agent must *acknowledge*, and so include in her deliberation, any other person that might be affected by her action.<sup>8</sup> While absolutists may argue that their view likewise requires acknowledgement, I argue that in order to truly acknowledge those that will be affected, it must be the case there is some situation in which the stakes would alter the result of the agent's deliberation. Where this shift in deliberation happens is up for debate. However, we can at least see that such a shift is appropriate.

## V.

In Chapter Four, I argued that thresholds require a shift in deliberation. The question remaining for the moderate, then, is a story about when or at what point that shift ought to occur. Typically, moderate deontologists do not wish to argue that

---

<sup>7</sup> The implications for absolutism come off a bit strong here. I will concede that absolutists can indeed require that agents in some way notice the would-be beneficiaries of their constraint infringement.

However, it remains the case that their dignity will never have a meaningful effect on moral deliberation. <sup>8</sup> Of course, we may not be aware of every person that may be affected by our actions. Respect dictates that I acknowledge, and therefore include as a real part of my deliberations those for whom I can reasonably be expected to know will be affected by my actions. Note, that this means that I do behave wrongly if I am *culpably* ignorant of the effects my actions will have on you.

acknowledging the loss of two persons allows for the killing of one, or even the loss of ten. However, it is also typical for moderates to argue that the shift occurs before the losses reach into the millions. This chapter works to shed light on this shift.

Providing an exact number of persons required before one's deliberations ought to shift is hopelessly arbitrary. However, this does not mean that no progress can be made. Rather than seeking a precise number, I investigate the sorts of considerations that one ought to include in their deliberations in possible threshold cases. To do so, I first introduce and critique the two leading views of thresholds: Thomson's (1990) High Threshold Thesis and Samantha Brennan's (1995) Total Requirement with its accompanying constraints. Neither view seeks to provide an exact location for thresholds; rather, they each provide a kind of framework for thinking about the problem. For Thomson's part, the framework involves laying ground rules for adding up harms and guidelines to how much harm must be at issue for a constraint to be permissibly infringed. These guidelines can then be applied to any possible tradeoff at issue, i.e. different kinds of constraints and different kinds of goods that might be done. Brennan on the other hand views her framework as a way of organizing differing views as to what is required for a constraint to be permissibly infringed. For instance, one moderate deontologist may argue that harms cannot be aggregated across persons, while another may permit such a calculation. Brennan's framework, then, is a guide for moderate deontologists to think through how they might to set up thresholds on their own view.

In critiquing Thomson, I argue that her view is too strict for many moderate deontologists, as it includes what she calls "maximally stringent rights". That is, while some rights on Thomson's view have thresholds, there are some, such as the right not to

be killed or tortured, that remain absolute. Given my arguments in Chapter Four concerning the requirements of acknowledgment, I argue that it should ultimately be rejected. However, in critiquing Thomson, we importantly learn that there is more than one way to calculate a threshold. While different stakes will clearly require different thresholds in terms of the amount of good, it may also be that how that good is aggregated changes.

Moving then to Brennan, I argue that her framework is helpful, but that she fails to capture every possible view of thresholds, as was her stated goal in presenting her framework. In critiquing Brennan, however, we learn that a threshold calculation might require constraints not only on how we calculate the total good required for the threshold, but constraints within those very calculations.

The particular case that I am interested in capturing—that I argue Brennan’s framework cannot—is what I call a “domino view” of thresholds. Although I will try to provide some motivation for the domino view, my subsequent framework does not hinge on the reader accepting the view. So long as it is a plausible view of thresholds, it shows that Brennan’s framework falls short of her goal. Moreover, I argue that it provides good reason to modify Brennan’s framework in a way that may lead to other, more promising, views.

Ultimately, I argue that my framework, and the domino view in particular, best considers the interests of every life, while still setting limits to what one may be asked to endure for the benefit of others. This is, I submit, a thoroughly deontological ideal.

## VI.

Solving a couple of paradoxes and tackling the issue of thresholds for constraints certainly does not leave us with a complete and unshakeable nonconsequentialist view. Nor does it show that we ought to be deontologists. Rather, my goal is to show that a deontological view can indeed survive the many challenges that have been raised against it. More work will need to be done in order to fully develop MATRC, as well as motivate it as the correct normative moral theory. Thus, in this concluding chapter, I lay out a number of future research areas in light of the arguments I have made in the dissertation, as well as provide a preliminary case for why one might prefer MATRC over a possible consequentialist counterpart view.

For future research, a fuller account of thresholds might be developed. There is also work to be done concerning the weighing of the multitude of moral reasons that I suggest we have. There remain issues concerning moral dilemmas, as well as the benefits of neutrality and simplicity in both one's theory of the good and the right.

As for the case against consequentialism, I will return to arguments in Chapter One concerning the underlying foundations of our normative moral theory, reminding the reader that even if a consequentialist view can provide the same deontic results, it may be worth defending the deontological MATRC view I have presented here. In the end, questions remain. However, in tackling the issues I have, I argue that I have left nonconsequentialists in much better shape than when I started.

## Chapter 1: The Consequentializing Project

### I.

It has become increasingly common to argue that all theories of right action can be “turned into” (or perhaps already are) act consequentialist views.<sup>1</sup> The purported benefit of this “Consequentializing Project” (CP) is a normative theory that captures the commonsense moral intuitions of deontology, while avoiding many of the theoretical difficulties that plague deontology, such as its paradoxical nature.<sup>2</sup> Moreover, it is argued by James Dreier (2011) that if all theories share a common underlying theoretical framework—consequentialism—we can better evaluate the significant moral differences between views, for instance, whether they should be agent-neutral or agent-relative.<sup>3</sup> Consequentializing, then, benefits proponents of both sides of the divide. Most of the literature responding to CP focuses on whether it is possible to consequentialize every normative ethical theory. While consequentializers have successfully answered many objections, I will argue that there is still reason to doubt their ability to accommodate certain deontological claims. But even more important, I shall argue, is the question of

---

<sup>1</sup> The consequentializing project maintains that views can be re-described as *act consequentialist* views. In what follows, “consequentialism” is to be understood as “act consequentialism” unless stated otherwise. For early discussions of similar views, see Oldenquist (1966), Nozick (1968, 1974), and Vallentyne (1988b). For recent defenses of this project, see Portmore (2007, 2009), Suikkanen (2009), and Dreier (2011).

<sup>2</sup> See Section IV.1.

<sup>3</sup> This way of speaking is contentious among consequentializers. Some argue that while a consequentialist counterpart to a nonconsequentialist view can be developed, these views will of course *not* share a common underlying theoretical framework. I agree. However, Dreier (2011) argues for what he calls the Extensionality Thesis, which states that nothing but extension matters in a moral view. Thus, for Dreier, once these consequentialist counterpart views are made, they are simply notational variants of their nonconsequentialist counterparts. If nothing but extension matters, as Dreier argues, we can view all moral theories in their consequentialist forms without losing anything of moral importance.

*why* we ought to consequentialize, especially in light of the methods required to successfully consequentialize every non-consequentialist view.

In what follows, I will argue that we should not consequentialize. The overall strategy of the argument is to show that the methods required to consequentialize ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs. To make this argument, I first lay out CP and its basic method. I then discuss a number of challenges that have been raised, such as those concerning agent-relativity and moral dilemmas, and the responses in defense of the project. While I posit some doubts about the plausibility of consequentializing certain nonconsequentialist views, I ultimately concede that consequentializers seem to be able to capture the extension of nonconsequentialist views, albeit at a cost. From here, I shift my focus to showing that consequentializing certain nonconsequentialist views results in abandoning the theoretical benefits that motivated the project in the first place, including simplicity and the avoidance of paradox. Moreover, the consequentialized views have certain theoretical costs with respect to order of explanation and practical moral deliberations. The result is that while it may be theoretically possible to consequentialize most, if not all, theories of right action, there seems to be little, if any, benefit and indeed a number of costs, to doing so.

## II.

Consequentialist views hold that actions are to be assessed solely by the value of their outcomes.<sup>4</sup> Thus, if a particular instance of lying is wrong, it is because the lie resulted in a less than optimal consequence when compared with the other actions

---

<sup>4</sup> Recall that, for my purposes, “consequentialist views” refer exclusively to *act consequentialist* views.

available to the agent.<sup>5</sup> Consequentialists differ in their views as to what contributes to better or worse states of affairs, such that on some views the lie contributes negatively to a state of affairs only if it harmed someone, while others may argue that the lie contributes negatively to a state of affairs, whether it harms someone or not. The key insight is that on all consequentialist views, if telling the lie results in the best state of affairs when compared with the results of the other actions available to the agent, then the lie is morally permissible, if not required.

Compare this with a simple nonconsequentialist view providing an absolute injunction against lying. On this view, that an agent should not lie is not a matter of a lie's contribution to the value of the resultant state of affairs. Indeed, even if a lie led to a state of affairs that held more value than any alternative, or even led to fewer lies, this view would maintain that the agent ought not lie. According to the proponents of CP, this view, and any other nonconsequentialist view, can be reformulated as a consequentialist view without losing any desired deontic results. The general strategy is to take whatever is deontically important to the view and make it a part of the axiology, or the theory of the good, that the consequentialist claims agents must maximize.<sup>6</sup> In the lying example, worlds in which the agent lies would then be ranked lower in terms of value than worlds in which she does not lie, even taking into account any wellbeing gained or lost

---

<sup>5</sup> There are of course forms of consequentialism that are not maximizing, for instance, satisficing and scalar consequentialism. Scalar consequentialism, I maintain, will not be successful in consequentializing, insofar as the view rejects the ordinary deontic categories of most deontological views, e.g. permissible, impermissible, obligatory, and so on. On the other hand, CP is compatible with satisficing consequentialism, and we will see later that satisficing views may have an easier time of capturing certain nonconsequentialist tenets. For simplicity, however, I will usually just refer to maximizing consequentialism, unless otherwise stated.

<sup>6</sup> Or satisfice, if satisficing consequentialism is defended.

prevented.<sup>7</sup> If worlds in which the agent has lied are always worse than those in which she did not lie, then the consequentializer can prescribe that the agent ought never lie. The approach that consequentialism is famous for—bringing about the best world—remains intact, while capturing the nonconsequentialist intuition that agents ought not lie.

The consequentializing project faces two main challenges. First, as already mentioned, defenders of CP must show that every normative ethical theory can indeed be consequentialized. This is often referred to as the Extensional Equivalence Thesis (EET), i.e. the claim that for every purported nonconsequentialist view there is a consequentialist counterpart with an equivalent deontic extension.<sup>8</sup> Second, proponents must show that the theoretical advantages of CP outweigh any costs. In what follows, I argue that CP arguably fails to achieve either goal. In particular, I will argue that: (i) EET seems to fail insofar as there are at least some plausible deontological views that CP cannot capture;<sup>9</sup> and, when objections to EET *are* met, CP requires theoretical moves that result in (ii) giving up the supposed benefits of consequentializing and (iii) incurring costs with respect to both our moral metaphysics and our practical moral reasoning.

### III.

Two major nonconsequentialist ideas have repeatedly been presented as challenges to the extensional equivalence thesis of the consequentializing project: agent-relativity and the existence of moral dilemmas. It is also worth examining how CP

---

<sup>7</sup> At this point in the dialectic, I am being intentionally vague about whether the nonconsequentialist view on offer is agent-neutral or agent-relative in order to present a general strategy for consequentializing. Consequentializing agent-relativity in particular will be addressed in the next section.

<sup>8</sup> See Dreier (2011).

<sup>9</sup> The particular view that I argue cannot be met is one that involves a particular kind of moral dilemma, which the consequentializer may argue is implausible. I attempt to motivate the plausibility, but ultimately concede that EET may hold if one is unmoved by the case. Thus, the bulk of my argument will hinge on critiquing the second goal of CP.



handles other nonconsequentialist tenets, in particular, special obligations, prerogatives, supererogation, and time-relativity. Although, I will raise concerns for the consequentializer's ability to capture a certain kind of moral dilemma, obligation dilemmas, my purpose in this section is less to challenge EET, and more to survey the literature to understand what a consequentialist counterpart to nonconsequentialism must look like in order to capture its various moral components. In Sections IV and V, I go on to show that the findings in this section ultimately undermine the benefits of consequentializing and result in a number of theoretical costs.

### *III.1 Agent-relativity*

Many nonconsequentialist views incorporate agent-centered restrictions (ACRs). These are injunctions against certain actions, such as killing innocents, lying, and stealing, which provide or capture reasons that are relative to each agent. An ACR against telling a lie gives each agent a reason not to lie, but no reason to stop others from lying.<sup>10</sup> The agent-relativity challenge for CP lies in the fact consequentialism is commonly identified with agent-neutrality.<sup>11</sup> On this view, it is essential to consequentialism that a reason for one is a reason for all. That is, morality is completely impartial. With respect to lying then, all agents are directed to promote outcomes in which there are no lies, both by not lying themselves and by preventing others from lying when possible. However, ACRs violate this idea. While I am directed to not myself lie, I do not have a similar reason to

---

<sup>10</sup> There may, of course, be other moral norms that provide a reason for each agent to try to stop others from lying.

<sup>11</sup> See, for instance, Parfit (1984) and Kagan (1992).

prevent your lying.<sup>12</sup> The challenge then is to either find a way to accommodate agent-centered restrictions while keeping agent-neutrality intact or else reject the view that consequentialism is essentially agent-neutral.

Consider a paradigmatic case of constraints. Alfred notices that Bart is about to kill Charlie and David. The only way to save Charlie and David from Bart is for Alfred to kill Bart. According to nonconsequentialist views that include an absolute restriction against killing, Alfred may not kill Bart, even to save Charlie and David.<sup>13</sup> Thus, to maintain EET, we need a consequentialized view that has the same result. For CP to retain the result that Alfred may not kill Bart, it must be that the world in which Alfred kills Bart is worse than the world in which Bart kills Charlie and David. If we attempt to maintain agent-neutrality, this ranking must be fixed for every agent, including Bart. That is, for Bart the world in which he kills Charlie and David must rank higher than the world in which Alfred kills him. However, on the standard nonconsequentialist view, it is impermissible to kill Charlie and David. That is, even though Alfred has most reason to act in a way that will result in Bart killing Charlie and David, Bart has most reason to bring about the world in which he does not kill, even if it means that Alfred kills him.<sup>14</sup> Thus, it seems that agent-neutrality simply cannot be maintained, while capturing ACRs.

If agent-neutrality is essential to consequentialism, then CP clearly fails. However, advocates of CP have argued in response that what is essential to consequentialism is not

---

<sup>12</sup> It is possible that I have a reason to prevent your lying insofar as it is harmful and I have reason to prevent harm when possible. However, this is different in kind from the constraint-based reasons I have with respect to my own lies.

<sup>13</sup> Many consequentialist views will likely agree that an agent may not kill one innocent person to save two. However, this result only comes when a more sophisticated theory of value is defended, one that does not hold that killing two is necessarily all things considered twice as bad as killing one. Here, I am assuming a simple theory of value to illustrate the point.

<sup>14</sup> Some, if not many, nonconsequentialists would not require self-sacrifice. However, most nonconsequentialists would agree that it is impermissible for Bart to kill Charlie and David.

agent-neutrality, but rather deontic explanations in terms of value or teleology.<sup>15</sup> If ACRs can be accommodated while maintaining one of these, then perhaps CP can still be successful.

Consider teleology. As Portmore (2011) describes them, teleological moral views hold that deontic requirements and thus the moral reasons one has to perform a certain action are a product of the reasons one has to prefer its outcome. On this understanding, then, for consequentialist views, an agent has reason to prefer outcomes that rank higher or, for value maximizers, highest in terms of value.<sup>16</sup> Applying this to ACRs, it is worse from Alfred's perspective that he kill, but it is worse from Bart's perspective that Bart be the one that kills. This clearly cannot be captured on a single ranking of worlds. However, if there is a separate ranking of worlds relative to each agent, then ACRs can be accommodated. Thus, relative-to-Alfred the world in which Alfred kills is worse than the world in which Bart kills. However, relative-to-Bart, the reverse is the case. On this consequentialized view of ACRs, each agent has reason to prefer, and thus is required to perform, the action that leads to the best world relative-to-her. In this way, each agent's

---

<sup>15</sup> See Vallentyne (1998) for the importance of value explanations and Portmore (2011) for arguments concerning the centrality of teleology.

<sup>16</sup> There is a complication that arises when the view is described in Portmore's language of preference. It seems that for the consequentialist, the reason I have to prefer something is itself a matter of the value of my so preferring. We can imagine cases, such as the famous toxin puzzle, in which someone offers me a sum of money if I intend, or for our purposes prefer, to drink a toxin. Drinking the toxin is not ranked highest in terms of the value of its outcome, but preferring to do so is. My guess is that Portmore would suggest that in the toxin case, one has most reason to prefer that she prefers drinking the toxin, as that will ultimately lead to the best result. Of course, the objector would push back that that preference is not the one that actually succeeds in securing the sum of money. For my purposes, I agree that speaking in terms of preferences for states of affairs is potentially problematic for a teleological view. However, insofar as Portmore's view is the target here and later in Section IV, I will continue to follow him in speaking in terms of preference with the general understanding that, if his view is successful in terms of CP, he will still need to return to this issue.

deontic requirements and relevant moral reasons still stem from their reasons to prefer certain outcomes to others. If teleology is what counts, then on this view CP survives.<sup>17</sup>

I'm inclined to grant the advocates of CP that consequentialism can, and perhaps, should be understood as consistent with agent-relative evaluations.<sup>18</sup> One of the goals of CP is to rid normative ethics of an unimportant distinction in theories. It is clear from the above that the agent-relative/agent-neutral distinction cannot be discarded. However, if every normative ethical view can be (re)constructed as a teleological one, the distinction between teleological and non-teleological theories may indeed be discarded. If this is the distinction that counts with respect to the consequentialist/nonconsequentialist divide, then perhaps this distinction may be discarded as well. At the very least, the agent-relativity challenge to EET has been met. The question still remaining is whether this way of addressing agent-relativity—separate rankings for each agent— maintains the other purported benefits of consequentializing. I postpone this question to Section IV.

### *III.2 Moral dilemmas*

Before we give up the consequentialist/nonconsequentialist distinction altogether, there is a second challenge for the extensional equivalence thesis of the consequentializing project: moral dilemmas. Moral dilemmas are cases in which it is claimed that no action available to a particular agent is morally permissible. Traditionally consequentialism is thought not to be able to accommodate moral dilemmas because agents are morally required, and so permitted, to perform whatever available action leads to the best

---

<sup>17</sup> The same can be said for value maximization. The most valuable outcome relative-to-Alfred may be different from the most valuable outcome relative-to-Bart. However, it remains the case that both Alfred and Bart are charged with maximizing value.

<sup>18</sup> This, of course, contrasts with the views of Parfit (1984) and Kagan (1992). However, in the interest of exploring the possible benefits of CP, it is worth following the terminology of those that defend the project.

outcome in terms of value. When there are ties, agents are permitted to perform whichever optimific action they choose.<sup>19</sup> On these consequentialist views, there can be no case in which an agent has no morally permissible action available. All actions result in some state of affairs that can be ranked in terms of their value. Even if all available actions result in equally horrific outcomes, the best act or acts are morally permitted.

There is disagreement among consequentializers as to how to respond to the moral dilemma challenge. On the one side, Portmore (2009) argues that at least some moral dilemmas are plausible. Thus, Portmore works to show how CP can capture the *plausible* moral dilemmas, while arguing for the implausibility of the others. Campbell Brown (2011), in contrast, argues that CP cannot capture moral dilemmas of any kind, but maintains that this is a mark in favor of consequentializing. Brown argues that insofar as it is unclear whether moral dilemmas are even possible, it is good for CP to take a substantive stand. Doing so gives consequentialism content rather than leaving it as a framework that anything can be molded into.<sup>20</sup>

With respect to the importance of CP capturing moral dilemmas, I fall on the side of Portmore. If the equivalence thesis is true, then CP must be able to capture the deontic upshots of at least every *plausible* nonconsequentialist view.<sup>21</sup> It is true that there is a

---

<sup>19</sup> It's less clear how this would go on a satisficing view of consequentialism. On such views, agents are permitted to choose among the actions that result in outcomes with a value rated above some set threshold. If no outcome is valued above the threshold, it seems plausible that an agent must simply perform the best available action. However, it's likewise plausible that a satisficing view adopts moral dilemmas in such cases. If this were the case, a satisficing view may have an easier time of explaining at least some instances of moral dilemmas a non-consequentialist may defend.

<sup>20</sup> Dreier (2011) falls somewhere in between Portmore and Brown. Dreier agrees with Brown that moral dilemmas are implausible. However, he does provide a(n admittedly unsatisfying) formal way of capturing them, if he turns out to be wrong about their plausibility. See fn. 22.

<sup>21</sup> One might argue that CP should also capture implausible views. However, insofar as I will go on to argue for the plausibility of the very views the consequentializers argue are implausible, I am content to grant that CP need only capture plausible views.

debate in the literature concerning moral dilemmas, but insofar as that debate still rages, it seems that views maintaining moral dilemmas remain plausible.

Consider Portmore's (2009) argument that CP can capture moral dilemmas. To get his argument started, Portmore first distinguishes between two kinds of dilemmas: obligation dilemmas and prohibition dilemmas. Consider prohibition dilemmas first. Prohibition dilemmas are situations in which all of the acts available to an agent are impermissible. So, for instance, we might imagine that I have made two promises. Breaking either of the promises is impermissible, but I may find myself in a situation in which I will break one of the promises no matter what I do. In response to this kind of case, Portmore argues that whether an outcome outranks all others depends upon whether an agent performs the given action. So, to make sense of the promise case, consider acts A and B and their corresponding outcomes  $O_A$  and  $O_B$ . The idea is that, when I perform A,  $O_B$  outranks all possible actions. However, when I perform B,  $O_A$  will outrank all possible actions. Rankings, on Portmore's view, depend importantly on the act that I actually take. Which act I take can shift the rankings in such a way that I can be found in a genuine prohibition dilemma. Although I will have worries about the complexity of this response later, I agree with Portmore that his approach can generate the correct deontological results with respect to prohibition dilemmas.<sup>22</sup>

---

<sup>22</sup> Dreier (2011) considers and quickly sets aside another way of capturing prohibition dilemmas by considering a partial ordering of states of affairs. The idea is that "When two alternatives are unranked with respect to one another, neither would be ranked higher...so neither would be permissible" (p.107). Dreier finds this response unsatisfying insofar as it is hard to make sense of what it means for two options to be unranked with respect to each other. Moreover, it is not obvious that if two options are unranked that neither should be performed, as a dilemma would require. If a proponent of CP finds Portmore's take on prohibition dilemmas problematic, she may consider developing the view. However, as it stands, I agree with Dreier that this partial ordering approach is unsatisfying, and so leave it aside.

Turn now to obligation dilemmas. These are situations in which more than one of the acts available to an agent is obligatory, but the agent is only able to perform one of the obligatory acts. The dilemma, then, is that an agent is in a situation in which she cannot perform all of her obligations. Portmore concedes that CP cannot capture these sorts of dilemmas. Consequentialism does maintain that an agent must perform the highest ranked action, but in cases of ties, the view holds that an agent must simply perform one of the actions. On a consequentialist view, obligatory acts are acts that outrank every other act. When there are ties at the top, no one of the top-ranked actions outranks every other act.

Portmore's response, then, is to argue that obligation dilemmas are conceptually impossible and so no plausible nonconsequentialist view can include them. To defend this view, Portmore cites Peter Vallentyne's view of obligation: "an act is obligatory if and only if both (i) it is permissible and (ii) all of its available alternatives are impermissible" (Portmore 2009: 338-9). On this view, there simply cannot be two obligatory actions. Consider: if an act, A, is obligatory, then all other available acts are prohibited. If there was a second purported obligatory act, B, then given A's obligatoriness, B must be prohibited. Likewise, if B is genuinely obligatory, then A must be prohibited. But, from (i) in Vallentyne's definition, obligatory acts must be permissible. So, it follows that there cannot be more than one obligatory action, and therefore, obligatory dilemmas are impossible.

I think we should reject Vallentyne's view of obligation, specifically tenet (ii). Consider a moral view that includes positive obligations such as obligations to care for one's children, care for one's self, and to give to charity. Although such a view will

certainly need to work out how to make these positive obligations achievable, it seems plausible that such a view may allow a situation in which an agent has more than one obligation. For instance, we can imagine a case in which both one's obligations to one's children and oneself are at issue. Oftentimes, both obligations can be fulfilled. When this is the case, few would argue that one does not have (and meet) two obligations. However, we can also imagine a situation in which those obligations conflict. Perhaps the toll of caring for one's children interferes with one's ability to care for oneself. This situation would lead to a moral dilemma insofar as whichever action the agent takes, she fails to meet an obligation, and so will perform a wrong action.

I have not gone so far as to present a new view of obligation; it goes beyond the scope of this discussion to do so. Rather, the goal is to show that obligations may plausibly take another form, a form that would allow for the plausibility of obligation dilemmas. The case may be contentious, but Vallentyne's view is as well. For now, it is enough to point out that if obligation dilemmas, such as the one I imagined above, are ultimately defended, it will be a problem for the extensional claim that consequentializers want to make.

Even if the implausibility of obligation dilemmas is conceded, it remains important to note how consequentialism must be complicated in order to incorporate *any* moral dilemma. The inclusion of prohibition dilemmas alone requires a layer of complexity—separate rankings for each available action—that I will argue in Section IV is problematic. That is, even when extension is saved, it comes at a cost; in this case the cost is simplicity.



Perhaps, however, there is a simpler way for a consequentializer to capture moral dilemmas than has thus far been suggested in the literature. The views described thus far have depending on a linear ordering of outcomes. Of course, the suggestions include separate rankings, but those rankings are still a matter of linear orderings. One move available to the consequentializer is to insist that there are goods, which are incommensurable, such that not all good can be ranked on a linear scale.<sup>23</sup> On this view, we might have two goods, A and B, such that A is not better than B, B is not better than A, and it is likewise false that A and B are equally good. To generate moral dilemmas, then, a consequentialist might argue that acts are permissible only when they produce an outcome that is equally good or better than any available outcome. If A and B are incommensurable, as suggested, then neither will be permissible, insofar as neither is as good nor better than the alternative. Moral dilemmas arise for nonconsequentialists largely due to the non-fungibility of persons. The consequentialist view on the table is an attempt to capture this idea. If the value of persons is incommensurable, then persons will no longer be fungible on the consequentialist view, and moral dilemmas can be very simply generated.<sup>24</sup>

The problem with this view is how easy those moral dilemmas will be generated. It seems on this view that anytime an outcome involves the value of two persons, the agent will face a moral dilemma. Imagine a case in which my options are to either kill one person or save another person's life. It seems clear that I ought to save the second person's life, rather than kill the first. However, on the view we are considering, the values of the two lives are wholly incommensurable, such that we cannot linearly rank the two

---

<sup>23</sup> Perhaps this view might work to spell out a version of Dreier's partial ordering proposal. See fn. 22.

<sup>24</sup> Thank you to Don Hubin for suggesting this alternate method of capturing moral dilemmas.

outcomes. The agent, on this view, faces a moral dilemma. And, it seems, we face them all the time.<sup>25</sup>

The lesson here is that it is not enough to simply show that moral dilemmas can be generated in a consequentialist framework. What needs to be shown is that a consequentialist framework can capture all and only the moral dilemmas that the nonconsequentialist counterpart view generates. The suggestion above will be unable to limit moral dilemmas to those cases that the nonconsequentialist defends. Thus, it seems we are back to Portmore's suggestion, which I will argue in Section IV, comes at the cost of simplicity.

### *III.3 Other Nonconsequentialist Tenets*

Agent-relativity and moral dilemmas have received the most attention in the CP literature. However, there are other features of nonconsequentialist views that are worth considering before moving on from the extensional equivalence thesis. The route to consequentializing many of these features seems clear and uncontroversial. For instance, consider special obligations. Many nonconsequentialist moral theories maintain that agents have special obligations to family, and perhaps friends. These special obligations make it such that agents are permitted, and at times required, to favor these relations, even when agents could do more good otherwise. For instance, if an agent is faced with either saving her wife or saving two strangers, morality would require her to save her wife. The method for consequentializing special obligations is simply an extension of the agent-relative rankings. Once agents have separate rankings, all that is needed is for the individual rankings to reflect the special obligations each agent has.

---

<sup>25</sup> Thank you to Justin D'Arms for first pointing out this concern.

Another feature that CP is able to capture is that of time-relativity. A time-relative view is one that holds that at least some moral reasons are relative to individual times. For instance, a moral view that incorporated time-relative constraints could maintain that constraints generate moral reasons for agents exclusively at the time of the possible constraint-infringement. On this view, it is impermissible for an agent to kill one now in order to prevent even *herself* from killing two people in the future, insofar as the constraint-based reasons that an agent will have with respect to her future killings are not available to her at the present moment.<sup>26</sup> Similar to the strategy for consequentializing agent-relativity, in order to consequentialize time-relativity, rankings would need to be generated for each individual moment. If the time-relative view is agent-neutral, then all agents would have the same rankings at each moment. However, if the time-relative view is also agent-relative, then each agent would have her own ranking of states of affairs at each moment.

Two final nonconsequentialist features are more difficult to capture. Consider prerogatives, or options. Many nonconsequentialist views allow agents room to pursue their own personal projects, even when they could be spending their time or money saving lives. Perhaps morality requires *some* sacrifice for others; however, on these views, morality is not so demanding as to insist that whenever an agent's time or money could be spent pursuing the good, it must be. Agents have options. This sort of view cannot be straightforwardly captured by a maximizing consequentialism. Maximizers can try to show why pursuing one's own projects in fact does lead to better outcomes, but this is not to give agents genuine options. Rather, on that view, it would be *required* that agents

---

<sup>26</sup> This is meant to leave open the possibility that agents may have other moral reasons related to the constraint infringements that might generate reasons for the agent across times.

pursue their projects. A more promising solution would be to insist that pursuing one's own projects is *equally* optimal to the alternatives. When the outcomes of two acts are ranked as equally valuable, agents are permitted to perform either of the two acts. While this grants agents *some* options, one might worry that some of the more frivolous options a nonconsequentialist might permit cannot be said to be equally optimific to the alternatives.

Another option for the consequentializer might be to return to the idea from the last sub-section concerning non-linear rankings of outcomes. Instead of arguing that actions are only permissible when they result in outcomes that are equally good or better than any alternative, one might simply argue that actions are permitted whenever there is no outcome that is strictly better. If there are a high number of incommensurable goods, then it will often be the case that there are outcomes that are not better than one another and so many actions will be permissible. This, of course, may generate options. However, similar concerns will arise as did before. The view will have to capture all and only the options that the nonconsequentialist generates. Moreover, it is not enough to capture options, if the view cannot also capture the other nonconsequentialist tenets simultaneously. Although we are considering each tenet individually, the consequentializer will need to show that the counterpart view can capture these tenets together. This suggestion may capture options, but, in reinterpreting what is morally permissible, it gives up moral dilemmas. So long as there is a nonconsequentialist view that holds both moral dilemmas and options, this particular strategy will be unable to capture the view.

From here, consequentializers may argue that morality is more demanding than some nonconsequentialist views allow, and so we need not generate a view that includes a great deal of moral options. However, if the full range of options defended by typical deontologists must be incorporated, one might instead introduce a satisficing consequentialism according to which agents are not always required to maximize the good; rather, it is required only that outcomes satisfy some possibly suboptimal level of goodness. On this view, as long as agents are producing the required level of goodness, they are permitted to pursue whatever projects they like, even if those projects are not optimal with respect to good outcomes.

A similar concern is that of supererogation. Supererogatory acts are acts that go beyond what is morally required of an agent. For instance, imagine a moral theory that required agents donate 10% of their time or money to charity. An agent who donated 20% of her time or money to charity would be doing more good than is morally required of her. These sorts of acts are supererogatory. Just as with prerogatives, it seems that a maximizing consequentialism will be unable to accommodate supererogation. If one must always perform the action with the best outcome, then there simply is no available act that does more good than is required. However, once again, a satisficing view of consequentialism will help. If agents are only required to act so as to produce some set level of goodness, there may be acts available that produce more good.

A major concern for capturing both prerogatives and supererogation is the controversy surrounding satisficing views of consequentialism.<sup>27</sup> It is difficult to motivate an exact, or even vague, level of goodness that agents are required to meet. Indeed,

---

<sup>27</sup> See, for instance, Bradley (2006).

Portmore (2009), fearing that satisficing consequentialism is untenable, maintains that in order for CP to succeed, it must be able to incorporate supererogation (and options alongside) into a maximizing consequentialism. To do this, Portmore introduces what he calls dual-ranking act-consequentialism. On this view, the permissibility of actions is determined by a principal ranking of outcomes that is itself determined by two auxiliary rankings of outcomes. Portmore writes:

“S’s performing  $a_1$  is morally permissible if and only if there is no available act alternative that produces an outcome that S has both (i) more moral reason to want to obtain than to want  $o_1$  (i.e.  $a_1$ ’s outcome) to obtain and (ii) more reason, all things considered, to want to obtain than to want  $o_1$  to obtain” (2009: 337).

Supererogation is possible insofar as there will be acts that are permissible according to the principal ranking that are outranked on the first auxiliary ranking, the ranking that orders moral reason to prefer outcomes. Without going into further details of such a view, we can minimally see that the view does allow for supererogation. Although, it is unclear that it does a better job than satisficing. Just as the satisficing line will require significant motivation and defense, so too does the structure of this dual-ranking act-consequentialism require motivation.

In fairness to both views, it is worth noting that nonconsequentialist views that incorporate options and supererogation face some of the same issues, especially when there are positive duties to produce *some* good.<sup>28</sup> Where does one draw the line between the positive duty to produce some good and the option to pursue one’s own projects? Moreover, it may be asked whether options are *ad hoc* additions to a view in response to a concern about demandingness. These motivation problems, I contend, are not issues that

---

<sup>28</sup> See, especially, Kagan (1989) for a sustained argument against options as a “limit” of what morality requires.

consequentializers need to face, at least with respect to the question of extensional equivalence. It is up to the defenders of options and supererogation to motivate their view. CP simply needs to show that the view can be incorporated into a consequentialist framework. Satisficing consequentialism, and perhaps dual-ranking act-consequentialism as well, do just that. But, in both cases, while EET is saved, it will be important to investigate the costs of incorporating dual-ranking or satisficing. If the moves required to capture nonconsequentialist tenets leave behind the theoretical benefits of consequentializing, there may be no reason to consequentialize. Moreover, if the moves prove costly, we will have reason to *not* consequentialize.

So, where do we stand on EET? I have argued above that an ordinary maximizing consequentialism can accommodate agent-relativity, time-relativity, and special obligations so long as we allow separate rankings of outcomes for individuals, times, or both. I have also argued that if we allow CP to utilize a satisficing consequentialism, prerogatives and supererogation can also be captured by CP. If a satisficing consequentialism is untenable, then consequentializers must hope that a view like Portmore's dual-ranking act-consequentialism will be able to work. Finally, while CP can incorporate prohibition dilemmas, I provided preliminary motivation for the plausibility of obligation dilemmas, which we saw CP cannot capture. Thus, while consequentializing is a largely successful endeavor, it may not capture every plausible normative ethical view. If the right view of morality includes obligation dilemmas, the right moral view will indeed be nonconsequentialist.

As mentioned above, however, rejecting EET is not my goal here. Rather, what the above has worked to show is that maintaining EET requires a number of significant

departures from ordinary consequentialist views. While the consequentialist counterparts to nonconsequentialist views may still be considered consequentialist, an important question is whether these counterparts maintain the theoretical benefits of ordinary consequentialism. I argue in what follows that the benefits are indeed left behind. Moreover, the costs associated with the consequentialized counterparts with respect to moral metaphysics and decision-making will outweigh whatever benefit might remain. If this is all correct, then while the vast majority of moral theories can be consequentialized, we ought not do so.

#### IV.

I showed above that CP is largely successful in providing extensionally equivalent consequentialist views for every nonconsequentialist view. My goal was not to reject the extensional equivalence thesis—although we saw some challenges remain—but rather to show *how* one must consequentialize in order to capture basic nonconsequentialist tenets. The real fight, I contend is not in proving that extensional equivalence cannot be met, but rather in showing that in order to meet extensional equivalence, consequentializers give up the benefits of consequentialism. Moreover, as we will see in Section V, consequentializing has a number of theoretical costs, which ultimately outweigh any remaining benefits.

In this section, I consider the benefits consequentializers have cited as motivations for their project. Briefly, it is claimed that classic consequentialist views are in some way compelling, in a way that nonconsequentialist views are not. Consequentialism allows agents to always perform whatever action will lead to the most value. The claim is that there is something compelling about this permission that cannot be captured by



nonconsequentialist views, particularly those adhering to deontological constraints. Consequentialism also benefits from providing deontic explanations in terms of value. Although, as we will see, some nonconsequentialists do so as well, consequentializing ensures that all views provide such explanations. Due to their axiological bent, consequentialist explanations are also simple. Figure out what is good, and then perform the best action. Nonconsequentialist views must instead point to duties, rights, constraints, options, and so on. Finally, consequentializing allows all moral theories to be assessed within the same framework. This helps to isolate more important theoretical debates, such as whether morality is inherently agent-neutral or agent-relative, without confounds. *If* all views can be placed into this single framework, consequentializers suggest, the alternative frameworks must have no independent moral import.

While these would all be important theoretical advantages, I argue in each case that the consequentialized counterpart, in trying to meet the challenges laid out above, no longer provides the benefit consequentialism advances over nonconsequentialist views. The upshot is that CP is left without independent motivation. Consequentializing is at best a theoretically neutral tool.

#### *IV.1 Compelling Idea*

A commonly cited reason to prefer the consequentialized version of a moral theory is that it avoids what is paradoxical about deontology by capturing what is so compelling about consequentialism.<sup>29</sup> On its own, deontology seems to require agents to perform actions that are worse by the view's own lights. Consider: whatever motivation the deontologist has for adhering to a particular constraint, e.g. the constraint protects

---

<sup>29</sup> See Portmore (2007, 2009).

human dignity, it seems that it would lead to exceptions when overall constraint infringements would be minimized. If protecting dignity is what matters morally, even if agents are not permitted to kill one to save five, they ought to be permitted to kill one in order to stop five killings. After all, killing unjustly violates the dignity of persons, and in this case, by disrespecting the dignity of one, you will protect the dignity of five. If protecting dignity is what led you to constraints in the first place, then in these cases, your view ought to allow agents to do their best to protect dignity overall. However, according to archetypical deontological views, it is impermissible to do so.

A common explanation for this paradox is that deontology violates what Philippa Foot calls “the compelling idea,” which is roughly that it is always permissible to perform the best action.<sup>30</sup> According to Foot, this idea is why consequentialism has persevered, despite its unintuitive implications. It is why consequentialism haunts even those who do not believe in it, and why rule consequentialism is not a satisfactory way of reconciling consequentialism and common moral intuition.<sup>31</sup> And, it seems, it is why we ought to consequentialize.

To evaluate whether consequentializing will aid nonconsequentialist views in this way, we first need to get clear on exactly what is so compelling about consequentialism.<sup>32</sup> There seem to be two schools of thought. First, as Philippa Foot introduced the idea: “it can never be right to prefer a worse state of affairs to a better” (1988: 227). Or, as Mark Schroeder puts it, “It is always permissible for every agent to do what will lead to the

---

<sup>30</sup> See Foot (1988).

<sup>31</sup> See Foot (1998: 227).

<sup>32</sup> It’s perhaps an empirical question what, if anything, is compelling about consequentialism, an empirical question that I’m not going to try to answer here. Rather, I will simply consider the leading two views on consequentialism’s compellingness.

outcome that is best” (2007: 279). Consider the famous surgeon case. Although most everyone believes it would be wrong to harvest the organs of an innocent bystander, many are nevertheless tempted by the thought that it might be *best* to save the five innocents who would otherwise die. When it comes to killing one to stop five other killings, even if we would not require doing so, there is something compelling about at least preferring the result in which five lives are saved. And, if it is reasonable to prefer that outcome, perhaps there’s also something compelling about the idea that it might be permissible to do so.<sup>33</sup> When thought about in this way, what seems to be compelling about consequentialism is that there is an *agent-neutral assessment* of the value of states of affairs, the promotion of which is morally preferred, from which it follows that it is at least *permissible* to promote.<sup>34</sup>

Suppose this view is what is compelling about consequentialism. The question is whether consequentialized counterparts to nonconsequentialist views will be likewise compelling. Consider a nonconsequentialist view with agent-relative constraints that provide or capture reasons for agents to not *themselves* perform certain actions. On this view, a world in which I have lied is worse *to me* than a world in which you have lied, while the opposite is true *for you*. In order to consequentialize agent-relative constraints, separate rankings of states of affairs are required for each moral agent.<sup>35</sup> On this view then, we are indeed permitted to perform the best action, it is simply that what is best is relative to each of us. According to the view above, however, what is compelling about the surgeon case is that there is an *agent-neutral* assessment of the good that we are each

---

<sup>33</sup> I grant that these intuitions are not philosophically rigorous. For my purposes, they need not be. All I am trying to do here is to get on the table one thing that might be compelling about consequentialism.

<sup>34</sup> See Schroeder (2007) for a similar argument.

<sup>35</sup> See Portmore (2011).

permitted to pursue. On this agent-relative story, there simply is no such independent ranking that we are required to promote. Essentially, what is compelling about consequentialism on this first view is the permission to save five. Consequentializing the view that says it is impermissible to do so will not be able to save this compelling idea. This is not to say that this consequentialist counterpart is implausible; it simply is no more compelling on this understanding of compellingness than its nonconsequentialist counterpart.

In response, one might argue that, contrary to the argument above, Foot's Compelling Idea is not about agent-neutrality after all. Rather, what is compelling is promotion of value. Foot argued that what is compelling is that it can never be right to prefer a worse state of affairs to a better one. The consequentialized counterpart to agent-relative constraints does allow agents to prefer better states of affairs, the value of those states of affairs are simply relativized to them.

There are two parts to this view: the reference to value and the idea of promotion. With respect to promotion, I will argue shortly, in response to Samuel Scheffler's (1988) view of the compelling idea, that nonconsequentialist views can adopt a similarly promotion-based framework without consequentializing. As for value, I will consider in the next subsection the supposed consequentialist benefit of explaining the deontic status of actions in terms of value. I will argue that whatever theoretical benefit such "value explanations" hold is lost when consequentialists accept agent-relative theories of value. The agent-relative theory of value is simply too gimmicky to capture the concept of "value" required for the theoretical benefit of value explanations.<sup>36</sup> Combining these two

---

<sup>36</sup> See Section IV.2.

arguments, we will see that if “value promotion” is at the heart of Foot’s compelling idea, consequentializing will again prove unhelpful.

Before moving on to the Scheffler’s compelling idea, it might be pointed out that the main benefit of incorporating the compelling idea was to avoid what has been seen as paradoxical about deontology. Thus, even if it is not similarly compelling, the consequentialized counterpart to the agent-relative constraints view may at least improve upon the nonconsequentialist counterpart by avoiding the paradox of deontology described above. Recall that what is paradoxical about deontology is that it disallows actions that seem to be best, by the lights of the view itself. On the agent-relative view just described, however, agents *are* permitted to perform the action that leads to the best world, by the lights of the view. After all, the world in which I lie is worse, *relative to me*, than the one in which you and others lie. By not lying, I secure the best world relative-to-me. What prevents the paradox from arising in this case is the separate rankings for agents. In this way, each agent is permitted to perform her own best action.

Solving the paradox of deontology is indeed a benefit to a nonconsequentialist view. But notice that it is not the consequentializing that does the work in argument just laid out. Rather, it is the agent-relativity. The non-consequentialist can maintain that others’ infringements of constraints provide no reasons for an agent, and so the view is no longer self-undermining. The agent who refrains from lying to stop others from lying simply performs the action she has most reason to perform according to the view. That is,

the nonconsequentialist can rise to the challenge of paradox without turning to a consequentialist counterpart.<sup>37</sup>

Moving on from Foot's compelling idea,<sup>38</sup> we find the other leading school of thought concerning the compellingness of consequentialism is Scheffler's introduction of maximizing rationality. He writes:

“[T]he ‘spellbinding force’ of consequentialism, its capacity to haunt even those who do not accept it, derives from the fact that it appears to embody a notion of rationality... *maximizing* rationality. The core of this conception of rationality is the idea that if one accepts the desirability of a certain goal being achieved, and if one has a choice between two options, one of which is certain to accomplish the goal better than the other, then it is, *ceteris paribus*, rational to choose the former over the latter” (1988: 251-2).

To clarify Scheffler's compelling idea, Portmore (2009) distinguishes the maximizing and rationality parts of Scheffler's view. Consider first, moral rationalism. Here the idea is that the deontic status of an action is determined entirely by the reasons there are for and against performing the action.<sup>39</sup> Notice, though, that this is entirely compatible with both consequentialism and nonconsequentialism. Nonconsequentialists often do, and clearly can, use a rationalist approach to morality. For a Kantian, that an action disrespects a person is a moral reason against performing that action. Supposing an absolute constraint, the position is just that that reason will outweigh any other reasons the agent

---

<sup>37</sup> We will see in the next chapter that the deontologist's response to the paradox is not quite so simple. However, it will remain true that the deontologist can dissolve the paradox without resorting to a consequentialist counterpart to her view.

<sup>38</sup> At least temporarily. As mentioned above, I will go on to argue against “value promotion” as the compelling idea in what is to come. See fn. 41 and p. 54.

<sup>39</sup> This is a slight modification on Scheffler's view insofar as Scheffler focuses on the rationality of performing a suboptimal action. Portmore shifts to a focus on reasons rather than rationality in order to shift from subjective rationality to objective reasons. What's rational depends on what an agent believes, while an agent's reasons depend on the facts. This seems a reasonable modification, so I am happy to grant it to Portmore.

may have to perform that action. Thus, the deontic status is determined by the moral reasons.

What is compelling about consequentialism in particular must then be the maximizing tenet Portmore points to: the teleological conception of reasons.<sup>40</sup> He writes: “The reasons there are for and against performing a given act are wholly determined by the reasons there are for and against preferring its outcome to those of its available alternatives” (333).

Portmore argues that this teleological conception of reasons is an analogue to the maximizing tenet of Scheffler’s compelling idea. However, why think that maximizing requires teleology? I contend that it does not. Once this has been shown, we will see that nonconsequentialism *can* adhere to a maximizing rationality without requiring a consequentialist counterpart. If maximization is what counts, then, nonconsequentialism can capture it as well. Of course, Portmore and Scheffler, may argue that teleology is indeed what is at stake. I consider that possibility after describing how a nonconsequentialist can utilize a maximizing rationality.

To see how there can be maximizing without teleology, suppose an agent, who is an archetypical nonconsequentialist, is faced with acting in one of two ways. The first action is an instance of disrespecting persons, and so she has strong (if not absolute) moral reason to not perform the action. The second action is an imperfect duty, i.e. an action that she has positive moral reason to perform, but one that is not morally required. Imagine that she deliberates by weighing the moral reasons for each action, and then

---

<sup>40</sup> Scheffler frames maximizing rationality in terms of the desirability of goals. However, according to Portmore, the compelling idea should not be tied up in what is most (subjectively) desirable to an agent, but rather what one has most (objective) reason to desire. This motivates Portmore’s modification.

chooses the second action in light of the fact that she has the *most* moral reason to perform the action. Indeed, we might imagine this as the recommended decision procedure provided by a nonconsequentialist view. Take all of the moral reasons for and against each available action and choose that action for which there is the most net moral reason to perform. Although not all nonconsequentialist views recommend the weighing of reasons in this way, it seems that the views *can* utilize this procedure and thus maintain a maximizing rationality without resorting to the teleological conception of reasons.

Of course, the nonconsequentialist is not arguing that *value* ought to be maximized. I consider that concern next. Here, I simply mean to point out a view of maximizing rationality that is parallel to Scheffler's: if one has more reason to perform one action than another, it is—*ceteris paribus*—rational to choose that action. Thus, nonconsequentialist views need not eschew a maximizing rationality; it is only the teleology they need to reject. If maximizing is what is compelling about consequentialism, then nonconsequentialism can capture it, too.<sup>41</sup>

Of course, Portmore and Scheffler might maintain in response that what is compelling about consequentialism is indeed its teleological focus, which nonconsequentialism clearly eschews. However, consider two extensionally equivalent views: one nonconsequentialist and the other its consequentialized counterpart. On this particular nonconsequentialist view, one ought not to kill one to save five because one has most reason to not kill. On the consequentialized version of the view, the agent ought not to kill one to save five because she has most reason to prefer the outcome that she does not kill. Put differently, in one case an agent has most reason to  $\varphi$  and in the other she

---

<sup>41</sup> This response also works to capture the “promotion” framework required for the alternate interpretation of Foot’s compelling idea. See p. 42.



has most reason to bring it about that  $\phi$ . It is hard to see why the latter view is more compelling than the former. I do not deny that by consequentializing nonconsequentialist views, we will be able to capture nonconsequentialist intuitions about cases, while maintaining teleology. However, if teleology is all there is to the compelling idea, I am not convinced that maintaining it is a significant theoretical advantage.

This leaves us with three positions: Foot's compellingness that agent-relative consequentializing cannot capture; Scheffler's maximizing that can be captured without consequentializing; and Portmore's teleology, which does not on its own seem to be very compelling. None of these so-called compelling ideas provides a strong reason to consequentialize.<sup>42</sup> Whatever advantages remain, I will argue in what follows, they do not outweigh the costs of consequentializing.

#### *IV.2 Value Explanations*

If consequentializing does not make nonconsequentialist views any more compelling, perhaps one might consequentialize in order to provide a more satisfying explanation of the deontic status of actions. It has been argued that one attractive feature of consequentialism is that its deontic explanations are in terms of goodness or value. Indeed, it has been seen by many as a necessary feature of a satisfactory explanation of the rightness and wrongness of actions that there is an appeal to what is good or valuable.<sup>43</sup> I wonder, however, whether nonconsequentialists really need to consequentialize in order to provide such explanations. It is true that nonconsequentialist views will not refer to the value or goodness of a resultant state of affairs, but they *can*

---

<sup>42</sup> Nor does the prospect of solving the paradox of deontology provide a reason to consequentialize. See p. 43.

<sup>43</sup> See, for instance, Schroeder (2007) and Hurley (2013).

refer to the goodness of actions or perhaps to the goodness of reasons for action. This will, of course, require an axiological basis for deontology. For those who insist that their nonconsequentialism is characterized by the priority of the right over the good, this will be dissatisfying. For now, I simply want to point out that if we grant that deontic explanations in terms of goodness or value are indeed an important desideratum of a normative ethical view, the nonconsequentialist need not consequentialize to provide them.<sup>44,45</sup>

Consider a nonconsequentialist view with an absolute constraint against killing. When faced with a choice between killing and some other action, e.g. standing still, this view maintains that killing is a very bad action, while standing still might be morally neutral. Thus, one ought to stand still in this situation *because* it is the more valuable action. Or perhaps the view considers the reasons for action rather than the actions themselves. One might argue in this case that the reasons one has for killing are *morally bad* reasons, while the reasons one has to stand still are *morally good*. In this case, the explanation for the wrongness of killing is not that the resultant state of affairs has less value or even that the action itself is less valuable, rather it is that the reasons for killing

---

<sup>44</sup> One might worry that the nonconsequentialist taking this route will need ultimately be a consequentialist. At least, if she holds that the goodness of the action results in the world being better than alternatives, the view certainly seems to be consequentialist. I can imagine two responses here. First, the nonconsequentialist could argue that the most valuable action does not always result in the most valuable consequences. For instance, one might argue that what figures into the value of actions might be local concerns, while what figures into the value of consequences are more global. Second, she might argue that even if the most valuable action does result in the most valuable consequences, the valuable consequences do not provide the deontic explanation, the valuable action does. As I will argue in the next section, deontic extensional equivalence is compatible with differing underlying deontic explanations.

<sup>45</sup> The nonconsequentialist can also deny that such explanations are indeed an important desideratum of a normative ethical view. Indeed, I find it a more attractive move. My goal here, however, is simply to grant the consequentializer the purported benefits and show that even then, CP is unneeded.

are *bad* reasons.<sup>46</sup> While the bearer of value will not be the resultant state of affairs, a nonconsequentialist *can* explain the deontic status of actions in terms of value.

Again, these moves will be unsatisfying to those who insist on the priority of the right over the good. However, granting for now that it is an important desideratum of a normative view that it explains its deontic results in terms of value, my argument is that this is possible without consequentializing.<sup>47</sup> It will be the value of actions rather than outcomes that explain the deontic status of actions, but the explanation will be in terms of value nonetheless.

One worry with this sort of response is that the “value” that is doing the explaining is a rather thin notion of value. Indeed, the move seems like an *ad hoc* way of meeting the value explanation desideratum: the nonconsequentialist view lacked a value explanation and in order to provide one, I simply took the explanation that was available and attached a value concept to it. There does not seem to be an independent understanding of this value concept that I am supplying the nonconsequentialist. I am simply stipulating that they are good or bad actions or reasons.

This is a fair criticism. However, the consequentialized counterparts of these views are also susceptible to it. Consider the value involved in a consequentialized view of agent-relative constraints (ARCs). As we saw, in order to incorporate ACRs, each agent must have her own set of ranked states of affairs. For Albert, the state of affairs in which he kills Bart is ranked lower than the state of affairs in which Bart kills Charlie and David.

---

<sup>46</sup> See Hurley (2013), as well as the end of this section, for an argument that we can “deontologize” every consequentialist view in this way.

<sup>47</sup> There is an interesting question as to whether my proposal may indeed be thought of as a project parallel to consequentializing. For those that argue that the important distinction between moral theories is not consequentialism v. nonconsequentialism, but rather axiological v. non-axiological views, this may be the case. However, it is beyond the scope of this chapter to consider whether a parallel “axiologizing” project might fare better than consequentializing.

However, for Bart (and presumably Charlie and David) that isn't the case.<sup>48</sup> In order to get this result, consequentializers have proposed an agent-relative value. Rankings are generated not by the amount of good in a state of affairs, but rather by the amount of *good-relative-to* a particular agent in a state of affairs. The question we must ask is whether this notion of "good-relative-to" provides the sort of value explanation desired of a normative ethical theory. Or, at the very least, whether this value notion is any more satisfying than the one proposed for the nonconsequentialist version of the view.

In order for "good-relative-to" to not be an *ad hoc* way of meeting the value explanation desideratum, it must be a value notion for which we have some pre-theoretical grasp.<sup>49</sup> This pre-theoretical grasp should allow us to generate the rankings of states of affairs based on the value concept, not based on some other mechanism that we later attach the concept 'value' to. If we generate the rankings based on something else, then it is not the value concept actually doing the explanatory work.

To see whether we indeed have a pre-theoretical grasp of "good-relative-to", we can consider notions that we have an independent grasp of and see whether they closely match the idea behind good-relative-to. Schroeder (2007) presents three possibilities for the consequentializers, only one of which seems a viable candidate: "good from the point

---

<sup>48</sup> See p. 24-25.

<sup>49</sup> Strictly requiring a *pre*-theoretical grasp of the concept might be a bit strong. It is possible to begin without such a grasp, but come to appreciate an important aspect of a theory after reflecting on cases, perhaps as part of reflective equilibrium. However, this does not seem to be how the consequentializers arrive at their theory of value. The strategy, recall, is to take whatever is deontically important to the nonconsequentialist view and make it part of the axiology. It is not a matter of independently grasping an aspect of value, but rather insisting upon it in light of nonconsequentialist requirements. Thus, if consequentializers are to defend their resultant view of value, it will be more promising to connect it to a theory-independent notion of value, which I will call pre-theoretical for simplicity. My thanks to Don Hubin for pushing me on this.

of view of”.<sup>50</sup> Consider an ACR situation in which an agent, Carla, is faced with the prospect of killing one person to stop two other killings. The nonconsequentialist deontic verdict is that Carla ought not kill the one. To capture this, the proposed consequentialized counterpart suggests that Carla ought not kill the one because it is worse from the point of view of Carla that she kill one person, than that the other two be killed.

This seems a plausible candidate to provide the sort of rankings that the consequentializer needs. The problem here is that it is unclear that “good from the point of view of” is really an ordinary, pre-theoretical notion. On Schroeder’s interpretation, the only sensible way to break down the notion would be to combine an ordinary understanding of “good” with the “point of view” operator, which seems to function as “believes that” or “desires that” do.<sup>51</sup> If that’s right, then when I say that, from my point of view, my killings are worse than your killings, I’m saying that I believe your killings are worse than mine, full stop. Then, when “good from the point of view of” is used to dictate the rankings of states of affairs for each of us, we each must be directed to think that our own killings are worse simpliciter than the killings of others. So, morality tells me that my

---

<sup>50</sup> In addition, Schroeder considers both “good for” and simply “agent relative value”. The problem with “good for” is that if “good-relative-to” is to rank states of affairs in such a way that would equate with ACRs, it simply cannot match up with what is “good for” a person. “Good for” tracks the wellbeing of individuals. A ranking of states of affairs using the ordinary notion of “good for” would have agents act according to egoism. However, “good-relative-to” is supposed to provide a ranking that matches the dictates of nonconsequentialism. Often that will result in rankings that do not directly match up with the agent’s wellbeing. The issue with “agent relative value” is that it really isn’t a well-understood, commonly used notion in the literature. Rather, it is agent-relative reasons normally discussed. All this gets the consequentializer is the idea that there are some reasons that apply to everyone, while there are other reasons that apply only to particular individuals. It does not provide any content for those reasons. All we are left with is a theoretical device in another form.

<sup>51</sup> Schroeder considers and quickly rejects two other interpretations of the “point-of-view” operator. Given their implausibility, I leave them out of my discussion. See Schroeder (2007: 274-5).

killings are worse simpliciter than yours, while telling you that yours are worse simpliciter than mine. This seems to simply generate the wrong results. As Schroeder puts it,

“Whether [an agent’s] point of view is a matter of what he believes, or what he ought to believe, or how he ought to treat things as being—no matter how we interpret the “point of view” operator—the point remains that we get an explanation of constraints and special obligations only if we assume that points of view are systematically and predictably wrong about what is better than what.” (2007: 275).

If Schroeder is right, then clearly “good from the point of view of” is a nonstarter. However, I think the consequentializer should dig in her heels a bit here. “Good from the point of view of” does seem to have some intuitive match with good-relative-to, and Schroeder’s interpretation seems less than charitable. The problem with “good from the point of view of” on Schroeder’s interpretation is that it becomes too subjective a notion, such that my point of view is my opinion or belief about a matter. To dig in, then, the consequentializer needs an ordinary notion that has a more objective connotation. And, I think that “point of view” can imply such a thing.

It seems that in ordinary language, “point of view” may be used in two different ways. The first is what Schroeder picks up on. As just mentioned, my point of view is my opinion or beliefs about a matter. The second, I think, is more objective. Another way of thinking about the phrase “point of view” is to consider what is the case from one’s perspective, or “from where one is standing”.<sup>52</sup> Think about when we tell a child to “put yourself in her shoes” or ask what we would do “if we were in her position”. In these cases, we aren’t suggesting that what matters is that person’s beliefs or opinions. Instead, we are recognizing that the action to be taken may differ depending on who is taking an

---

<sup>52</sup> Insofar as I am suggesting this as an alternate interpretation of point of view, one might simply stick with that language. I move to “from where x is standing” to make clear that I am referring to the objective understanding of the notion.

action or what circumstances that person is in. It is not that we think that our own killing is worse simpliciter than another's. Rather, we think that from where we are standing, we should not kill. Likewise, we see that from where the other is standing, she should not kill either.

This idea, "from where x is standing", seems to me an ordinary pre-theoretical idea. We commonly think and speak in these terms. Moreover, it allows for the sort of objectivity that Schroeder's interpretation of "point of view" does not. In these ways it is an improvement, but I am skeptical that it sheds any light on good-relative-to. What does it mean to say "*good* from where x is standing"? The phrase implies that from where I am standing there is a fact about what is good that may differ from what is good were I to be standing where you are. However, this phrase does not shed light on what exactly each of us should do in consideration of this. The view gives us the right structure, but no content. Why should what is good differ depending on where I am standing? While we ordinarily agree that what one should do may differ depending on circumstance, we do not often talk as if what is good changes, except perhaps in terms of good-for, which Schroeder already rejected.<sup>53</sup> While more promising than Schroeder's suggestions, it is unclear that we have a pre-theoretical idea of how "good" changes from person to person.

We are left, then, with one of two possibilities. Either value explanations require a robust pre-theoretical notion of value, in which case neither the nonconsequentialist nor the consequentialized counterpart notion of value will suffice, or else, a thinner theoretical notion of value is indeed sufficient, in which case the consequentialized notion of value is

---

<sup>53</sup> See fn. 50.

no improvement on the nonconsequentialist notion. In short, either nonconsequentialism can provide value explanations or consequentialized views cannot. Either way, consequentializing fails to provide any additional benefit with respect to value explanations.

This also concludes the argument against the alternative interpretation of Foot's compelling idea, that what is compelling is value maximization.<sup>54</sup> As we saw in response to Scheffler's compelling idea, nonconsequentialists can utilize a maximizing framework without resorting to consequentialism. Now we see that either the value concept required for value explanations and thus also value promotion is either unattainable by both nonconsequentialism and its consequentialized counterpart, or else it is thin enough that both views can capture it. What this means for Foot's alternative compelling idea is that either consequentializing cannot capture this compelling idea or else nonconsequentialism can capture it without the help of consequentialism.

#### *IV.3 Simplicity*

We have seen that consequentializing does not make nonconsequentialist views any more compelling, nor does it provide a surer path to value explanations. However, one might still appeal to consequentialism's simplicity as a reason to consequentialize. Nonconsequentialist views require agents to consider all different kinds of wrong-makers and the reasons that come along with them. Consequentialism on the other hand simply points to a ranking of states of affairs and instructs agents to perform the action that will result in the highest ranked state of affairs. If nonconsequentialist results can be had so

---

<sup>54</sup> See p. 42-43.



simply, it would provide a strong reason to consequentialize. However, when characteristic nonconsequentialist views are consequentialized, things are not so simple.

To see the complexity, we need to retrace our steps. Begin with the overarching strategy of consequentializing: take whatever is deontically important to the nonconsequentialist view and make it part of the axiology, or the theory of the good, that the consequentializer claims agents must maximize. In building in features of the nonconsequentialist views, the theory of value becomes complicated in a way that I contend defeats the initial claim to simplicity. Moreover, the basic consequentialist framework must itself be modified in a number of ways. For example, in order to capture agent-relativity, a separate ranking of states of affairs is required for each individual agent. If a view is also time-relative, then a separate ranking will also be required for each individual agent at each individual time. In order to account for prohibition dilemmas, Portmore further suggests that rankings change based on which act an agent actually performs. Thus, we now have a separate ranking for each available action for each individual agent, at each individual time. Finally, in order to capture supererogation and prerogatives without a satisficing view of consequentialism, Portmore suggests a dual-ranking act-consequentialism. On this view, we would need dual rankings for each available action for each agent at each time, each of which captures the plethora of duties and wrongmakers that nonconsequentialists put forth.<sup>55</sup> This brand of consequentialism constitutes a significant departure from the simplicity of promoting welfare and maybe a few other moral concerns. Indeed, nonconsequentialists may even suggest that their view is the simpler of the two insofar as they put forth a simpler theory of the good. If that is

---

<sup>55</sup> See Portmore (2009).

right, it follows that rather than granting simplicity, consequentializing has added complexity to nonconsequentialist views.

In response, a consequentializer may point out that while the theory of the good is indeed complex, the theory of the right is still simple. Just as with traditional consequentialist views, agents are to promote the “good”. The good may be complicated, but actions are still considered right when they lead to the outcome that is at least as good as any other available action, and wrong otherwise. It is the simple theory of the right, not the good, which is desirable.

However, even the theory of the right is not as simple as it seems for consequentialized views. We just saw that if consequentialized views are able to maintain value explanations at all, the value concept doing the explaining is a rather thin notion of value. The ways in which value must be manipulated leaves a very theory-laden view of value. Indeed, calling the concept “good” seems an *ad hoc* theoretical move. This same problem plagues the theory of the right. While consequentializers can claim that their view is to simply “promote the good”, when the theory of the good at issue is this nonconsequentialist theoretical construct, “promote the good” is short-hand for, promote the “dual-ranked, outcome sensitive, agent-time-relative ranking generated by the duties and wrongmakers put forth in the nonconsequentialist view”. My contention is that the simple principle of “promoting the good” is only as simple as its concept of goodness. As the notion of goodness increases in complexity, so does the principle.

Some will worry that I am double counting the complexity of the good. However, my complaint is in response to the contention that a simple theory of the right is what counts in a moral theory. Why should the simplicity of the theory of the right matter

more? One answer is that a simple theory of the right lends itself to a similarly simple moral epistemology and decision procedure. If this is correct, then a complex theory of the good will indeed temper the benefit of a simple theory of the right. Rather than considering a familiar notion of goodness in order to establish right action, one must discern whether the outcome ranks highest on a multitude of rankings that involves many different sorts of considerations.<sup>56</sup>

The nonconsequentialist may complain that instead of simplifying her view, consequentializing has added complexity. When an agent follows a nonconsequentialist view, she responds directly to the reasons generated by the duties and wrong-makers at issue. However, if she is following the consequentialized counterpart, she must use those duties and wrong-makers to generate separate rankings for each of her possible actions (at each time). While one might argue that how one “responds directly to the reasons” is complicated on a nonconsequentialist view, it seems that the same complications imbue the process of generating rankings of outcomes. At best, the consequentialized view has an equally complicated a theory of the right and a much more complicated theory of the good. At worst, both are more complex. Regardless, it is clear that consequentialized views do not benefit from theoretical simplicity.

So far, it does not seem that consequentializing helps the nonconsequentialist. Indeed, it hardly seems to help the consequentialist either insofar as her view is now more complicated and less compelling. In response, it might be suggested that the project be viewed another way. Rather than benefiting one view or another, perhaps consequentializing shows that there are not really two views at all.

---

<sup>56</sup> The consequentialist, of course, may provide a different decision procedure. I consider that possibility in the next section.

#### *IV.4 Single Moral Framework*

A final benefit of consequentializing requires only a brief discussion. Dreier (2011) points out that consequentializing allows moral theorists to get clear about the important differences between theories. If the consequentializing project is successful, it shows that it is not a view's nonconsequentialism that matters. After all, a consequentialist counterpart can be easily generated. By putting all moral views into a single framework, Dreier suggests, we can cut across the unimportant consequentialist/nonconsequentialist divide and focus on the real differences in the deontic structure of various moral theories, such as agent-neutrality vs. agent-relativity or a view with prerogatives vs. a view without them.

This seems to me a laudable goal. However, there are two issues with the purported benefit. The first is simply that, as mentioned at the end of Section II, I am not convinced that all nonconsequentialist views *can* be consequentialized. My main concern is with obligation dilemmas. However, if both dual-ranking and satisficing consequentialism turn out to be problematic, options and supererogation will also be problems for consequentializers. That said, my concern in this chapter is not with refuting the extensional claim of CP. I simply mean to point out that, unlike the other benefits, which could have been enjoyed even if not every nonconsequentialist view could be consequentialized, this particular benefit is lost if the extensional equivalence thesis fails.<sup>57</sup> If consequentializing a particular nonconsequentialist view makes the view simpler or more compelling, at no cost, then it would be beneficial to do so, even if not every

---

<sup>57</sup> One might suggest that there might remain some benefit in putting *most* moral theories in the same framework. This may indeed be helpful for some debates. However, if not all moral views can be consequentialized, it does seem that at least some minimum importance remains in the distinction between these views and those that cannot be consequentialized. That is, consequentializing will indeed leave behind an important moral distinction.

nonconsequentialist view could take advantage of CP. However, in order for CP to produce a single moral framework, every single nonconsequentialist view must be able to fit into the framework.

Granting for the moment that all nonconsequentialist views can indeed be consequentialized, there remains another issue. If a view's *nonconsequentialism* does not matter, neither does its consequentialism. The benefit is having views in a single framework, not that the framework is consequentialist. Hurley (2013) argues that just as all normative views can be "consequentialized", they can also be deontologized:

"Take whatever considerations determine the telic statuses of outcomes, and insist that these considerations are reflected in good reasons, reasons that are relevant to identifying the statuses of actions as better and worse....For any plausible consequentialist theory, we can construct a version of deontology that is equivalent to it" (2013: 140).

The deontologizing proposal has not been as fully worked out as CP.<sup>58</sup> However, it seems just as plausible, especially insofar as there are fewer moving parts in classic consequentialist views to account for.

One might worry that insofar as the strength of one's reasons for action on this view is derived from the value of the action's outcome, then the view remains a consequentialist view.<sup>59</sup> However, the contention is that what makes an action right or wrong is the goodness of an *action*, not the goodness of the action's *outcome*. Of course, on deontological counterparts to consequentialist views, what contributes to the goodness of the action will be the goodness of results. However, a similar complaint can be raised against the consequentializer. On the consequentialist counterpart to a nonconsequentialist view, it is the value of outcomes that matters morally, but what

---

<sup>58</sup> Although, see Hurley (2013) for more details as to how this story might go.

<sup>59</sup> Thank you to Don Hubin for pushing me on this.

contributes to that value calculation are nonconsequentialist reasons. It is unclear to me why deontologizing would be more problematically consequentialist than consequentializing is deontological.

Granting that deontologizing is no more problematic than consequentializing, this benefit to consequentializing we are considering is really just a call to utilize a unifying normative framework. If a deontological framework can do the same work, there is no reason to consequentialize in particular.<sup>60</sup> This is not to deny that consequentializing provides a benefit in this way; it is simply to deny that consequentialism has any special advantage over nonconsequentialism on this front.

What I hope to have shown is that the benefits of consequentializing are not what they seem to be. No matter what you think constitutes the compelling idea with respect to traditional consequentialist views, it seems that a consequentialized view no more embodies the compelling idea as its nonconsequentialist counterpart. Moreover, although consequentializing allows for value explanations, it does so by utilizing a theory-laden value concept that nonconsequentialists can just as easily adopt. In addition, a consequentialized view is no simpler, and indeed potentially more complex than its nonconsequentialist counterpart. Finally, if a single moral framework is what you seek, no reason has been given to prefer a consequentialist framework over a nonconsequentialist one. Indeed, there may even be a better chance of deontologizing all views than consequentializing, insofar as consequentialism has fewer complications to capture.

---

<sup>60</sup> Except insofar as a consequentialist framework provides some other benefit. However, I have worked to show that other benefits are not forthcoming.

## V.

The final question is whether, despite the apparent benefits of setting up a single moral framework, there are also costs to doing so. I believe both consequentializing and deontologizing face problems concerning our moral metaphysics and our practical moral decision-making. Setting deontologizing aside, I will conclude by arguing that these costs outweigh any remaining benefits of consequentializing.<sup>61</sup>

### *V.1 Moral Metaphysics*

Consider first the metaphysical underpinnings of our moral reasons. Dreier (2011) argues that nothing but extension matters in a moral view. For Dreier, nonconsequentialist views and their consequentialist counterparts are simply notational variants of their nonconsequentialist counterparts. However, a worry arises concerning order of explanation. To the extent that EET is true, consequentialists and nonconsequentialists *can* agree on the appropriate deontic assessment of actions.<sup>62</sup> They *can* also agree that the deontic status of an action is explained by referring to a notion of value or goodness.<sup>63</sup> The problem is that even if or when they agree on those issues, they still disagree about which bearers of value explain the deontic status of an action.<sup>64</sup>

Consider the case of killing one innocent to save five. Imagine a nonconsequentialist view that holds an agent ought not kill one innocent because killing an innocent is an instance of disrespecting human dignity, which we have strong (perhaps

---

<sup>61</sup> I suspect the same can be concluded for deontologizing. However, without a full investigation into any possible benefits, I set the matter aside.

<sup>62</sup> This is true at least for those theorists who allow for deontic assessment at all. I set this issue aside here, insofar as consequentializers are indeed concerned with the deontic.

<sup>63</sup> See pp. 47-49.

<sup>64</sup> I do not mean to argue that consequentialists cannot find value in actions or deontologists in outcomes. Rather, I mean to refer to bearers of value from which deontic explanations are found. In the case of consequentialism, deontic explanations are found in the value of outcomes, while on this axiological deontology I have put forth, deontic explanations would be found in the value of actions.

absolute) reason to avoid. On this view, actions that disrespect human dignity are intrinsically bad actions, which provide us with weighty moral reasons. It is the badness of the action and the corresponding moral reasons that explain the deontic status the action. Consider now the consequentialized version of the view just laid out. On this view, disrespecting human dignity is reflected in the value rankings of states of affairs. Thus, when the agent considers each of her options, the state of affairs that results from her killing the one innocent ranks lower than the state of affairs in which she refrains. What explains the deontic status of killing the innocent is the value of the resultant state of affairs.

Here's the problem. According to the nonconsequentialist, what makes the state of affairs a bad one is that the agent performed a wrong action. However, according to its consequentialized counterpart, the wrongness of the action depends *solely* on the value of the state of affairs it brings about. Although the consequentialist may hold that this state of affairs is bad in part (at least) because the action is intrinsically bad, what she cannot hold, and what a nonconsequentialist will necessarily hold, is that the badness of the resultant state of affairs is explained, at least in part, by the wrongness of the action. Put simply, the nonconsequentialist cannot rank states of affairs without first settling whether the action is wrong, while the consequentialist counterpart cannot settle whether the action is wrong without first ranking states of affairs. Thus, even if the counterpart views agree on the deontic status of every action and every underlying wrong-maker, the views still disagree about the bearers of those wrong-makers. The views disagree on how we are to explain the deontic status of actions.



Earlier I argued that there is minimal, if any, difference in terms of compellingness between maintaining that an agent has most reason to  $\varphi$  and maintaining that she has most reason to bring it about that  $\varphi$ .<sup>65</sup> Dreier and others might ask, rightfully, why the same does not hold here. If that is the only difference between the views, what are we losing in collapsing the distinction? There are two answers to this question, for two different audiences: moral theorists and everyone else.

If you are a moral theorist who cares about the structure of moral theories, consider more generally the structure of normative ethical theories. Shelly Kagan (1992) helpfully distinguishes between three areas of inquiry in normative ethics: morally relevant factors, foundations of normative ethics, and evaluative focal points. Roughly, morally relevant factors include goodness of outcomes, constraints, special obligations, and permissions. Foundations of normative ethics are underlying views that generate the morally relevant factors. And, finally, evaluative focal points are the objects of evaluation for foundational views.

Consider a nonconsequentialist view that holds disrespecting persons as the foundation from which various moral factors, most relevantly, constraints are generated. A consequentialized counterpart view can share this foundation. What Dreier misses, and what generates the metaphysical complication, is that the two views have different evaluative focal points. The evaluative focal point of the consequentialized view is outcomes. The value of those outcomes then figure into the rightness of actions. Alternatively, the evaluative focal point of the nonconsequentialist view is the actions themselves. Rightness is then decided either directly or indirectly through first considering

---

<sup>65</sup> See pp. 46-47.

the goodness of actions. Either way, the focal point is actions, not outcomes, for the nonconsequentialist. Two views can share a basic foundation and agree on the deontic status of actions while still differing in structure and explanation. According to Dreier, consequentializing helps moral theorists get clear on “important” distinctions. However, there may be important disputes over what our moral factors and evaluative focal points should be, which consequentializing obscures.

Perhaps, however, you are not a moral theorist. Foundations and first-order results are all that matter to you, and nonconsequentialist and consequentialized views can share these. I worry still that matters are not so simple. One way of discerning first order moral results is to look at our foundations. Questions as to how we ought to approach or respond to certain foundations, e.g. whether we ought to promote or respect, will differently influence our first-order results. It seems that consequentializing only works when you stipulate extensional equivalence and then adulterate the underlying moral metaphysics to make it work. If you are a foundationalist, however, this approach will not work. Our response to the foundations of morality ought to dictate right action; right action should not dictate our response to foundations.

## *V.2 Practical Moral Reasoning*

For those interested in providing agents with a guide to coming to know the moral truths or an action guide more generally, a related issue arises.<sup>66</sup> The initial problem is that in order to generate the counterpart views, as we saw, you first need to understand

---

<sup>66</sup> It may be argued that moral theorists should simply be in the business of discovering the moral truths, not directing action or worrying about how moral truths are disseminated. For these theorists, my arguments in this section will be unmoving. However, insofar as the issues surrounding moral metaphysics remain, there will still be costs to consequentializing.

the original view.<sup>67</sup> For instance, in order to rank resultant states of affairs, the consequentializer first considers the weight of everything that the nonconsequentialist finds deontically important and then figures them into the values of states of affairs. On the one hand, if that is how we are to learn about the rankings we are to follow, the question is raised as to why we should not just respond directly to the deontically loaded parts of our actions?<sup>68</sup> On the other hand, if we ought to reason differently, then, the consequentializer will be faced with developing and defending a two-level theory, one that distinguishes between objective principles of rightness and wrongness and “intuitive” or “subjective” principles for practical moral reasoning. I consider each possible worry in turn.

Consider first the question of why we should not just respond directly to the deontically loaded parts of our actions in practical moral deliberations. Imagine an agent considering whether to kill an innocent. She first realizes killing an innocent would disrespect someone’s dignity. Then, she notes that the action will result in a state of affairs in which she disrespected someone’s dignity. Those states of affairs are ranked lower than ones in which she does not disrespect someone’s life, so she now knows it is morally impermissible to kill the innocent. Why go through the extra steps? On the nonconsequentialist view, the agent could have stopped considering once she noted that killing an innocent is an instance of disrespecting the dignity of another.

---

<sup>67</sup> Recall that the value concept required to consequentialize turned out to be a thin theory-laden notion, one we do not have a theory-independent grasp of. Thus, in order to appropriately rank the “value” of states of affairs, an understanding of the original non-consequentialized view is required. See Section IV.2.

<sup>68</sup> Of course, consequentialists need not suggest that moral agents reason in this way. I consider alternatives later in this section.

The same problem arises for deontologizing views. Imagine we are utilizing a rather unsophisticated consequentialism, which maintains that an agent is morally required to kill one innocent if it will save five. The deontologized view instructs the agent to consider the resultant states of affairs of her killing and not killing the one. Killing the one results in the most valuable state of affairs in terms of lives saved. Thus, the agent reasons, the action of killing the innocent has the weightiest moral reasons, and so she is morally required to perform the action. In this case, we have a parallel concern. Why doesn't the agent know what to do at the point of learning which resultant state of affairs is best?

This, of course, is only a problem if the view at issue instructs agents to morally reason in this way. It is open to proponents on both sides to argue that while the consequentialized or deontologized framework best represents the moral facts, the given framework may not be the best guide to moral reasoning. This sort of move can be found in the literature on "Two Level" views. Most notably, R.M. Hare (1981) distinguished between critical-level thinking and intuitive-level thinking. The nature of moral discourse, Hare argues, requires utilitarian thinking at the "critical-level." However, there are good utilitarian reasons for training moral agents to follow "intuitive-level" rules. Holly Smith (2010) presents what appears to be another sort of two-level theory by defending a distinction between objective and subjective rightness. Objective rightness, on her view, refers to what is objectively right or wrong according to the true moral theory. However, insofar as agents cannot always discover what is objectively right or wrong, they must abide by principles that can be implemented. These principles should aim at objective rightness, but when they fail, an agent may still be said to have performed the subjectively

right action. The upshot of these and other two-level views is that the practical moral deliberation advised by a theory may not mirror the underlying objective moral theory. That is, a complicated objective moral theory, need not complicate an agent's moral reasoning.

Two-level theories may indeed avoid the issue currently being raised. However, defending such a theory may prove difficult. And, as Fred Feldman (2012) points out, there are a number of criteria required for successful practical level principles. For instance, the principles must be implementable, i.e. they need to suggest courses of action based on factors that agents have access to. If the practical level principles are just as opaque or require more evidence than is available to an agent, it will fail to be implementable. However, practical principles must also provide *moral* guidance and they should protect agents from at least some kind of blame when the practical principle does not line up with the objective moral standard. Feldman mentions other criteria as well, but the main upshot is that finding adequate practical principles may indeed be possible, but the project is not a simple one.

In response, consequentializers may take up my original suggestion: simply instruct agents to respond directly to, for instance, the dignity of humans. Likewise, deontologizers may direct agents to respond directly to the ranking of outcomes. But even if this works, these views will still face concerns of alienation. This complaint, most famously put forth by Michael Stocker (1976) and Bernard Williams (1973), suggests a problematic disconnect between what one values and one's motivations. If I believe that utilitarianism is the correct moral theory, then most naturally, I am moved by considerations of maximizing wellbeing across all persons. However, insofar as I cannot

know what will indeed maximize wellbeing and, moreover, focusing on maximizing wellbeing may indeed hamper overall wellbeing, practical-level principles defended by utilitarians require that I am motivated by other concerns. Recommending that I believe utilitarianism to be true, but that I determine my actions in consciously un-utilitarian ways gives rise to a certain kind of alienation from oneself.

Some, most notably, Peter Railton (1984), have famously rejected this claim, suggesting that one can be a “sophisticated consequentialist” who is committed to living an objectively consequentialist life, while not favoring any particular decision-making procedure, most relevantly a consequentialist one. A full discussion of alienation concerns is beyond the scope of this chapter. What is important to note here is simply that while consequentializing and deontologizing do not necessarily lead to an unwieldy moral epistemology, avoiding such concerns requires quite a bit of work.

## VI.

I have tried to show that answering the challenges leveled against the consequentializing project ultimately undermines the theoretical benefits the project offered in the first place, and results instead in a number of theoretical costs. Specifically, I have argued that the method required for consequentializing agent-relativity ultimately undermines any understanding of the compelling idea that nonconsequentialism cannot independently capture. I also argued that consequentializing agent- and time-relativity, moral dilemmas, options, and special obligations requires a theory-laden theory of value that negates the benefit of value explanations as well as the benefit of simplicity. Finally, with respect to benefits, I also argued that if a single moral framework is possible, consequentializers must provide a reason that the framework should be consequentialist

rather than deontological. In terms of costs, I argued that both consequentializing and deontologizing are problematic insofar as they reverse the order of explanation at the level of our moral metaphysics and either complicate our practical moral reasoning or else require an additional defense of non-alienating two-level theories. The result is that even if it is theoretically possible to consequentialize most, if not all, normative ethical theories, there are no benefits to doing so, and indeed there are a number of costs.

For my purposes, the upshot is that a theorist interested in defending common deontological intuitions ought to continue to do so within the traditional deontological framework. As we will see in the coming chapters, there are a number of challenges facing the committed deontologist. However, insofar as I will argue the deontologist can rise to these challenges, she need not, nor should she, seek refuge in consequentializing.

## Chapter 2: The Paradox of Deontology

In the last chapter, we saw that there is good reason to defend nonconsequentialist views in their own terms. That is, we ought not consequentialize. With that in mind, the following chapters address concerns for a particular species of nonconsequentialism in their nonconsequentialist form, ones that adhere to what are called deontological constraints.

### I.

In opposition to classic consequentialist views that hold that moral agents should perform whatever action leads to the most good, deontological views typically hold that there are strict constraints on the types of actions that moral agents may perform.<sup>1</sup> Paradigmatically, deontologists argue that an agent is not permitted to kill, or steal, or lie, even when doing so is the optimal action in terms of goodness.<sup>2</sup> The first question facing the deontologist is why prioritize the right over the good in this way? Commonly, the answer to this has been broadly Kantian in nature: we ought to respect the dignity of persons and doing so requires non-consequentialist constraints on our actions.<sup>3</sup>

---

<sup>1</sup> There are, of course, other sorts of deontological views. For instance, a view that rejected deontological constraints, but included *permissions* to perform actions that did not maximize good outcomes would also be deontological. However, the challenge levied in this chapter, the “paradox of deontology”, is really a challenge for deontological constraints. For simplicity, then, when I refer to deontology in this chapter, I am singling out those deontological views that maintain deontological constraints.

<sup>2</sup> Absolute and moderate deontologists share this general scheme. Their disagreement concerns whether there are any circumstances under which these constraints may permissibly be infringed. See Chapters 4 and 5.

<sup>3</sup> It is worth noting that this Kantian framework only straightforwardly constrains actions directed toward other humans. The Kantian will need to say more to generalize constraints to actions directed toward non-



But consider what is called the paradox of deontology (POD),<sup>4</sup> the claim that whatever motivation the deontologist has for adhering to constraints, it should lead to exceptions when overall constraint infringements would be minimized.<sup>5</sup> Even if agents are not permitted to kill one to save five, they ought to be permitted to kill one in order to stop five *killings*. After all, killing unjustly infringes the dignity of persons, and in this case, by disrespecting the dignity of one, you will protect the dignity of five. If protecting dignity is what led you to constraints in the first place, then in these cases, your view ought to allow agents to do their best to protect dignity overall. To put it in other terms, call a constraint infringement that would minimize overall infringements of that constraint a “minimizing infringement” (MI). The worry is that it seems that any motivation one has to argue for the inclusion of deontological constraints in one’s normative theory would lead to the permissibility of MIs.

In what follows, I will work to dissolve this paradox by adopting lessons from what I will argue are failures of two prominent responses found in the literature. I will first address how considerations of human dignity might successfully meet the challenge.<sup>6</sup> If respect for dignity led to constraints, then a proper investigation of dignity might also explain why constraints function as the deontologist claims. While promising, I will

---

human animals. The puzzles that I am interested in are puzzles for constraints regardless of their motivation or the generalizability of their application. Thus, I set aside this issue here. However, see Chapter 4 for a brief discussion concerning how my own view might work to include considerations of non-human animals.

<sup>4</sup> See, for example, Nozick (1974) and Scheffler (1988).

<sup>5</sup> It is common to call “infringements” of constraints, “violations”. However, as we will see in Chapter 4, it is helpful to keep these notions separate, in order to allow for instances in which acting contrary to a constraint may be permissible, as may be the case when a certain threshold is met. On these moderate views, all actions that are contrary to constraints are considered infringements. Violations, then, are reserved for instances in which a particular infringement was impermissible. To allow for this distinction, I will simply refer to constraint infringements until Chapter 4.

<sup>6</sup> See Kamm (1989, 1992).

ultimately argue that dignity alone cannot explain why an agent ought not perform an MI. From there, I turn to considerations of agent-relativity. While agent-relativity seems a successful response to the paradox, I will show that it is misleading without emendation. Richard Brook (2007) and Ulrike Heuer (2011), both attempt to argue that cases of MIs only seem paradoxical because we mistakenly think that certain moral reasons are generated for the agent, reasons to minimize moral evil or prevent others from infringing constraints. However, in adopting agent-relativity, I will argue that we do deontology a disservice by ignoring these other kinds of moral reasons.

The real challenge of the paradox, I argue, is explaining why it is that agent-relative reasons outweigh the other moral reasons that are available to agents. Ultimately my solution is to argue that the agent-neutral reasons that others have dismissed, while crucial for a full story of deontology, are derivative from the very agent-relative reasons that dissolve the paradox, and so do not raise additional problems for the deontologist. Moreover, a view that permitted MIs would be a view that rejected constraints rather than explained them.

## II.

In order to address the paradox of deontology, F. M. Kamm (1989, 1992) has us consider a feature of humanity she calls inviolability. A person is inviolable if and only if there are certain circumstances in which it is impermissible for others to harm her. On this view, just about every moral theory seems to support the inviolability of agents to at least some degree. Although this is not made clear, I suspect that Kamm has in mind cases in which the reason that I am not permitted to harm you is somehow strongly connected with something about *you*, as opposed to coincidental features of the situation

or the consequences thereof. Regardless, what is key, according to Kamm, is that a person is more or less inviolable to the extent that there are a greater or lesser number of circumstances in which it is impermissible for others to harm her. And, according to Kamm, the more inviolable a person is, the more dignity she has.<sup>7</sup> Now, consider a case of a potential MI. If I am permitted to infringe the constraint against killing in order to prevent five infringements of the same constraint, then the victim of my killing finds herself in a circumstance in which it is permissible for others to harm her. However, if MIs are impermissible, in that same circumstance it would be impermissible for others to harm her. Thus, in the latter circumstance, she would enjoy greater inviolability and therefore greater dignity.

Kamm's solution to the paradox, then, is to suggest that the motivation for including deontological constraints in one's normative theory is that they respect the dignity of persons. A moral view that disallows MIs shows greater respect for the dignity of persons than a view in which MIs are permissible, and so we should not be surprised that, if dignity is the motivation for constraints, MIs are impermissible.

There are two problems with this line of argument, which I argue would likewise plague other responses that might point to what dignity amounts to in order to dissolve the paradox. The first stems from Kamm's admission that "persons are not absolutely inviolable" (1992: 383). Kamm grants that a moral theory should not protect agents from harm in every circumstance. For instance, it is permissible to kill a person if it is the only

---

<sup>7</sup> This provides further reason to suspect that the view requires grounding the inviolability in the agent herself. There are lots of cases in which the act utilitarian will assert that it is impermissible for an agent to harm another. However, the act utilitarian does not, or at least need not, see this at all as a matter of dignity. There are other ways for Kamm to get around this worry; however, I set them aside here insofar as I go on to raise further concerns for the view, which are more relevant to the view as an attempt at responding to POD.

way to save a million persons from being killed. If we agree with Kamm that deontological constraints have thresholds, then we need an account of the *amount of inviolability* that a moral theory should grant agents.<sup>8</sup> It can be granted that a moral theory that forbids MIs grants persons a higher degree of dignity than one that allows MIs. However, a moral theory in which persons were absolutely inviolable would grant even more dignity. If we are to land in the middle, we need an account of where the line should be drawn.

It should be granted that any moderate, as opposed to absolute, view of deontology—a view that admits to thresholds—will be faced with the same challenge of explaining why and where those thresholds are located. The question here is whether, setting that issue aside, inviolability is able to explain why MIs are impermissible. The problem is that given the way inviolability is supposed to dissolve the paradox, we cannot simply set aside the issue of thresholds. Inviolability only works as an explanation of the impermissibility of MIs, if we think that a view that shows greater respect for one's dignity is a better view. However, this thinking leads directly to absolutism, as absolutists show the greatest respect for dignity. If thresholds are allowed, then what explains the impermissibility of MIs cannot simply be that the view better respects dignity, as that is not the overarching goal of a moderate deontology—if it were, we would be absolutists. Thus, we either need an explanation of why a view should respect dignity in this perfectly moderate way or an alternate explanation of the impermissibility of MIs.

---

<sup>8</sup> See Chapters 4 and 5 for a discussion of thresholds for constraints.

Kamm never responds to this worry despite bringing it to the reader's attention. Instead, she sidesteps the issue by changing the content of the right to be minimized in MIs. She writes:

“Suppose that the right (not to be used to maximize utility) whose violation we contemplate minimizing allowed many permissible harmings, but not those in which we bring about good by intending harm to non-threatening innocents. Then if we transgress the right in order to minimize violations of it, we will be harming someone in the very way it rules out, even if we do this for the sake of something other than utility maximization. (We do it to minimize rights violations.) If this way of harming certain persons (that is, so that we bring about some end by intending the harm to them) is wrong, then morality takes this fact more seriously if we should not act in this way even to minimize occurrences of this very way of harming them. It is not inviolability against harm in general that is represented by the constraint, it is the person's inviolability against this way of being harmed” (384).

The idea seems to be that there may be instances in which a right does not guarantee perfect protection of a person. Morality may allow instances in which persons permissibly come to harm. The right Kamm is interested in is the one that does not allow such a harm if there is an intention to bring about good via that harm. Morality may not protect us from all harm, but dignity requires that we not be intentionally harmed in order to bring about the maximization or promotion of some good. The problem with this fix is that we can run the same problem against this new brand of inviolability. A theory that held that an agent cannot be killed in order to prevent one million killings would give an agent a great deal of inviolability. However, I suspect that Kamm and other moderates would still think such a view too extreme. As we already saw, Kamm's moderate deontology maintains that it is permissible to kill a person to save a million. Yet, for this response to work, we would need to adopt absolutism just the same. Perhaps the absolutism is narrower in scope, but it is absolutism nonetheless. Moreover, insofar as the

suggestion is to be absolute with respect to some aspects of morality and not others, an explanation of the contours of this absolutism will be required.

Suppose that the challenges surrounding thresholds are met. Proper respect for human dignity requires a moral theory that grants enough inviolability to prevent MIs in most cases, but there is indeed a limit. There remains the question of whether inviolability is all there is to human dignity. That is, it is not enough to show that considerations of inviolability lead to these results, we need to be sure that other considerations of dignity do not interfere.

Consider what Kasper Lippert-Rasmussen (1996) calls unignorability.<sup>9</sup> A person is said to be unignorable if and only if there are circumstances in which it is impermissible for others to *allow* her to be harmed. A person is more or less unignorable to the extent that there is a greater or lesser number of circumstances in which it is impermissible for others to allow her to be harmed. A moral theory that allowed MIs would bestow a greater degree of unignorability onto persons than a moral theory that forbade MIs. If this is right, then the question raised is whether and to what degree unignorability contributes to dignity. For instance, if unignorability contributes more to a person's dignity than inviolability, then it would turn out that a moral theory that allowed MIs would better promote the dignity of persons. Notice, however, that we need not even go so far. Suppose that unignorability is just as important as inviolability. Still, MIs would seem to better promote dignity insofar as the numbers favor the unignorable group. We could even go as far as to admit that inviolability is to some small degree more important and still, MIs might turn out permissible when the numbers are right.

---

<sup>9</sup> See also, Lippert-Rasmussen (1999, 2009).

Generalizing from this example, the lesson to be learned is that there are a number of factors that might go into calculating the dignity of a person. In order for Kamm's particular response to work, she needs to independently motivate the importance of inviolability over other possible factors as well as defend the degree of inviolability a moral theory ought to bestow on an agent. And, other such approaches will face similar issues. Views that motivate constraints by considerations of dignity are wise to consider the nature of dignity in order to rise to the POD challenge. However, it is not enough to point to one aspect of dignity that might explain the cases. Rather, views must take into consideration all aspects of dignity and show how they weigh together to provide an underlying explanation of the nature of constraints. Though not by any means impossible, if a solution to the paradox is available elsewhere, as I think it is, it seems prudent to move on.

### III.

Kamm's approach to the paradox focuses on the moral patient in MI situations. Even if the details of dignity are settled on Kamm's view, it is still helpful to show how constraints generate reasons for an agent. Moreover, it might be that a focus on the agent can dissolve the paradox without needing to settle the details of the moral patient. Let us, then, shift our attention to the agent. That is, what moral reasons are available to the agent when she is faced with the possibility of infringing a constraint in order to minimize overall infringements? According to both Richard Brook (2007) and Ulrike Heuer (2011), an agent has the same reasons to act in an MI situation as they do in an ordinary non-optimific situation—one in which the agent might infringe a constraint to prevent mere harm, as opposed to further constraint infringements. If they are correct, whatever

motivation the deontologist has to forbid constraint infringements in the latter case will lead to the same result in the former. This is a promising path, but as we will see, the details required to make the move work leave out important moral commitments.

In considering the paradox, Richard Brook (2007) noticed that in order to think MIs incur a special paradox, one must believe that “minimizing moral evil is a goal distinct from minimizing harm”, where “moral evil” is meant to separate the infringement of constraints from the harm they might cause (432). The basic idea is that if moral evil is just a kind of harm, then MI cases would not be any more paradoxical than ordinary cases in which a deontologist argues that an agent may not infringe a constraint in order to minimize harm. Thus, for MIs to generate a paradox, moral evil must be a different kind of moral consideration. From there, the basic strategy for Brook is to show that moral evil is not an important moral consideration, and so the paradox is dissolved.

Taking this a bit slower, consider two cases. In the first case, I am told that if I do not kill an innocent person, five shooters will kill five other innocent people. In the second case, if I do not push a fat man off of a bridge, five people will be killed by an out of control trolley. The deontologist of interest claims that you cannot kill in either case. However, according to the paradox of deontology, this is supposed to be an especially strange result in the first case. According to Brook, the only difference in the cases is that in the first case, the supposedly paradoxical case, the deaths are a result of moral evil. Thus, if it turns out that we do not have a moral reason to minimize moral evil, the two cases will no longer differ in our moral assessment. Both cases will then be simple instances of the deontology’s call for non-optimific action—the impermissibility of MIs will no longer be paradoxical.



Brook's goal, then, is to argue that we should not think there is a moral reason to minimize moral evil above and beyond our moral reasons to minimize harm. In order to motivate his position, Brook has the reader consider a case from Samuel Scheffler (1982):

“Consider two twins, equally innocent. While we are strongly inclined to say that it would be impermissible to kill the first twin in order to prevent the accidental death of the second twin, even if that were the only way to prevent the second twin's death, we have no comparably strong inclination to say that it would be impermissible to prevent the accidental death of the second twin instead of preventing the murder of the first twin by some other person, if one could only prevent the death or the killing but not both” (109).

This is Brook's main concern. If moral evil provides moral reasons that differ from and can be added to the moral reasons provided by concerns of harm, then it seems the rescuer ought to prevent the murder. However, in rescue situations, it seems that it is equally permissible for an agent to prevent an accidental death or a murder. What these rescue cases are supposed to show is that deontologists should not be concerned with acts of moral evil. Rather, to the extent that consequences are even considered in the evaluation of an action, the deontologist should only consider the resultant harm done or prevented. Therefore, apparent paradoxical cases should simply be seen as instances of the first challenge to deontology, its call for non-optimific action.

We see the same general approach in Heuer's (2011) discussion of breaking a promise. The question Heuer considers is whether a bystander ever has reason to aide a promisor in keeping her promise. If a bystander never has such a reason, then it will not be paradoxical in cases of possible MIs that an agent concerned with promise-breaking should not break her own promise to secure the promises of others.

Heuer argues that there are two types of reasons for keeping a promise: context-dependent and context-independent. Context-dependent reasons vary with circumstance,

and are related to the consequences of keeping or breaking a particular promise. If there is a context-dependent reason to keep a promise, or see to it that another keeps her promise, it will be in virtue of the circumstances, e.g. the harm done to the agent if the promise is broken, not in virtue of the promise itself. These sorts of reasons do not give an agent reason to minimize infringements, but rather to minimize harm, and so would only be relevant to deontology's first objection regarding non-optimific action. Thus, Heuer's focus is on denying that there are context-independent reasons—reasons one has to keep a promise merely in virtue of having made a promise—for an agent to prevent another from breaking a promise.<sup>10</sup>

To show we do not have such reasons, Heuer defends a Kantian view, arguing that even if bystanders can make another agent comply with her promise, the bystander cannot make the agent act for the right reasons. If an agent is to keep her promise for context-independent reasons, she must keep her promise in virtue of the fact that she made a promise. However, if a bystander somehow forces the agent to comply with her promise, the agent would be keeping her promise not because she made a promise, but because the bystander is controlling her in some way. Thus, according to Heuer, a bystander simply *cannot* ensure that an agent follows through with a promise for context-independent reasons, and so, the bystander cannot have reason to do so.<sup>11</sup>

Heuer argues that this line of argument can be generalized to all deontological constraints such that while bystanders may have context-dependent reasons (e.g. moral

---

<sup>10</sup> Notice that these reasons line up nicely with Brook's considerations of moral evil.

<sup>11</sup> Notice, however, that we can grant the above argument that bystanders cannot make agents act for the right reason and still argue that the bystander has a moral reason to see to it that the agent keeps her promise. In response, Heuer simply denies that we can make sense of a reason to see to it that there are fewer broken promises in the world. See pp.252-3 and fn.34 in Heuer (2011).

reasons to minimize harm) to prevent constraint infringements, bystanders never have context-independent reasons to prevent constraint infringements. Thus, if there are any moral reasons to ensure that an agent does not infringe a deontological constraint, they will apply only to bystanders in outcome related ways such that the agent would not be infringing a constraint in order to minimize infringements, but instead to promote good outcomes. If in the face of those reasons the infringement remains impermissible, then it will not be paradoxical, but rather a simple case in which the deontologist must defend her insistence on non-optimific action.

Brook and Heuer both manage to dispel the paradox of deontology. The challenge of the paradox was to show how the motivation for constraints could lead to the impermissibility of MIs. If they are right, an agent is faced with the same set of reasons to act whether they are faced with killing to stop a trolley or killing to minimize other killings. Thus, whatever motivation there is to forbid killing in one case will hold true for the other. But, notice that getting this result comes as a cost. Brook's view requires maintaining that agents have no moral reasons to minimize moral evil, while Heuer's view requires maintaining that agents have no moral reasons to prevent others from infringing deontological constraints. The question raised in critiquing their views, then, is whether these are costs the deontologist should be willing to make.

Consider moral evil first. In order to assess Brook's argument, it is important to get clear on two distinct issues he seems to conflate. The first is whether, in our moral assessment of an action, we should be in the business of separating and adding the moral evil of an action to the net resultant harm of the action. The second is whether we should be in the business of minimizing acts of moral evil in addition to minimizing harm. It

seems to me that Brook focuses on the former but the latter is the crucial issue. Brook's thesis holds even if we grant that we should add the moral evil of an act of murder to the moral weight of the resultant death. It would indeed turn out that a murder is worse than an accidental death, but there would not yet be anything especially paradoxical about the impermissibility of MIs. It would simply be that in cases of MIs, one allows something worse to happen than in a case of allowing accidental deaths. In both cases, we have an ordinary instance of non-optimific action. Thus, Brook's argument that an act of moral evil should not be added to the moral weight of deaths in rescue situations is largely irrelevant to his case.<sup>12</sup>

What is crucial for Brook's move is the second issue: do we have moral reasons to minimize acts of moral evil in addition to the reasons we have to minimize harm? Brook argues that agents ought not be concerned with minimizing acts of moral evil because in rescue situations it is permissible to save a child from an accidental death at the expense of saving a child from a murder. If we agree with him regarding rescue situations, then it is supposed to follow that minimizing acts of moral evil is not (nor should it be) a goal separate from minimizing harm, from which it follows that we do not have reasons to minimize moral evil. The problem is that we can get the same result, that it is permissible to save the child from the accidental death, without denying that we have any reason whatsoever to minimize moral evil.

---

<sup>12</sup> Granted, I think this is a good result for his case as I remain unconvinced that we ought not add moral evil to the moral weight of a death. It does seem to me that a murder is a worse thing to have happened than an accidental death. The Holocaust does seem to be a worse thing to have happened than the Spanish influenza (See McMahon (1991)). I remain uncertain as to how these considerations should add together, especially in rescue situations, but I set these issues aside here insofar as the point is irrelevant to Brook's case.

Consider a view that holds that morality has more than one aim. A proponent of such a view might think that morality has, for instance, two distinct goals from which moral reasons might be generated: minimize harm and minimize acts of moral evil. The crucial move is that one can hold this without thinking that both goals should always figure into our moral decision-making. One might argue that *other things being equal*, we have reason to minimize moral evil. However, once significant harm is a possibility, other things are no longer equal, such that considerations of moral evil should be set aside.<sup>13</sup> On this view, in rescue situations, the moral reasons generated by considerations of harm shroud any reasons that might be generated with respect to moral evil in such a way that it is permissible for me to save the child from an accidental death in lieu of saving a child from a murder.<sup>14</sup> However, in other situations, morality might indeed require an agent to minimize acts of moral evil.

The key question is whether we indeed have reasons with respect to minimizing moral evil. If we do, then in the MI case, the agent might have reasons to minimize moral evil in addition to harm, such that the case would again be paradoxically different from trolley-type cases. Minimally, what the above shows is that Brook's cases are not sufficient to deny that we have these reasons. We must now look to other cases that better isolate

---

<sup>13</sup> Kagan (1988) defends a very similar move in his rejection of what he calls the "additive assumption". As an example, Kagan describes a case in which a defender of the doing/allowing distinction might agree that the distinction does not make a difference a case of self-defense. The idea is that it may not always be the case that moral factors should be calculated through a simple additive function. Perhaps self-defense, or in our case, significant harms, can function as a multiplier on certain moral factors, in these cases, a multiplier of 0.

<sup>14</sup> One might respond that in the rescue situation described, since considerations of harm are even, the agent ought to look for other moral considerations, such as whether moral evil is involved, to break the tie. I suggest, however, that it might be considered inappropriate to focus on considerations other than the lives at stake. Just as we might think that considerations of a slight difference in the quality of the life saved holds moral weight, but should not be used as a tie-breaker, so too, might we think that how one or the other is killed should not break the tie. If the reader remains unsatisfied, I hope to at least convince her that intuitively moral evil seems an apt moral consideration in cases in which there are no considerations of harm.

considerations of moral evil from considerations of moral harm in order to discern whether moral evil does generate moral reasons for agents after all.

Imagine I have a friend who does maintenance work for a wealthy family. While the family is away, she has the keys to their mansion and intends to break in and steal a few items that she is confident the rich mansion owner would not notice or miss. Further, imagine that I know the family is planning on discarding these items during their next spring-cleaning. Thus, I am confident that no harm will be done to the mansion owner.

Grant for this case that, even if no harm is done to the wealthy family, my friend would be doing something wrong, there would be some amount of what Brook calls moral evil. Set aside whether that fact generates any moral reasons for my friend, since it is unclear whether it does or not on Brook's view.<sup>15</sup> Even if it does, what is clear on Brook's view is that the moral evil at issue generates *no* moral reasons for me *qua* bystander. Harm is the only consideration, and we are granting that no harm will be done.

My intuitions part ways with Brook's in this case. Suppose I am eating lunch with my friend as she hatches this plan, and I know that I can easily talk her out of it. Personally, I feel a moral pull to do so. I think I have genuine moral reasons prevent my friend from stealing, especially when it requires little effort. Indeed, if I ultimately decided not to say anything and found out she went through with her plan, I think it would be apt to feel a modicum of guilt. Knowing that the family was going to throw out the goods anyway, it would not be guilt stemming from any harm that was done, but simply guilt that I did not stop my friend from performing a morally evil act. And this is an intuition

---

<sup>15</sup> Brook seems to waver on the intra-personal case.

that I think generates to different cases as well: cases of adultery when it is clear the marriage is ending anyway, cases of broken promises as we will shortly see, cases of little white lies, and the list goes on. Even when the harm done is minimal or nil, there is a moral pull with respect to acts of moral evil. It seems that reasons are generated for both the agent and the bystander to minimize these acts, other things being equal.

A similar move can be made in response Heuer's argument as well. Recall that she argues we cannot make another act for the right reasons. However, consider a case in which a good friend of mine is struggling to keep a promise she made. I know she has a good will, she simply needs pep talks from time to time. If I go chat with her, I am confident that this will give her the strength to keep her promise. Do I have moral reason to act to prevent her from infringing a constraint, even if no harm would be done by my friend breaking her promise? Insofar as it seems that I can indeed help my friend act for the right reasons, even Heuer may admit that I do. It seems that the same reasoning from the cases above apply. I feel that there is a moral, albeit defeasible reason, for me to prevent those acts which morality deems impermissible when I can. Denying these reasons does allow deontology to avoid paradox. However, it seems to me to be at too high a cost.

What is the theoretical basis for holding to such intuitions? I will say more in the next section, but briefly, I think it is that deontological constraints generate (at least) two kinds of reasons: primary agent-relative reasons for particular agents not to perform certain acts and secondary agent-neutral reasons to minimize the performance of such actions when an agent can do so without infringing a constraint herself. The idea is that a constraint is put into place primarily to prevent agents from performing certain actions

that would, for instance, disrespect the dignity of persons. That purpose takes a front seat to all else. However, in the spirit of condemning these actions, agents have general reasons to prevent infringements within the bounds of the constraint. These latter reasons may be defeasible in such a way that other moral concerns might completely trump them. However, other things being equal, agents have reasons to minimize moral evil when they can. Sticking to these intuitions, however, does leave open that there are cases of MIs, the impermissibility of which, are *prima facie* paradoxical.<sup>16</sup> Thus, we need to take a closer look at deontological constraints themselves.

#### IV. Constraints Revisited

In a certain sense, the views of Brook and Heuer suffer from the same sort of issue as that of Kamm's view. In the case of Kamm, she was able to dispel the paradox only by focusing in on one aspect of MI cases, the dignity of the one. Brook and Heuer, although focused now on the agent rather than the patient, also problematically narrow the scope of the cases. On my view, agents have reasons to prevent harm *and* to prevent evil. Agents have reasons with respect to the dignity of those with whom they immediately interact, and those with whom they only share a bystander relationship. Denying these reasons may help make sense of a deontological puzzle, but it does so at the cost of a full picture of morality.

We have considered both the agent and the patient. What I suggest instead is that we take a closer look at deontological constraints themselves. To that end, consider first the foil to deontology, consequentialism. Consequentialist theories argue that actions are to be morally assessed based solely on the value of their consequences. Traditionally, the

---

<sup>16</sup> If I'm wrong about these intuitions, then it may be that Brook's move will work. However, for those moved by the cases, a different move is needed to dispel the paradox, which I provide in Section IV.



consequentialist holds that an action is morally permissible only if it produces at least as much good as any alternative option and morally wrong otherwise.<sup>17</sup> One major argument that motivates a move to deontology is that consequentialism is in a certain sense, too permissive. Consequentialists permit—indeed require on the conventional view—killing, torturing, lying, and other possible harmful acts on occasions when doing so would best promote the good. However, the critic of consequentialism holds the intuition that there are certain actions that ought not to be performed even if doing so would result in more good.

It is this intuition that leads many to abandon consequentialism and adopt deontology with its constraints. As a first pass, deontological constraints might take the following form:

**Deontological Constraint:** an important moral stricture in which it is ordinarily impermissible to perform certain actions, e.g. lying, killing, cheating, stealing, breaking promises<sup>18</sup>

Importantly, however, the constraint intuition described above implies the following corollary:

**Good Promotion Corollary:** It is impermissible to infringe a deontological constraint simply because it produces more good than acting in accordance with the constraint.

---

<sup>17</sup> I refer here to maximizing views of consequentialism. There are other variations of consequentialism, e.g. satisficing and scalar consequentialism, which we saw in Chapter 1. For our purposes here, it is the maximizing version that best sets up the deontologist's motivation for constraints.

<sup>18</sup> Note that this is a first pass at a general formula for deontological constraints. A complete view of deontological constraints will require a metric for individuating and counting constraint infringements. It will also require selecting which actions are constrained. It might be that on one view there is a general constraint against harming, which encapsulates both lying and killing. It might be that some actions seem to infringe more than one constraint, i.e. an instance of deception via lying. In such cases, a complete view will need to make sense of whether the act constitutes one infringement or two. I set these issues aside here in order to deal with the paradox at hand. The solution I offer will likely be available to the deontologist no matter how she settles these other issues.

On traditional consequentialist views, it often turns out that actions, such as killing an innocent person, are impermissible. However, if doing so would, in a given case, best promote the good, then it is indeed permissible. Deontologists, however, tend to argue that actions of certain types are impermissible even on some occasions in which they would produce the most good.

In order to avoid the paradox, I want to argue that minimizing the number of infringements of deontological constraints is just another way of promoting the good. Deontological constraints, as the Good Promotion Corollary makes clear, are not permissible to infringe simply because doing so would produce more good. Thus, there need not be anything particularly paradoxical about the impermissibility of MIs, or so I will now argue.

That there is a deontological constraint against killing innocents is an indication that these deontologists believe killing innocent people is especially morally problematic. Generalizing to other constraints, deontologists of this ilk are deeply concerned that agents do not perform acts of a certain type. Indeed, it is not uncharitable to suppose that they think that the world would be a better place if there were fewer instances of innocents being killed and of other constraints being infringed. However, in order for the paradox to arise, an additional step is needed. The objector must argue that if deontologists are really concerned that agents not perform such acts, they should be in the business of minimizing instances of those acts, even if that means calling for an agent to kill an innocent or infringe some other constraint herself. But when we focus on the nature of the constraint and the corollary that follows, we see that deontological constraints outright deny this.

The deontologist can and should admit into her view the reasons that Brook and Heuer reject. She can and should admit that it would be better if there were fewer killings of innocent people and that we ought to be in the business of minimizing them. Indeed, on her view, it would best promote the good to do so. But the deontologist at issue does not think that an individual agent should promote the good at all costs. She thinks there are certain actions that an agent should not perform even if performing such an action would best promote the good. Thus, on this view, the deontologist can admit into her view the sorts of reasons that Brook and Heuer suggest she must reject, while holding on to their general strategy for responding to POD. That is, allegedly paradoxical cases are no different from ordinary cases in which the deontologist argues that an agent may not perform a certain action even if doing so would result in more good. Surely, the deontologist must independently motivate having that as a constraint at all,<sup>19</sup> but that is not what is at issue here. Rather, the question is how the deontologist can make sense of a constraint that does not allow a certain kind of exception. The answer, I contend, is simple. When faced with the prospect of performing an MI, an agent is faced with the prospect of performing an action she is constrained from performing even when it would promote the good, in order to do just that, promote the good. There is nothing paradoxical about the impermissibility of such a constraint infringement.

One might worry that this response is all too simple. If I am truly allowing for moral reasons with respect to both minimizing harm and minimizing constraint infringements, it seems that the prospect of saving some number of lives as well as a great deal of moral evil from being done will indeed outweigh the single reason I have not to

---

<sup>19</sup> And perhaps a modified story of Kamm and Lippert-Rasmussen on dignity would suffice.

kill any particular innocent person in an MI case. So far, it seems that I am simply pounding my fist about how these reasons are to be weighed in deliberation. In light of this worry, there are few features of the view worth pointing out.

What is key is to show that these reasons agents have to not perform certain actions are strong enough to outweigh the reasons agents have with respect to minimizing harm as well as constraint infringements in general. With respect to our reasons to promote the good, it is simply the uncontroversial non-optimific action case expressed in a different way. Insofar as deontologists hold that there are constraints at all, they must hold that an agent's reasons to not perform a certain action are stronger (at least in some cases) than her reasons to promote the good.

The tricky part is that I want to argue that the same holds true with respect to our reasons to minimize moral evil or constraint infringements. That is, insofar as deontologists hold that there are constraints at all, they must hold that an agent's reasons to not perform a certain action are stronger than her reasons to minimize constraint infringements. To motivate this move, we need to take an even closer look at the constraints on the table. While Brook and Heuer were mistaken to deny certain kinds of agent-neutral reasons with respect to deontological constraints, I do agree with them that deontological constraints are agent-relative in nature. Building off of the first pass above, we might spell out the nature of such a constraint further:

**Agent-Relative Constraint (ARC):** an important moral stricture in which, for all agents, A, and for certain action types X: it is ordinarily impermissible for agent A to perform a token of action type X, even when doing so would maximize the good

On this view, the very strong reason that I have to not, for instance, kill an innocent person is captured in this constraint that I not, *myself*, perform this action. That said, the same motivation that generates these agent-relative reasons, also generates other *agent-neutral* reasons, reasons we all have to minimize infringements in general (both our own and that of others). These reasons go beyond the ordinary harm-based reasons that we might have to minimize infringements. Essentially, they are the very “moral evil” and “context-independent constraint-based” reasons that Brook and Heuer reject.

The key to explaining why our agent-relative reasons to not infringe a constraint ourselves outweigh the higher number of these agent-neutral reasons we might have to minimize constraint infringements overall is to notice that the agent-relative constraints are in some sense prior to the agent-neutral reasons we have to minimize their infringement. Insofar as there are constraints, we have these agent-neutral reasons to prevent their infringement. If there were no such constraints, we would have no such reason. There would be no constraints to infringe and so no reason to minimize infringements outside of the ordinary non-paradoxical harm-based reasons we already have to minimize the killing of innocents. What explains why these agent-relative reasons take precedence, then, is that there simply would be no constraint-based agent-neutral reasons without them.

My claim is that we can allow that all sorts of moral reasons are available to agents, while maintaining that MIs are impermissible. Other things being equal, we ought to minimize both harm and the infringement of constraints. However, if we have to infringe a constraint in order to promote those reasons, other things are not equal. Constraints are put in place in order to capture the intuition that there are certain acts

that an agent may not perform in pursuance of some other end. Minimizing constraint infringements is, just like minimizing harm, another one of those ends. Moreover, unlike minimizing harm, minimizing constraint infringements is an end we would have no reason to minimize unless constraints were already in place.

This just leaves us with the question of thresholds. I argued early on that Kamm's solution to the paradox fails in part due to her acceptance of moderate deontology. Insofar as I will ultimately want to accept thresholds, too,<sup>20</sup> the question is raised as to whether my view faces the same problems. Recall the reason that moderate deontology posed a problem for Kamm, however. On her view, what explained why MIs are impermissible is that such a view better shows respect for the dignity of persons. Absolute deontology, however, shows even *better* respect on her view. If showing greater respect makes a view better, then we should be absolutists. Notice, however, that nothing about my view appeals to this sort of reasoning. MIs are not impermissible because such a view shows better respect. Rather, MIs are impermissible because the agent-neutral reasons we have to minimize constraint infringements derive from the agent-relative reasons we have to *ourselves* abide by constraints. These lines of thought remain intact whether one is an absolute or a moderate deontologist. Moderate deontologists will still need to explain why our agent-relative reasons are strong enough to justify constraints in general, but not enough to justify *absolute* constraints. But, that is a problem for another chapter.<sup>21</sup>

## V.

The paradox arose because it seemed perplexing to think that concern for the non-infringement of a deontological constraint would not lead to the permissibility of

---

<sup>20</sup> See Chapters 4 and 5.

<sup>21</sup> A Problem that I will take up in Chapters 4 and 5.

MIIs. However, what I have tried to show is that when we are clear about the content of deontological constraints, we see that concern for them straightforwardly entails the impermissibility of MIIs. In fact, if there were a paradox to be found, it would be in allowing MIIs. It would be perplexing if concern that I not perform a certain action, regardless of the good to be produced, led to performing one of those actions in order to promote the good. Deontology must of course still defend its call for non-optimific action in these cases, i.e. defend having constraints at all, but I hope to have shown that the constraints themselves can rise to the challenge of responding to the paradox of deontology.

This of course does not mean that deontological constraints are completely out of the woods. While this original paradox of deontology is no longer problematic, a second paradox arises in light of this agent-relative reasons response. The original paradox is dissolved once we realize that constraint provide an agent with reasons to *herself* not infringe a constraint. But what happens, then, when an agent is faced with infringing a constraint that would minimize *her own* constraint infringements? Responding to this question is the focus of the next chapter.

### Chapter 3: The Intrapersonal Paradox of Deontology

#### I.

In the last chapter, I responded to a challenge often called the paradox of deontology (POD).<sup>1</sup> This, recall, is the claim that whatever motivation the deontologist has for adhering to constraints, it should lead to exceptions when overall constraint infringements would be minimized. Even if agents are not permitted to kill one to save five, they ought to be permitted to kill one in order to stop five *killings*. After all, killing unjustly violates the dignity of persons, and in this case, by disrespecting the dignity of one, you will protect the dignity of five. If protecting dignity is what led you to constraints in the first place, then in these cases, your view ought to allow agents to do their best to protect dignity overall.

I argued that a successful reply to this challenge is to note that deontological constraints generate or capture agent-*relative* reasons (among other reasons).<sup>2,3</sup> Deontological constraints are constraints on the actions of agents, not a call for agents to see to it that there are fewer killings in the world by other agents. A constraint against killing captures the idea that each particular agent has strong moral reasons to not *herself* kill. So, in a case in which an agent could stop five killings by herself killing one, the

---

<sup>1</sup> See, for example, Nozick (1974) and Scheffler (1988).

<sup>2</sup> Sometimes it seems that deontologists hold that constraints are rules, which generate reasons for agents. Other times it seems that talk of constraints is just a matter of capturing the reasons that we already have. I will talk in terms of “constraint-based” reasons in order to side step this debate.

<sup>3</sup> For a defense of agent-relative reasons, see for example, McNaughton and Rawling (1988). For examples of this sort of response to POD, see Brook (2007), Heuer (2011), and the previous chapter.



reason the agent has for herself not to kill outweighs any reason she may have to prevent other killings. In this chapter, I want to tease out the significance of an underappreciated aspect of the agent-relative reasons response to POD.

Even if we allow that the appeal to agent-relative reasons can explain why an agent is prohibited from killing in order to stop five *others* from killing, it provides no guidance as to what an agent ought to do if she is faced with the prospect of killing one in order to prevent *herself* from killing five. While much ink has been spilled responding to POD, this *intrapersonal* paradox of deontology (IPOD) is largely ignored or quickly set aside.<sup>4</sup> I think this is a mistake. After expanding on the challenge of IPOD in the next section, I show in Section III that it is a mistake to allow agents to infringe a constraint in order to minimize their own constraint infringements. In Section IV, I then argue that constraint-based reasons are both agent- and *time*-relative, and show how this dissolves the intrapersonal paradox.

## II.

The appeal to agent-relative reasons to solve the initial, *interpersonal* POD does not address a self-regarding version of the paradox for each agent. Although the agent is constrained from minimizing killings of others by agent-relativity, it seems that she might not be constrained from minimizing *her own* killings. Consider three cases in which an agent might be faced with infringing one constraint to minimize her overall constraint infringements:

<b>Bomb</b>	Scott has set a bomb to go off that will kill five innocent people. Now, feeling guilty about his actions, Scott realizes that the only way to stop the bomb from going off is to throw a body onto the
-------------	---

---

<sup>4</sup> One exception is Kamm (1996). Brook (1991) and Heuer (2011) mention similar cases, but their treatments are both rather brief.

bomb. Scott knows that he is too small, but there is an innocent person nearby large enough to prevent the damage. Thus, the only way to stop Scott from killing five is for Scott to kill the one.<sup>5</sup>

**Revenge** Dinah just watched her parents die in a robbery. She is out for revenge. Dinah knows she will indeed discover the identity of the killer and avenge her parents by killing his innocent (five person) family. However, she also knows that if she simply releases her anguish by killing the next person she sees, her need for revenge will dissipate and she will not kill the five innocents.<sup>6</sup>

**Oathkeeper** Kahlil made separate oaths to protect each member of a six-person family. However, the family is now at war. Whatever he does now, he is bound to break at least one oath. Kahlil realizes, however, that if he breaks his oath to the oldest son, he will be able to keep his oath to protect the remaining family members. If he keeps his oath to the son, however, the rest of the family will be harmed and he will have broken five oaths.

What does the deontologist tell Scott, Dinah, and Kahlil to do in these cases?

When faced with the original interpersonal paradox cases, the agent-relative deontologist rejects killing one to stop five other killings or breaking an oath to prevent five other oath breakings. After all, an agent's reasons with respect to her own constraint infringements trump her reasons to prevent the infringements of others. However, in these intrapersonal cases, if the deontologist holds that each agent has reason herself not to infringe a constraint, then in each case the agent has five reasons not to kill or break an oath to the five, and a single reason not to kill or break an oath to the one. Pointing to agent-relativity does not answer how an agent ought to weigh her reasons in these cases. Nor are our intuitions especially clear. In his treatment of a similar case, Richard Brook (1991) seems

---

<sup>5</sup> This case is largely borrowed from Kamm (1996). Brook's (1991) lion's den case may also come to mind.

<sup>6</sup> I do not intend this to be a case of psychological compulsion. If it were, then one's moral agency would be compromised, and any moral advice would be moot. Instead, grant for the sake of argument, the unrealistic level of introspection and knowledge of the future that this case requires. It may turn out that a future type case will always be unrealistic. However, I take it that our imperfect knowledge of our future selves is all the more reason to argue that an agent ought not to kill in order to prevent her own future killings.

to take for granted that agents may not perform a single constraint infringement to minimize overall infringements, while Ulrike Heuer (2011) briefly defends the opposite intuition on behalf of deontologists. Given the uncertainty of intuition, it is worth investigating both approaches to intrapersonal cases. To get the views on the table, call an infringement of a particular constraint when it would minimize the overall number of infringement of that same constraint by that agent over her life an *intrapersonal minimizing infringement* (IMI). The question facing the deontologist, then, is whether or not IMIs are permissible.

If we consider the agent-relativity of deontological constraints, then an agent is faced with five reasons to prevent her future killings and only one to avoid her current killing. Doing the math seems to lead to the permissibility of IMIs. However, insofar as deontological constraints are often seen as in place in order to prevent cases of killing one to save five, the permissibility of IMIs may be a difficult bullet for the deontologist to bite. The challenge, then, is for the deontologist to either explain why allowing IMIs is consistent with deontological motivations or else abandon or supplement agent-relativity in order to prohibit IMIs. In what follows, I will consider a response of each kind.

### III.

Consider first the agent-relative response according to which the interpersonal and intrapersonal cases should be treated differently, i.e. an agent should be prohibited from killing one in interpersonal cases, but permitted to do so in intrapersonal cases, precisely because of the deontologist's focus on agent-relative reasons. Call this view mere

agent-relativity (MAR).<sup>7</sup> On this view, when an agent faces the possibility of minimizing *her own* constraint infringements by infringing a single constraint, she ought to minimize, i.e. perform an IMI. Recall that the deontologist's response to POD relies on the thought that morality requires each of us to attend especially to our own actions, rather than to adopt an impartial perspective that treats our actions as, from our perspective, on a par with those of others. This focus on one's own agency as opposed to the minimization of the constrained actions themselves could allow the minimization of one's own constraint infringements, even if it does not allow the minimization of constraint infringements in the interpersonal case. As deontologists, the argument would go, the agent-neutral reasons we have to minimize the constraint infringements of others do not outweigh the agent-relative reason we have to abide the constraint. However, when an agent's constraint-based agent-relative reasons conflict, the weight of an agent's own constraint-infringements can indeed outweigh one another. Other things being equal, the weighing may be a matter of numbers. If the harm done by infringing each constraint is held fixed, then an agent ought to infringe one constraint to prevent herself from infringing many. However, we might also imagine that an agent's reason to not kill might outweigh her reasons to refrain from multiple lies. Heuer (2011) briefly motivates this view through a promise-keeping case. She argues:

[A]ssume that I have given three promises, all equally important; that is, as far as additional reasons for keeping them are concerned they are all on a par, but I can keep two of them only if I break one. It seems to me that in this case I have most reason to break the one promise in order to make sure that I keep the two. At any rate, the question seems to be whether, in a case where all the options are on a par

---

<sup>7</sup> I call the view *mere* agent-relativity, as the view suggests that constraints only generate or capture agent-relative reasons. This will later be contrasted with my own view that, while incorporating agent-relativity, adds a layer of relative reasons with respect to time.

but an agent cannot comply with all her reasons, she should comply with the greater number of her reasons. The issue becomes one of aggregation. (255)

The result in these intrapersonal cases is that agents act so as to infringe the fewest number of constraints possible. If that means infringing a single constraint, that is what the agent must do. This is what MAR holds.

Although this view is well motivated as far as it goes, there are good reasons to reject this response to IPOD.

### *III.1 Classic Deontological Intuitions*

The first worry about allowing IMIs is quickly brought to light by a modification of a familiar case:

#### **Intrapersonal Surgeon**

Aakash is a surgeon with a number of enemies even though none of them have done anything to deserve his enmity. Wishing to dispose of his foes, Aakash poisons a bottle of wine and proposes a toast with the five. After a time, each of the five is faced with a different life-threatening organ failure. Seeing his enemies in the hospital, Aakash gets cold feet. Luckily, Aakash stumbled upon the chart of Arilisa, who is in the hospital for a routine check-up. Arilisa is a match for all five of Aakash's poison victims. Since Aakash holds the view that it is permissible to minimize one's own constraint infringements, he gratefully traps Arilisa and harvests her organs to save the five.

It should, of course, be granted that Aakash did something impermissible when he poisoned the five. However, having done so, Aakash was faced with his ultimately killing five people or killing just the one. Aggregating his reasons, MAR suggests that Aakash ought to kill just the one, and so he ought to kill Arilisa.

Is this the right result? The original surgeon case is ordinarily thought to be one of the paradigm cases for differentiating between consequentialists and deontologists. Deontologists hold that you cannot harvest the organs of the one. Harvesting the organs

is an instance of intending a death, not just foreseeing it, or it is a doing, not an allowing, or it is using him as a mere means to an end.

The charge against MAR is that it seems to conflict with powerful deontological intuitions in intrapersonal cases. Is it permissible to frame the innocent if you started the riot? Or to push the hiker off the footbridge if you tied the five to the trolley tracks? It is unclear to me how a defender of MAR can answer “no” to these questions. MAR holds that the agent-relative reasons generated or captured by constraints provide reason to minimize one’s own constraint infringements. In each of these cases, then, the agent is permitted to sacrifice the innocent; indeed, she ought to do so. A proponent of MAR, then, must either deny these results or else explain how they are consistent with the motivations underlying deontology. In Section IV, I will argue that by adding time-relativity to the agent-relative view of deontology, this loophole of sorts can be closed altogether.

### *III.2 Clean Hands*

A second problem with allowing IMIs is a clean hands worry. As Thomas Nagel puts the worry, “It is sometimes suggested that such prohibitions [i.e. deontological constraints] depend on a kind of moral self-interest, a primary obligation to preserve one’s own moral purity, to keep one’s hands clean no matter what happens to the rest of the world” (1972: 132). If an agent can do a great deal of good by getting her hands dirty, for instance, by killing an innocent, shouldn’t morality require that? Nagel continues, “what gives one man a right to put the purity of his soul or the cleanness of his hands above the lives or welfare of large numbers of other people” (132)? This is of course an objection

that plagues the deontologist well before this point in the dialectic. What I contend, however, is that MAR is unable to avail itself of the standard responses to the worry.

There are two ways deontologists tend to respond to the clean hands worry. On the one hand, one can deny that the motivation for the view has anything to do with the cleanliness of an agent's hands, despite appearances to the contrary. Moral reasons are said to be agent-relative because, for instance, one's own agency is the only agency one has control over. Or instead, a deontologist may argue that interfering with another's agency is a violation of human dignity, which while not necessary for wrongness, is sufficient. Agents end up with clean hands on these views, but it is not the focus of or motivation for the views. On the other hand, one can instead embrace clean hands, arguing, as Williams (1973) does, that one's own moral integrity matters deeply. Morality must embrace the deeply held commitments of agents. Requiring an agent to dirty his hands for some other end "is to alienate himself in a real sense from his actions and the source of his action in his own convictions" (Williams, 1973: 49). That is, it can, and perhaps should be, a desideratum of a moral view that agents are permitted to have clean hands.

Consider first the response that the motivation for deontology does not involve keeping one's hands clean. While the underlying motivation for agent-relativity may have nothing to do with keeping one's hands clean, notice that allowing IMIs requires agents to dirty their hands in cases in which doing so keeps one's hands overall cleaner. On this view, agents are not permitted to make exceptions to constraints in order to prevent others from infringing constraints. However, agents are permitted, and indeed required, to make exceptions if their own moral ledger is at issue. I worry that clean hands seem to

be of at least some concern on this view. According to MAR, agents are not permitted to dirty their hands by lying, cheating, stealing, or killing when it is another agent who will otherwise do wrong. However, in cases in which a lie or a murder will prevent further blemishes on the agent's own moral ledger, she is permitted to dirty her hands. It is true that an agent's hands will be dirty either way in this scenario. However, recall that we are now considering the view that the motivation for deontology is *not* clean hands. When no exceptions are made, it is clear that clean hands are simply a byproduct of the view. However, exceptions *are* made on this view, and they are made precisely in cases that are concerned with an agent's own constraint infringements (her own clean hands). Thus, it does seem that MAR is problematically self-indulgent, allowing dirty hands only when one's own interest is at stake.

A proponent of MAR may dig in here and argue that it is not a matter of one's moral ledger, but rather a matter of concern for actions that one has direct control over. After all, that is the primary motivation for an agent-directed, agent-relative view. The problem is that, in IMI cases, one *does not* have direct agential control over one's infringements of the past (or one's infringements in the future). Those infringements have either already been set into motion or are not yet on the table.

It could be argued that in past cases as they have been presented, one does have control over the infringement.<sup>8</sup> Although, in Bomb, Scott has already set off the bomb, one might argue that he has not killed anyone until the bomb detonates. In that way, Scott *does* have direct control over whether he will have killed many. The problem with this response is that the same might be said whether Scott was the one who set off the

---

<sup>8</sup> I will go on in Section IV to discuss the timing of constraint infringements further. I set this issue aside for the most part here insofar as the response seems to fail on other grounds.



bomb or not. That is, if Scott has direct control over what I am calling his past constraint infringements in Bomb, then he also has direct control over the constraint infringements of others when someone else has set off a bomb. However, again, if Scott may only kill the one to stop the bomb from killing the many when *he* has set off the bomb, it seems to be a matter of concern for one's moral ledger, not a concern for what one has direct control over. Thus, this response to the clean hands worry seems less effective on this view.

If one instead argues, with Williams, for the importance of moral integrity, then the question becomes whether allowing IMIs is consistent with one's moral integrity. Views of integrity vary, and only some will be helpful in responding to the original clean hands worry. Chesire Calhoun (1995) distinguishes between three main views of integrity: integrated-self, identity, and clean-hands. All three views connect integrity with the endorsements of agents, but it is the clean-hands view of integrity, which can be attributed to Williams, that is most relevant for our purposes.<sup>9</sup> Calhoun writes:

On this picture, integrity is a matter of endorsing and, should the occasion arise, standing on some bottom-line principles that define what the agent is willing to have done through her agency and thus the limits beyond which she will not cooperate with evil. A person has integrity when there are some things she will not do regardless of the consequences of this refusal. (246)

On this view of integrity, an agent who has a deep commitment to deontological principles maintains her integrity by refusing to compromise even if, for instance, lying or killing would lead to a better outcome. Moral integrity is thus used to defend the view that an agent ought not compromise his moral ledger to prevent others from infringing constraints. Morally, I am committed to the principle that I ought not to kill. There is

---

<sup>9</sup> Although Williams is most famously associated with the "identity" view of integrity, he has advocated for the clean-hands view as well.

nothing wrong, and indeed something right, about my refusing to infringe that constraint. On this view, clean hands are not self-indulgent; rather, they are a mark of integrity.

Turn now to the intrapersonal case. According to MAR, an agent is required to infringe a constraint if it will lead to the agent committing fewer constraint infringements overall in her life. The worry here is that this requirement is just as much an attack on the agent's integrity as is the requirement that an agent infringe a constraint to prevent others from doing so. Integrity, on this view, is inconsistent with an agent compromising her commitments. Thus, infringing a constraint, even if it minimizes one's own constraint infringements overall, is likewise inconsistent with integrity.

The case is a bit more complicated, however, insofar as one's integrity will not remain intact whichever option is chosen in IPOD cases. If the agent does not infringe a constraint now, it is stipulated that she will commit a greater number of infringements later. If integrity is compromised either way, one may then ask whether a greater degree of integrity is maintained for minimizing. I think not. While it could be argued that performing a minimizing infringement is the best way for you to minimize harm and constraint infringements of others, this seems to be a consequentialist motivation. Constraints are in place to prevent agents from performing certain actions even if a performance of that action would lead to things like the minimization of harm and rights infringements. Maintaining your moral integrity requires resisting temptations to infringe constraints for the sake of some other end. As I will argue later, an agent's failure of integrity in the present is not excused or redeemed by the successful preservation of moral integrity in the future. To use one Kantian formulation, in IPOD cases, when you kill one to minimize constraint infringements, you treat the victim as a means for some other end.

Moreover, consider again intrapersonal surgeon. If the wrongs began in the past, the agent would be sacrificing the rights of another to mop up after herself. If the further wrongs are in the future, she is sacrificing the rights of another to prevent her own future wrongdoing. Either way, she is sacrificing the rights of another to save her moral ledger, something that does not seem to be consistent with a view of integrity that requires standing one's ground.

Deontologists may always have to endure some degree of criticism from clean hands objectors. However, the ordinary ways of responding to the worry do not seem available to MAR. The burden is on those wishing to defend MAR to find a new response to the clean hands worry. For my part, I will argue in Section IV that a view that is both agent- and time-relative can avail itself of the original responses to the clean hands worry, and perhaps add another.

### *III.3 Goals and Constraints*

A third problem with MAR is that it seems to treat deontological constraints as goals. One way of talking about the original paradox is in terms of goals and constraints. The opponent of deontology wonders why the motivation for constraints does not lead to treating the minimization of constraint infringements as a goal to be achieved. The deontologist's response is simply that this mischaracterizes how constraints work. To be constrained from performing certain actions is not to be presented with a goal of minimizing the performance of those actions. However, the deontologist who maintains that one may infringe a constraint to minimize her own infringements does seem to treat constraints as goals. That is, constraints on this view provide agents with agent-relative goals, goals to minimize the performance of certain actions in one's own life. One might

argue that agents are still constrained from lying, stealing, and so on, in order to stop others from infringing constraints. However, if an agent has the goal of minimizing these actions in her own life, the constraint with respect to the actions of others is trivial. Lying to prevent the lies of others would not be conducive to the agent's goal of lie-minimization in her own life. No constraint is required to get the correct interpersonal result.

This defense of agent-relative goals alone might not actually present a problem for the deontologist. There are a number of ways to define deontology, or at least the important distinction between purportedly consequentialist and purportedly deontological views. One way of splitting the normative terrain is to point to teleology.<sup>10</sup> Deontological views hold that at least some moral reasons are non-teleological, while consequentialist views defend strictly teleological reasons. To allow IMIs is to treat deontological constraints as agent-relative goals, which is to adhere to agent-relative teleology. If thoroughgoing non-teleology is the defining feature of deontology, then MAR gives up the game.<sup>11</sup> However, elsewhere in the literature, agent-relativity is argued to be the defining feature of deontology.<sup>12</sup> If this is right, then the agent-relative goals countenanced by MAR are consistent with deontology. Agent-relative goals do leave constraints behind, but if that is the cost of saving agent-relativity and the spirit of deontology, then so be it.

---

<sup>10</sup> This seems to be largely how those defending the Consequentializing Project view the difference. See, for instance, Portmore (2011).

<sup>11</sup> At least with respect to deontological constraints. If the same view still maintained that there are, for instance, permissions to perform actions that do not maximize outcomes, it may still be considered a deontological view. See Ch. 2, fn. 1.

<sup>12</sup> See, for instance, Scheffler (1982) and Kagan (1989).

For present purposes, it does not matter particularly what marks a view as deontological. There are different axes of normative importance. There are agent-relative teleological views as well as agent-neutral non-teleological views. However, it is important to point out what MAR gives up: deontological constraints. What was once a constraint is really just an agent-relative goal.<sup>13</sup> The agent will remain constrained in some sense, e.g. it will still be impermissible to kill an innocent to stop others from killing innocents. However, as I argued above, the constraint will be trivial on this view. Thus, for any deontologists wishing to defend constraints across the board, this response to IPOD will be unsatisfying. For those deontologists solely interested in agent-relativity, this view may be seen as a welcome compromise to solve a sticky problem for deontology. However, there is one more problem that arises for this response to IPOD that might dissatisfy even this last group.

### *III.4 The Appeal to Full Relativity*

In *The Possibility of Altruism*, Thomas Nagel argues for what he calls the timelessness of reasons. That is, the reasons that will become reasons for an agent in the future are reasons for the agent now. This is his argument for prudence, at least understood as overall preference satisfaction, and is grist for the mill of the view we are discussing. In the intrapersonal paradox case, the agent will have reasons in the future not to infringe constraints, and according to Nagel's defense of prudence, those reasons are reasons for the agent now. For Nagel, however, this is just a stepping-stone to his larger project of

---

<sup>13</sup> Two concerns might be levied at this point. First, one may worry that this will be true of any view of constraints that allows for exceptions, in particular, moderate views that adhere to thresholds for constraints. I will take up this concern in Chapter 4. Second, one might argue that while agent-relative teleology matches the extension of MAR, it need not match its underlying metaphysics. That is, this is just a matter of forming a consequentialist counterpart view. This is a fair response. I leave the discussion in, however, as the ball is still in court of the defender of MAR to show that her underlying explanation really does lead to a genuine constraint.

defending altruism. According to Nagel, every argument that reasons for our future self are reasons for our present self translates into a parallel argument that every reason we have with respect to our own agency is a reason we have with respect to others. Just as there is no morally important difference between our future and current selves, there is no morally important difference between ourselves and others. Granted, Nagel does leave room for special relationships and the like, but what we are supposed to learn from Nagel is that our relationship to our future agency is similar in ways that are relevant to how we have reason to act with respect to the agency of others.

In *Reasons and Persons*, Derek Parfit makes a similar case for theories of rationality, but from the opposite angle. Parfit argues that if there is a rationally important difference between oneself and others, then there is a parallel important difference between one's current self and one's future self. That is, if reasons are agent-relative, then they are likewise time-relative. While Nagel's goal is to find a way to defend altruism, Parfit is attempting to show the inconsistency of a view that is neutral on one axis, but relative on the other. According to Parfit, views of reasons that are fully neutral or fully relative are perfectly consistent. However, hybrid views, views that argue for neutrality in one case and relativity in the other, are indefensible. Whatever motivation or argument you have for relativity in one case just is an argument in the other; likewise, for neutrality.

MAR is such a hybrid view. The view that agents ought to minimize constraint infringements in their own lives, but not agent-neutrally, is a view that is both agent-relative and time-neutral. It seems to hold that there is indeed a morally important difference between one's own agency and that of others, but there is no such important difference between one's agency now and one's agency in the past and future.

Perhaps a case in favor of hybrid views is forthcoming. However, as it stands, there is no principled argument as to why the defense of relativity in the agent-case does not translate to relativity with respect to time. In light of this and the objections already discussed, I submit that deontologists should abandon MAR in favor of a fully relative view.

#### IV.

We have seen that defending a merely agent-relative view of deontology comes with a number of costs. Rather than reject common deontological intuitions, attempt to explain away a virulent version of the clean hands worry, give up deontological constraints, and defend a hybrid view, I suggest we reject MAR. Two things seem to have placed MAR into trouble: its defense of IMIs and its hybrid nature. To avoid these problems, then, we need a pure view that rejects IMIs. Thus, I propose a fully relative view that embraces time-relativity in addition to agent-relativity. Call this view, agent-time-relativity (ATR).

ATR stipulates that when the deontologist asserts, “Agents cannot kill,” she does not merely mean, “You, particular agent, cannot kill.” Rather, her argument that an agent cannot kill even to minimize her own killings takes the form: “You, particular agent, cannot kill, at this time.” It does not matter what an agent has done in the past or will do in the future, particular agents cannot in particular moments lie, cheat, steal, or kill. In other words, constraint-based reasons are not only *agent*-relative, they are also *time*-relative. To get a clearer sense of constraints that are both agent and time relative, compare the following two interpretations of a deontological constraint.

**Deontological Constraint:** an important moral stricture in which it is ordinarily impermissible to perform certain actions, e.g. lying, killing, cheating, stealing, breaking promises, even when doing so would maximize the good

**Agent-Relative Constraint (ARC):** an important moral stricture in which, for all agents, A, and for certain action types X: it is ordinarily impermissible for agent A to perform a token of action type X, even when doing so would maximize the good

**Agent-Time-Relative Constraint (ATRC):** an important moral stricture in which, for all agents, A, for all times, t, and for certain action types, X: it is ordinarily impermissible for agent A, at time t, to perform a token of action type X, even when doing so would maximize the good

Deontological Constraint gives us a generic understanding of what deontologists are up to. The paradoxes and the subsequent controversy stems from how we are to interpret this generic structure.

ARC applies deontological constraints to each agent individually, but provides no mention of time. Thus, the reasons stemming from each possible constraint infringement over one's lifetime gets plugged into the formula the same way. Whether the potential infringement was in the past, is present, or will be in the future, all the agent is told is that she is not permitted to perform the action. Each possible constraint infringement, regardless of the timing in the agent's life, provides constraint-based reasons for the agent now.

ATRC works differently. In addition to indexing agents, it indexes times.<sup>14</sup> Thus, when an agent is weighing her constraint-based reasons, only present constraint infringements provide reasons. Consider two possible constraint infringements Rippen is facing, one at present, time t, and two in the future, at time t+1. What ATRC generates

---

<sup>14</sup> Brook (1991) mentions this strategy in passing. However, Brook rejects the possibility out of hand, arguing that it is inconsistent with the concept of an agent over time. I address this concern in the following subsection.



for Rippen is that it is impermissible for him to infringe the single constraint at time  $t$ , and for him to infringe the two constraints at time  $t+1$ . ARC alone can get this result. The problem is that all three constraint-based reasons would be relevant for Rippen now. According to ATRC, however, given that it is time  $t$  now, Rippen's only relevant constraint-based reason concerns the impermissibility of infringing the single constraint now.<sup>15</sup> It is only when time  $t+1$  comes around that he will be faced with the two reasons against infringing constraints.

#### *IV.1 Individuating Actions and Future Selves*

To fill out the view, it is important to first figure out how we can individuate actions. That is, if constraint-based reasons are relative to time, we need to know which actions count as available to an agent at a particular time. In a future case, such as Revenge, one might argue that not killing the one now is somehow part of the larger action of later killing the five.<sup>16</sup> Or, in a past case, such as Bomb, in which Scott has seemingly already performed the action that will kill the five when he is faced with killing the one, one might argue that not killing the one is part of the agent's action of killing the five.<sup>17</sup> If actions are individuated in this way, both the past and future case turn into present cases. That is, all of Scott's and Dinah's constraint-based reasons are available in the present. On this view of action-individuation, ATR is extensionally equivalent to MAR. The view benefits from being pure, as opposed to hybrid, but it still provides little guidance with respect to IMIs. For ATR to make any further progress, we need a story

---

<sup>15</sup> This is strong. I actually want to argue that Rippen does have *some* reason with respect to both the constraint infringements of others as well as the constraint infringements of his future and past self. It is simply that an agent's reasons with respect to her own current constraint infringements will override those reasons. I discuss this shortly.

<sup>16</sup> See p. 95-96.

<sup>17</sup> See p. 95-96.

about how actions should be individuated that does not allow for the past and future cases to collapse into a present case.

Progress can be made by focusing on what it means to be a moral agent. Moral agency, I submit, comprises both individual moments and the span of a lifetime. Agents ought to be focused not only on their individual actions, but also their moral standing as a person over time. It seems that ARCs focus on the lifetime, while ATRCs focus on the individual moments. The question to be raised is not whether the lifetime or the moments are more morally important. They are both important, and it is unclear to me that we could make sense of one or the other mattering more. The question, instead, is how constraints fit into the picture. For deontological views concerned with human dignity, constraints are in place as a measure of respect for each and every individual. The actions that infringe this respect happen not over the course of a lifetime, but in the individual decisions that agents make in single moments. For less Kantian deontological views, the upshot is the same. It is simply the nature of constraints that they apply to actions, which happen in single moments.

I submit that the actions constrained by ATRCs, and the reasons in favor or against them, should be individuated by instances of agency. In a past case, such as Bomb, Scott intentionally set up the bomb. When faced with the decision of whether to kill the one, a new intentional action is at issue. Killing the one is a new bit of agency, and as such the prospect carries with it reasons for the agent.<sup>18</sup> In a future case, such as

---

<sup>18</sup> One might wonder if the result changes if the bomb Scott set up is now going to kill different people from the one's he originally intended. It seems that the bomb killing the new set of people is more of a mistake than an intended end of Scott. In response, this case complicates how we would assess Scott's action of killing the five. Scott is culpable in both cases, but this new case might be thought of as bad moral luck. Regardless of how Scott and his action of setting off the bomb is judged in the case, however, it remains the

Revenge, the bit of agency at issue now is the killing of the one. If the agent chooses not to kill the one and goes on to later kill the five, she will have done so through a new bit of agency that has its own set of reasons.

One concern with this response is that it may not be satisfying to a proponent of Michael Bratman's (1987) action theory. On this view, practical reasoning involves more than just weighing reasons for present actions. We are planning agents, after all. We often form future-directed intentions, and the route to those intentions requires weighing reasons for and against sub-plans and present actions that may contribute or hinder one's future goals. The argument that actions should be individuated by instances of agency hinges on the idea that reasons are not only generated for individual instances of agency, but that they are seemingly only relevant for each instance. Even if we admit that constraint infringements happen in individual moments, not over a lifetime, it seems that the reasons generated by both concerns could easily be weighed together.

It is not just Bratman that gets us this result. As I have admitted, we have reasons with respect to our future selves.<sup>19</sup> Moreover, we have a moral responsibility not to set ourselves up for future moral failures, insofar as our moral agency includes considerations over the course of a life. If Dinah truly knows that she will later kill five people if she does not kill one now, it seems undeniable that Dinah has reasons with respect to those future killings that are relevant to her current practical reasoning.

I do not want to deny that there are present-relevant reasons generated by past and future constraint infringements. Of course, you have strong moral reasons not to set

---

case that now faced with killing a single person to stop the bomb is impermissible, just as it would be if someone else had set off the bomb.

<sup>19</sup> See fn.15.

yourself up for failure, not to put yourself in a position in which you will kill five innocent people. Indeed, you may even have a special obligation not to do so, such that these reasons are different from and stronger than the moral reasons you have to stop others from killing innocents. Of course, I also want to grant that agents have reasons with respect to the constraint infringements of other people as well, both in the present and across time.<sup>20</sup> But notice that that view is consistent with special concern for one's own agency. The crux of my view is to note that these reasons, the reasons you have with respect to your future and past constraint infringements, as well as the reasons you have with respect to the constraint infringements of others, are different from the agent- and time-relative reasons at issue with respect to your own present constraint infringements precisely in that those reasons are not *constraints* on our actions.

The reasons that deontological constraints capture are reasons that each particular agent has in every particular moment not to perform certain actions. These are reasons that outweigh all but perhaps extreme, threshold-meeting reasons. The view is that agents do have reasons not to set themselves up for failure, but they have stronger reasons to not, right now, kill. You, of course, should be concerned with your future self, and you should, of course, act so as to benefit your future self and others. These considerations should figure into your plans as an agent and weigh into your present practical reasoning. However, you are not permitted to lie, cheat, steal, and kill in order to achieve your plans. Deontological constraints do not capture the only moral reasons that agents have. There are others. There are harm-based reasons and reasons to help. What a deontological constraint captures is the idea that there are certain types of actions

---

<sup>20</sup> See fn.15.

an agent cannot perform in individual moments even when she has other reasons to do so. The motivation for maintaining that constraint-based reasons are not only agent-relative, but also time-relative, is that the moral agency involved in constraint infringements happens in individual moments. This does not require denying that we have reasons with respect to our moral ledger over a lifetime. It simply requires denying that we may permissibly lie, cheat, steal, or kill in our attempts to promote good outcomes for our future (or past) selves and others.

#### *IV.2 Present Cases and Moral Dilemmas*

While the above considerations shed light on how past and future cases work, there is still the issue of present cases. Consider again Oathkeeper.<sup>21</sup> In this case, Kahlil is faced with breaking one promise or five in the same moment. If we are following ATR, all of the constraint-based reasons are relevant for Kahlil now. It seems, then, that ATR is faced with the same options that MAR provided. ATR can either recommend aggregation, and so the agent should break one promise rather than five. Or else, ATR can suggest that Kahlil faces a genuine moral dilemma.

We have already seen that aggregation is problematic in the rejection of MAR.<sup>22</sup> Thus, I suggest we accept that present cases are genuine moral dilemmas; there just isn't a right action for the agent to take.<sup>23</sup> This is not the end of the story, however. While an agent's constraint-based reasons in the present case lead to a dilemma, I have argued that agents have other moral reasons as well. When faced with a present situation, then, I maintain that an agent ought to weigh her other moral reasons in order to choose the

---

<sup>21</sup> See p. 96.

<sup>22</sup> See Section III.1.

<sup>23</sup> One may wonder at this point why proponents of strict agent-relativity cannot make the same move. I address this shortly.

better of the two wrong actions. So, in Oathkeeper, for instance, the deontologist might allow that the balance of (other) reasons does favor breaking the one oath. I want to claim, however, that this alone does not make the action morally right. Insofar as the agent has still infringed a constraint, she has done something wrong. The suggestion here is simply that moral advice can be given even amidst a moral dilemma.

One worry with this view is that we might start to lose our grip on what right and wrong actions amount to. Isn't whatever action is favored by the balance of moral reason the right action? Yet, I maintain that in present cases, the balance of moral reasons may indeed favor one action over another, despite both ultimately being wrong actions. How could an action that moral reason favors be wrong?

I grant that the balance of moral reasons provides the agent with the *best* action, but I do not yet want to say that it is always a *right* action. First, we need to be careful to distinguish between *the* right action in a given situation and *a* right action more generally. My concern here is with the latter. Right actions are actions that are morally permissible. In cases in which there are multiple permissible actions that an agent might take, we might say that there is no action we should call *the* right action to take. Rather, whichever action an agent takes among the permissible options is simply *a* right action. Often, when we speak of "the right thing to do", we are referring to cases in which there is a single morally permissible action (which is therefore morally required).<sup>24</sup> There is nothing special about the locution.

---

<sup>24</sup> This is not to say that the locution is never used in cases with multiple permissible options. For instance, when considering imperfect moral duties, such as donating large sums of money, one might be debating between giving to a charity or setting the money aside for one's child. We might imagine that a friend mentions that she knows you will "do the right thing", even if either act is morally permissible. My point here is not to insist that "the right thing to do" is exclusively a matter of pointing out cases in which there is

It might be that in cases with more than one available option, the weight of reasons favors a particular action. Perhaps one action is the *best* option. However, this can come apart from the idea that it is *the* right action to perform. For the deontologist, it might be that performing an action that is not best is still permissible, and so *a* right action. Relatedly, I want to argue that performing the best action might not always imply performing a right action at all. Wrong actions, on this view, are ones that infringe constraints (supposing no threshold has been met).<sup>25</sup> In the present case, we are faced with two actions that an agent might take, breaking one promise or five. Both actions infringe constraints, and so (neither meeting a threshold), are impermissible according to the deontologist. The weight of reasons favors breaking one promise, but that does not, on this view, make it right.

The question now raised is why one should care about right action. If right action is not tracking the balance of reasons, what is the purpose? To see why an agent should still care about right action, I turn to the aptness of certain moral emotions and their role in our moral motivation and overall moral psychology. Consider again the response that, in the present case, the agent's action is morally right. When an agent performs a morally permissible action, one that is morally right, an agent can feel satisfied that she has done at least what is minimally required of her. The agent's hands are clean. Other things being equal, she need not feel moral guilt. It may of course be that other things are not equal in some cases, and guilt might be appropriate without wrongdoing.<sup>26</sup> I do not wish

---

a single right action. Rather, I am simply using the case as a foil for understanding what it is to merely be "*a* right action".

<sup>25</sup> The issue of moral dilemmas on a moderate view will be taken up in the next chapter.

<sup>26</sup> In Chapter 4, I will argue that an emotion that involves a feeling of guilt, tragic remorse, is appropriate when an agent permissibly infringes a constraint when a threshold has been met. However, I distinguish this

to rule this out. However, insofar as the agent performed a morally right action, I contend that whatever feeling of guilt may be apt, it is also apt for that guilt to be mitigated by a sense of pride at having done the right thing. So, in the present case, the same holds. The agent performed a morally permissible action, so any guilt that is apt ought to be mitigated in some way.

However, might not unmitigated guilt be appropriate in the present case? It is of course true that the agent should feel more guilt if she breaks the five promises, but why not think that she would also be correct in feeling guilt about breaking the one? Recall that we are imagining cases in which the agents are responsible for being in the moral dilemma. Even if breaking the one was the best she could do in her situation, she still broke a promise. Perhaps if she found herself in this moral dilemma non-culpably, her guilt may be mitigated insofar as she did the best she could in a situation that was not her fault. However, why think in this culpable moral dilemma there should be any mitigation of guilt?

One might argue that the guilt felt ought to be directed at getting oneself into the situation, but insofar as she is now appropriately following the weight of reasons in only breaking the one promise, the guilt for that particular wrong might be mitigated. Perhaps that is right. However, even granting this, the mitigation will take a different form in the culpability case. In the non-culpable case, the guilt is mitigated insofar as the agent had no choice but to infringe a constraint, and the fact that she had no choice was not her fault. In the culpable case, one might argue that the agent also had no choice in the moment but to infringe a constraint, and in that sense the case is parallel. However,

---

emotion from ordinary cases of remorse, in which a wrong action has been performed. On my view, guilt is *part* of both emotions; however, tragic remorse also involves feelings of pride at having done the right thing.



insofar as the fact that she had no choice *was* her fault, there is still an unmitigated guilt, one that I think appropriately remains in the promise-breaking itself.

It is not important at this juncture to settle every detail of when guilt may be mitigated in these cases. My concern here is simply to show that there is a way of motivating the importance of rightness and wrongness, even on a view that allows for moral dilemmas.<sup>27</sup> The rightness and wrongness of actions still matter insofar as they set the standard for the appropriateness of reactive attitudes, such as guilt, indignation, and resentment. These reactive attitudes are an integral part of our moral psychology and function as a source of proper moral motivations.

Moreover, for those defending Kantian motivations, rightness in these cases matters insofar as constraints are the proper response to human dignity. On these views, our dignity entails certain rights, and these rights in turn entail strict constraints. When a constraint is infringed, the dignity of the victim is disrespected.<sup>28</sup> Assessing these acts as wrong properly acknowledges the disrespect and allows for the aforementioned reactive attitudes. However, to assess constraint infringements as right is to deny that the agent's dignity was disrespected.<sup>29</sup> Rightness, then, in addition to allowing for appropriate reactive attitudes, properly acknowledges and respects the dignity of persons.<sup>30</sup>

---

<sup>27</sup> That said, I will say a great deal more to flesh out the details concerning moral dilemmas and appropriate moral emotions in the next chapter.

<sup>28</sup> At least, other things being equal. In the next chapter, we will see that there may be ways of restoring respect in certain cases when a constraint is infringed. However, I will argue that things are different for these non-threshold meeting cases.

<sup>29</sup> In some cases, of course, a victim's rights may be overridden or forfeited, e.g. cases of culpable victims or threshold meeting outcomes. However, these cases of moral dilemma are not such cases insofar as they involve innocent victims as well as culpable agents, and do not risk catastrophic moral horror.

<sup>30</sup> The same sort of story can be told for other views of constraints. Whatever one's motivation is for defending constraints, a story must be told concerning the importance of adhering to them. Rightness will matter to the degree and for the same reasons that constraints are morally important.

Before moving on, it is worth briefly revisiting ARCs. As was mentioned at the start of this section, a proponent of ARCs can reject MAR as introduced in favor of a view that maintains that whenever an agent is faced with conflicting constraint infringement situations over one's lifetime, she is faced with a moral dilemma. Need to kill one person to stop a bomb you set off from killing five? Moral dilemma. Need to kill one to stop yourself from killing five in the future? Moral dilemma. Call this view, MAR\*. According to MAR\*, the present moral dilemmas that ATR defends simply extend to past and future cases as well. If ATR can say that other reasons weigh-in on moral dilemmas, such that it may be the case that minimizing one's infringements is the *best* option, even if it is still wrong, so can MAR\* say that minimizing infringements may be best in past and future cases. Why prefer time-relativity?

Might a proponent of ARCs take up such a view? Accepting moral dilemmas might solve a number of the problems originally raised. For instance, insofar as minimizing infringements would be considered wrong (even when they are best), the clean hands worry is mitigated. Moreover, the intrapersonal surgeon case may become more intuitive. Setting aside for now that the proponent of ARC would still be required to motivate a hybrid view, the supposed moral dilemmas that would occur in past and future cases just do not seem to fit an ordinary understanding of moral dilemma. A moral dilemma is a situation in which there is no right action that an agent can take. Consider Bomb. Scott has already set up a bomb that will kill five people. Right now, he is faced with the prospect of killing one person to stop the bomb. Scott's options in this situation are to either kill the one or let the bomb go off. If Scott kills, it seems to be a wrong action. But, what of letting the bomb go off? It is true that if the bomb goes off, Scott's

earlier wrong action would come to fruition, but is the act of letting the bomb go off wrong (granting that it cannot be stopped without killing someone)? In other cases, at least, deontologists tend to think not. It is said that killing is worse than letting die. According to most deontologists, letting five die, when the only way to save them would be to kill one, is not wrong. Likewise, consider Revenge. In this situation, Dinah is faced with killing one person now or not killing now and killing five in the future. Is Dinah in a situation such that there is no right action to be taken? Right now, it seems that Dinah can either kill or not kill. It seems a stretch to say that not killing one right now is a wrong action, even if it leads ultimately to later killing five.

A defender of MAR\* might argue that I am being unfair. I am building time into the moral dilemma “situation”. MAR\* is time-neutral. Thus, in these cases, the “situation” is really the agent’s entire life. The problem with this rejoinder, however, is that it seems to lead to a potentially unacceptable proliferation of moral dilemmas. Although I accept moral dilemmas into my moral theory, I think there is a limit. According to MAR\*, there is a moral dilemma each and every time an agent faces a conflict over possible constraint infringements. Although I defended the idea that agents should still care about right and wrong actions, even in the face of moral dilemmas, this argument weakens when moral dilemmas arise frequently over the course of a life. Recall that right actions, on my view, matter in part because they set the standard for appropriate reactive attitudes. If there is a proliferation of moral dilemmas, there will also be a proliferation of wrong actions requiring guilt. This proliferation of guilt can easily be debilitating or lead to a kind of numbness. This will in turn divorce guilt from its proper motivating role. The burden, I want to suggest, is on the proponent of MAR\* to either

defend this proliferation of moral dilemmas or else explain why the view would not lead to an unacceptable rate of moral dilemmas. Moreover, if this last argument seems overly consequentialist, there remains the problem of defending a hybrid moral theory. The defender of MAR\* will still need to justify the combination of its agent-relativity with its time-neutrality.

Before closing, it is worth considering an alternative approach to present cases. Insofar as moral dilemmas are controversial, one might worry that it is a mark against both ARCs and ATRCs that moral dilemmas arise. In response, consider the oft defended tenet, “ought implies can”. One hesitant to accept moral dilemmas might instead argue that in present cases, ought implies can has been violated. That is, ATRCs (and likewise ARCs) hold when one *can* comply. However, in present cases, one cannot comply with the relevant ATRCs. Thus, the agent is not bound by the constraint, and should act on any other moral reasons that may be available. On this view, the agent does not perform a wrong action by, for instance, breaking a single oath. Rather, the constraint does not apply. The problem with this view is that it seems to still leave open the concerns surrounding intrapersonal surgeon. Moreover, just as a proponent of MAR\* would have to explain a proliferation of moral dilemmas, a proponent who took on this view would have to defend a proliferation of instances in which constraints do not apply insofar as the agent cannot comply with each constraint at issue. Thus, ATRCs, alongside moral dilemmas seem to have the advantage.

## V.

The intrapersonal paradox of deontology arose due to an agent-relative view of moral reasons. In this chapter, I first argued against a view that responded to the new

paradox by defending the permissibility of what I called an intrapersonal minimizing infringement, i.e. an infringement of a constraint in order to minimize one's own overall constraint infringements. Such a view, I suggested, faces a number of challenges including a virulent clean hands worry, two separate concerns that it ceases to be a deontological view, and a call to defend what Parfit calls a "hybrid" view. In place of this merely agent-relative view, I suggested a move to agent- and time-relative reasons. I tried to show how such a view would handle each of the three intrapersonal cases without leading to the issues that the original agent-relative view faced, and responded to a number of challenges my view faced. What I hope to have shown here is that by allowing for time-relativity, in addition to agent-relativity, as well as the occasional moral dilemma, the deontologist can maintain her most deeply held moral intuitions without paradox.

## Chapter 4: A Theory of Thresholds

Thus far, I have addressed the challenges of both triviality and paradox that face deontology. The charge of triviality came from what has been dubbed the “Consequentializing Project”—the view that all normative moral theories can be “turned into” act consequentialist views. I argued that even if we *can* consequentialize, we have good reason not to insofar as the complications that arise when consequentializing ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs. The charge of paradox came from the inter- and intra-personal paradoxes of deontology. It seems whatever motivation a moral theorist has for adhering to constraints, it should lead to exceptions when overall constraint infringements would be minimized. That is, perhaps we should be permitted to harm individuals when it would prevent a higher number of similar harms. I argued that agents should not be permitted to infringe constraints in either the inter- and intra-personal version of these cases. I then showed how ATRC’s agent- and time-relativity both exemplifies the underlying motivations for constraints while successfully responding to both versions of the paradox. This just leaves the moderate nature of my ultimate view, MATRC, to which I turn now.

### I.

A bomb is about to go off that will kill every inhabitant from Washington D.C. to Boston. Janik discovers the plot and learns that the bomb can be deactivated only by

accessing a detonator placed inside an innocent bystander. The detonator has been placed so that it cannot be retrieved without killing the innocent. What ought Janik to do?

Absolute deontologists argue that Janik is constrained from killing an innocent person, regardless of any good it might do. Thus, even in this extreme case, it would be morally impermissible for Janik to kill the innocent person. Moderate deontologists, by contrast, argue that, while Janik is indeed constrained from killing innocent persons, there are certain circumstances under which such actions are permissible.<sup>1</sup> For instance, when millions of lives are at stake, such as in Janik's case, a "threshold" may have been met, such that agents may permissibly infringe the constraint against killing innocent persons.

A number of questions arise concerning the moderate deontologist's position. Why think that an agent can *ever* permissibly infringe a constraint? When an agent is permitted to act contrary to a constraint, is the agent still constrained? If constraints can be outweighed by other considerations, does the moderate concede too much to the importance of consequences to maintain genuine constraints? If all of these questions are answered, the moderate deontologist then faces the questions of the circumstances in which an agent may infringe a constraint. Importantly, why those circumstances and not others?

The focus of this chapter and the next is to answer these questions. I begin this chapter by discussing the nature of a constraint that admits thresholds. I work to show that moderate deontology is a coherent view by showing that there is conceptual room for the view that holds an agent is constrained from an action while allowing that there are instances in which an infringement of such a constraint is permissible. Once we

---

<sup>1</sup> One may immediately wonder how it is that Janik is *constrained* from acting, if his action is permissible. I will take up this question in Section II.

understand what the view amounts to, I will show that it is a thoroughgoing deontological view. That is, it is well motivated by typical deontological foundations. Insofar as there is a dearth of literature on these issues, my primary goals in this chapter are to show that moderate deontology is both coherent and motivated. After accomplishing this, however, I go on in the next chapter to investigate the question of where thresholds might lie.

## II.

Before investigating the coherence of moderate deontology, it is helpful to first lay out some terminology. I have introduced moderate deontology as the view that permits the *infringement* of constraints in certain cases. J.J. Thomson (1990) helpfully introduces a distinction between violating and infringing a right.<sup>2</sup> Right, or for our purposes, *constraint* infringements encompass all cases in which an agent has acted contrary to a constraint, permissibly or impermissibly. This contrasts with violations, which include only those infringements that are morally impermissible. For absolute deontologists then, all constraint infringements are violations. Moderate deontologists, however, argue that some constraint infringements are permissible, and so not all constraint infringements are violations. This terminology is helpful as it allows us to articulate an important aspect of the moderate deontologist's view. At the point of a threshold, it is not the case that a moral agent is no longer constrained from killing. Rather, the constraints remain, even when thresholds are met.<sup>3</sup> The challenge of locating the threshold, then, can be redescribed as establishing which constraint infringements are permissible, and which are violations.

---

<sup>2</sup> This is similar to Nozick's (1974) notion of boundary crossings. I stick with Thomson's notion insofar as it is most commonly used in the threshold literature.

<sup>3</sup> The focus of this section is largely to make sense of this very point.



The two prominent attempts at establishing an answer to this challenge come from Thomson and Samantha Brennan (1995).<sup>4</sup> Both theorists formulate their views in terms of the *rights* that moral patients have, while I will generally speak in terms of the *constraints* against the actions of moral agents, as that has been my focus throughout this dissertation. For my purposes here, nothing hangs on the difference. Moderate deontologists come in both stripes, facing the same challenges with respect to thresholds.<sup>5</sup>

Similarly, we will see that Thomson speaks in terms of tradeoffs, while Brennan and I speak in terms of thresholds. The idea of tradeoffs is that in infringing a constraint, we more or less barter that harm or disrespect of a person for some other good or benefit. Thresholds, on the other hand, suggest that there is some sort of line, such that when the benefits or good that might be done by infringing a constraint add up to surpass this line, the infringement is then permissible. It may seem that little hangs on the terminology, but there is some reason to favor threshold talk. Tradeoff language carries with it a connotation that deontologists typically want to resist. In settling tradeoffs, we are forced to treat persons as commodities, as entities that can be monetized. Thresholds, on the other hand, allow the moderate to avoid this result. The justification of a constraint can have within it the grounds for certain permissible infringements without resorting to trades. Thus, I will continue to talk in terms of thresholds, except when describing Thomson's view.

---

<sup>4</sup> See Chapter V for a discussion of their views.

<sup>5</sup> This isn't to suggest that there are *no* important differences between patient-centered views focusing on rights and agent-centered views focusing on constraints. Depending on the details of one's view, not every constraint infringement need be a rights infringement, and vice versa. My suggestion here is simply that with respect to thresholds, the same issues will arise. Moderate rights and moderate constraints face the same challenges with respect to their moderate nature, which is the focus of the chapter.

Similar to tradeoff language, in describing moderate deontology, many suggest that constraints are “outweighed” by other considerations, such as a great deal of good. For reasons that resemble those just mentioned, I will avoid this language as well. Although I do not share the absolutist’s worry that any talk of weighing is a rejection of deontology, I do believe it is misleading in the case of moderate deontology. Talk of weighing reasons suggests that the considerations are being compared along a single dimension of value—that they are fully commensurable. With respect to that value, nothing is lost when one consideration outweighs another; with respect to that value, the considerations are interchangeable.<sup>6</sup> What I will argue in the case of moderate constraints, however, is that even when a threshold has been met, there is something left over. That is, lives are not simply interchangeable. To clarify, my claim is not that consequentialists, or anyone else, are necessarily saddled with this commensurability result. My suggestion is merely that “weighing” language lends itself to this particular understanding, which I want to resist. Thus, I will avoid weighing talk in this chapter.

With the basic terminology settled, we can now move on to the question of what exactly moderate deontology amounts to. My goal here is not yet to motivate or justify the view. Rather, my aim in this section is to simply show that there is a way of understanding deontological constraints that allows for thresholds.

To begin, recall that in the last chapter, I introduced what I called agent-time-relative constraints (ATRCs):

**Agent-Time-Relative Constraint (ATRC):** an important moral stricture in which, for all agents, A, for all times, t, and for certain action types, X: it is ordinarily impermissible for agent A, at time t, to perform a token of action type X, even when doing so would maximize the good

---

<sup>6</sup> Thanks to Don Hubin and Justin D’Arms for pushing me on this point.

Strictly speaking, ATRC, as written, appears to be an absolute constraint. In order to introduce thresholds, a simple modification is required:

**Moderate Agent-Time-Relative Constraint (MATRC):** an important moral stricture in which, for all agents, A, for all times, t, and for certain actions, X: it is impermissible for agent A, at time t, to perform a token of action type X, even when doing so would maximize the good, *unless a threshold has been met*

While it is easy to simply add the threshold caveat, what is less simple is explaining what exactly MATRC amounts to. A number of questions come to mind. When an agent finds herself in a threshold case, is there any sense in which MATRC remains a constraint on her action? Is there a difference between the claim that an agent is always constrained, but sometimes it is permissible to act otherwise, and the claim that an agent has strong reasons to not perform certain actions that usually, but not always, outweigh other moral considerations? If not, how is this view any different from a form of consequentialism?

The immediate challenge is to defend moderate deontology against two concerns that were levied in the previous chapter. Recall that two objections to mere agent-relativity were a result of permitting constraint infringements. Insofar as moderate deontology does the same, the view must answer to the same concerns. Take our deep deontological intuitions, first. Recall the case of the intrapersonal surgeon. Here, the worry was that an agent who was permitted to infringe constraints in order to minimize her own overall constraint infringements would be permitted (and perhaps required) to harvest the organs of an innocent person, if it would save the lives of five of the agent's own potential victims. The worry was that this result conflicts with our ordinary deontological intuitions. With thresholds now on the table, we are again faced with a case of permissible constraint infringements, which might result in similar concerns. Imagine

that an agent set off a bomb that would destroy New York City. Can she now throw an innocent on the bomb to stop it? Of course! However, the same would be true if someone else set off the bomb as well. The worry from the last chapter was that the cases would be treated differently in inter- and intrapersonal situations. However, if the threshold has been met, it will make no difference what or who the origin of the catastrophe is, and so we are not faced with the same issue.

The second concern with permitting constraint infringements was that such a view seems to treat the minimization of infringements as a goal to be achieved in one's life, rather than viewing the non-performance of those actions as a constraint. This is an issue if one views the rejection of teleology as the mark of a deontological view. If one instead views agent-relativity as central to deontology, whether the view accepts teleology or not, this objection is less of a concern.<sup>7</sup> However, minimally, I argued that adhering to these agent-relative goals gives up on the idea of deontological constraints, which I am seeking to defend. The question then, is whether there is a related concern once constraint infringements are allowed in threshold cases. It seems to me the answer is no. The argument would be that in allowing for constraint infringements in threshold cases, my view turns constraints into a goal to minimize catastrophic moral horror. The main thing to note in response is that constraints provide reasons in situations not involving thresholds, too. In the mere agent-relativity case from the previous chapter, if an agent took on the goal of minimizing her own constraint infringements, it would lead to the

---

<sup>7</sup> One might respond that accepting teleology seems to push the view into the consequentialist camp. That might be. I am attempting to remain neutral between different conceptions of what counts as a deontological view. If one argues that the important distinction between views is not about teleology or even axiology, but between agent-neutrality and agent-relativity, my point is simply that this point will not be of concern. See pp. 105-107.

exact results that the view espoused. However, if all an agent did was take up the goal of minimizing catastrophic moral horror, the agent would be ignoring the vast majority of moral requirements. Thus, it seems that this particular objection does not extend to threshold exceptions.

With the objections from the previous chapter set aside, the next challenge is to make sense of how an agent can be said to have a constraint on her action, in a situation where she is permitted to infringe the constraint. A deontological constraint is a constraint on what an agent is permitted to do in promoting the good. On a strong reading of deontological constraints, if it is ever permissible for an agent to perform a token of an action-type typically prohibited, such as killing an innocent, then they are not truly constrained from performing that action. After all, on the moderate view, an agent *is* permitted to perform that action in order to promote the good. However, the moderate will point out that insofar as agents are not permitted to perform these constrained actions in most cases, there is indeed a sense in which their options are limited, i.e. they are constrained. They are, of course, not *absolutely* constrained, but this is a moderate view. Restrictions, limitations, and constraints can all be understood less rigidly.

On this view, moderate constraints remain deontological constraints insofar as they limit the actions one is permitted to perform in pursuit of the good. It is true that the moderate reopens those options when enough good may be done, but that does not prevent the agent from being constrained in the other cases, or so the view goes. One might worry, however, that this moderate constraint, while fulfilling a basic understanding of a constraint, really just functions as an ordinary reason to not perform an action that can be simply outweighed. A deontological constraint is a moral stricture

concerning the types of actions that agents are typically not permitted to perform in pursuit of the good.<sup>8</sup> Whether a threshold has been met or not, the stricture must still apply. Otherwise, if these constraints are simply inactive when other considerations arise, it is difficult to see the difference between a deontological constraint and a weighty consequentialist reason, with respect to how they function both in moral deliberation and in determining the rightness of an action.

A second option for the moderate deontologist is to argue that all constraint infringements, even those performed in threshold cases, are indeed wrong actions. Threshold cases are essentially moral dilemmas in which the weight of the moral reasons favors infringing a constraint. In this way, deontological constraints remain constraints in the strong sense, and the moderate remains moderate by arguing that moral reason favors the infringement.

This response fares better than the first, but I think it does so at a cost. An immediate concern is the requirement for moral dilemmas. Many theorists doubt the plausibility of moral dilemmas, especially if the weight of the moral reasons favors one of those actions. If a view admits that we have most moral reason to perform an action, in what way is that action still wrong?

In the last chapter, I defended a view of moral dilemmas that rises to these exact challenges, so I will not dig in here. Rather, a new concern arises for threshold views. In

---

<sup>8</sup> It might be argued that even this definition of constraint, at least maximizing consequentialists are committed to constraints. After all, maximizing consequentialists hold that agents are not permitted to perform *non-optimific* actions, and non-optimific is an action type. While I agree that maximizing consequentialists constrain action in this way, I would not consider this to be a *deontological* constraint. Actions, for deontologists, admit to a different typology. Deontologists are concerned with whether an action is, for instance, a killing, lying, or stealing, regardless of the resultant value of an agent's performing that action. When I refer to action types, with respect to deontological constraints, this is what I have in mind. Thanks to Don Hubin for pushing me on this point.

the previous chapter, I was not yet concerned with adjudicating between absolutist and moderate views. However, with moderate deontology this particular moral dilemma approach comes at a cost. By maintaining that all constraint infringements are morally wrong, there is a sense in which this view has not truly left absolutism behind. Granted, traditional absolutists would not see threshold cases as moral dilemmas at all.<sup>9</sup> Moreover, they would not suggest that the weight of moral reasons favors constraint infringement. However, traditional moderates would also not maintain that an agent does something wrong when she infringes a constraint once a threshold has been met. The view on offer is a departure from both. This is of course only a problem for moderate deontology if we think it is an important feature of the view that constraint infringements are permissible in threshold cases. For reasons that will be made clear at the end of this section and in the next, I think it is.<sup>10</sup>

I ask that you grant for now, that moderate deontology requires permissible constraint infringements as I have suggested. Minimally, if we can describe such a view, we will have a view that better embodies the traditional understanding of moderate

---

<sup>9</sup> Or at least, *these* threshold cases. It is possible that the absolutist would have something different to say in cases in which an agent must kill one or kill fifty, or has the opportunity to either let fifty die or let one die. In these cases, an absolutist likely *would* argue that these are moral dilemmas. However, this only works to bolster the point that this brand of moderate deontology more closely resembles absolutism.

<sup>10</sup> There is another reason that I think moral dilemmas are the wrong way to go in threshold cases, which will be made clearer by the end of Section III. In short, the moral dilemmas an agent faced in intrapersonal paradox cases, like the ones in the previous chapter, are a matter of one's constraint-based reasons pointing to the impermissibility of one's available actions. In light of the impasse, I did argue that one may look to other moral reasons and act accordingly in order to minimize the effects of one's wrong action; however, insofar as the constraint-based reasons weighed against both actions, the agent remained in a dilemma. As we will see in Section III, I view threshold situations differently. I argue that constraint-based reasons are one of two kinds of reasons that derive from respecting persons. Reasons of acknowledgement, I will argue, weigh alongside one's constraint-based reasons, such that in threshold-meeting cases, an agent's respect-based reasons actually weigh in favor of infringing a constraint when the threshold has been met. In this way, unlike in the dilemma, an agent performs a *right* action, not merely a *better* action, in threshold-meeting cases. See pp. 115-122 for my extended discussion of moral dilemmas with respect to intrapersonal paradox cases.

deontology. However, since traditional views need not be better views, I will return to the question of which view moderate deontologists should prefer after getting a more traditional view on the table.

This brings us back to our original question. In what way is a constraint present when it is permissibly, or perhaps obligatorily, infringed on this view? Consider two cases.

**The Entrepreneur:** Claudia is a rather wealthy entrepreneur. She discovers that if she gives a million dollars to an incredibly efficient charity (which would not be a significant dent in her fortune), she will save 10,000 lives. Indeed, she learns that these particular 10,000 people will certainly die if she does not act now.

**The Bystander:** A bomb is about to go off that will kill 10,001 people. Janik, again, discovers the plot and learns that the bomb can be deactivated only by accessing a detonator placed inside an innocent bystander. The detonator has been placed so that it cannot be retrieved without killing the innocent.

Suppose that the correct moral theory is a moderate deontology that requires both Claudia and Janik to act. In each case, the agent is morally required to perform an action so that a net of 10,000 lives will be saved. However, it seems to me that this is where the similarities in the cases end.

Consider first Claudia's case. Imagine that Claudia is excited that she is able to save these 10,000 lives. She is proud of her actions. Claudia does not hesitate nor does she give the money only reluctantly. Claudia does not experience a kind of mourning period over having to give up this small portion of her fortune. She acts without hesitation, with pride and passion. If this were how Claudia behaved, we would praise her moral character.

Consider now Janik. Imagine if Janik felt about his case, the way we imagined Claudia did. Imagine that Janik is excited at the opportunity to save these lives. He acts without hesitation, with pride and passion. In this case, we would be deeply concerned



with Janik's moral character. He is required to kill an innocent person. We think Janik *should* hesitate.<sup>11</sup> He should recognize the gravity of what is morally required of him. Janik should perform this act somewhat reluctantly. Of course, he might feel pride at overcoming that reluctance and saving 10,001 other lives. But, we would expect a mourning period. We would hope that Janik in some way regrets that this is the only way those lives could be saved. We would further expect Janik to try to somehow memorialize the life he was required to take.

The key to characterizing the way in which an agent remains constrained in threshold cases is to tease out the moral residue leftover in Janik's case above. Although I provided a general characterization of how one might react to Janik's excitement in his case, it is still an open question exactly what sentiments are appropriate for Janik to feel, and how they are related to our judgments of his character, as well as the implications for the deontic status of the action. On my view, there is a particular moral emotion that is fitting for Janik, and others, to feel in cases of permissible constraint infringements. Its fittingness provides the moral residue needed to capture the normative force of a constraint in threshold cases. Insofar as the particular emotion is fitting, those of good moral character will experience it, while those that do not may be open to moral criticism.

To get clear on the emotion I have in mind, it is helpful to begin with Bernard Williams's (1976, 1981, 1993) notion of agent-regret. Williams's focus is primarily on how an agent ought to feel in cases of moral luck. He has us imagine a lorry driver, who by no fault of his own, runs over a young child. Williams finds that neither remorse nor regret

---

<sup>11</sup> At this point, I'm merely trying to pump an intuition I believe many of us share. The nature of this *should* judgment still needs to be unpacked.

seem appropriate. On the one hand, remorse seems to imply that the agent acted voluntarily, that he finds himself fully culpable and blameworthy for the action, which seems too strong a reaction in the lorry driver case. On the other hand, mere regret is something that anyone might feel. Regret simply involves wishing that things would be otherwise. However, according to Williams, it is appropriate for the lorry driver to feel a special weight in the case insofar as he is importantly the cause of the misfortune. Williams, thus, introduces what he calls agent-regret. Agent-regret involves “something special about his relation to this happening, something which cannot merely be eliminated by the consideration that it was not his fault” (1976: 124). Third-parties may regret a situation, they may wish things to have gone otherwise, but they are comforted in the knowledge that they were not at fault. Moreover, agent-regret is expressed differently from mere regret, insofar as “[t]he lorry-driver may act in some way which he hopes will constitute or at least symbolize some kind of recompense or restitution” (124).

Agent-regret is a close analogue to what I think is appropriate in Janik’s case above. Just as in the lorry driver case, it is important to appreciate the agency involved in threshold cases. However, the cases differ in that unlike the lorry driver, Janik acted voluntarily in killing the one.<sup>12</sup> Despite this difference, Williams does suggest other, seemingly voluntary, cases in which agent-regret is apt. For instance, Williams (1993) discusses the case of Agamemnon, who sacrificed his daughter to the gods for the sake of his fleet. Just as with the lorry driver, Williams suggests that agent-regret is appropriate

---

<sup>12</sup> Of course, the lorry driver acted voluntarily in driving down the street. However, the cases diverge insofar as Janik intentionally killed the one, while the lorry driver neither intended nor foresaw that his action would kill the child.

for Agamemnon to feel. Thus, agent-regret, on Williams's view, might be equally appropriate.

However, I think it is a mistake to group these cases together. A willing and knowing sacrifice of another, whether it is to serve some greater good or not, differs importantly from an involuntary case of bad moral luck. Perhaps it is bad moral luck that Agamemnon found himself in such a case, but it was not a matter of bad moral luck that the action he took resulted in the loss of his daughter. That sacrifice was a choice, unlike the lorry driver's case. Similarly, Janik chooses to sacrifice the one to deactivate the bomb. Regret, even agent-regret, does not, to my mind, fully capture the weight of those choices, morally correct as they may be. Rather, it seems that when it comes to voluntary actions, remorse of some kind is appropriate.

The problem is that just as mere regret will not capture the lorry-driver, it does seem that mere remorse will not capture Janik or Agamemnon. In describing ordinary remorse above, the voluntary nature of the act was mentioned, but so too was the implication of responsibility and blameworthiness. Indeed, one might suggest that to say that remorse is apt implies that the act committed was wrong. Even if this is not your immediate intuition as to the nature of remorse, I think it is important to distinguish between the apt response to an act that is morally right and to one that is morally wrong. Although it may be apt to feel a sense of remorse after choosing to engage in an affair, I submit that the sense of remorse apt for Agamemnon and Janik differs.

This leads me to what Stephen de Wijze introduces as *tragic-remorse*. Tragic-remorse, on de Wijze's view focuses on "dirty hands" situations, of which he writes, "an agent must do wrong in order to do right... This involves the willing endorsement of an

action that is morally repulsive...yet, all things considered, is still his moral duty and cannot be avoided” (463). To get clear on the emotion, de Wijze considers a case of a Prime Minister wholeheartedly against torture faced with a ticking time bomb situation. He writes:

“To feel mere regret about this state of affairs would fail to do justice to the serious moral violations the Prime Minister has committed while to feel remorse would falsely suggest that she had not moral justification for her actions. Agent-regret will not do either since it is not merely the fact of her causal role in the event that is problematic, but her willing endorsement of a moral violation.” (464)

This leads us to tragic-remorse. By recognizing the emotion as a species of remorse, one takes on the full weight of the action performed. The agent does not merely “take on” a responsibility that is not his. Rather, he appropriately feels that the responsibility truly is his. Insofar as that responsibility persists and the agent is the cause of harm to a person, reparations are often appropriate. At the same time, we do not think that the agent should have acted otherwise, or ought to reform her character. The emotion of tragic-remorse is marked by feelings of guilt and shame, but also pride and anguish (467).<sup>13</sup> The latter feelings distinguish the emotion from ordinary cases of remorse. In these feelings of pride and anguish, the agent feels the tragedy of the situation, while acknowledging the moral necessity of the act.<sup>14</sup>

---

<sup>13</sup> Note the difference here between “emotion” and “feeling”. The emotion of tragic-remorse involves a complex phenomenology, which includes a *feeling* ordinarily associated with the emotion of guilt. However, this is not to say that the *emotion* of guilt is fitting.

<sup>14</sup> Although tragic-remorse seems to perfectly capture what I argue Janik ought to feel, there is one characteristic of tragic-remorse de Wijze points to, which I reject. On de Wijze’s view, tragic-remorse involves an acknowledgement of wrong action. However, on my view, when a threshold is met, an agent does not perform a wrong action. Ultimately, I think our dispute is terminological. While de Wijze requires that the action one feels tragic-remorse towards is wrong, he also suggests that the action is right. Indeed, the very cases he has in mind, he characterizes as cases in which “a person is forced to do wrong in order to do right” (454). It seems then, that “wrong” here is simply acknowledging that a constraint is infringed, or that another person is in some way directly harmed. Insofar as he characterizes the case as one in which

To further the case for tragic-remorse, it is helpful to consider a phenomenologically similar, though possibly non-moral analogue. If we experience a similar emotion in other cases, it lends credibility to the claim that tragic-remorse is more than a moral construct. Consider then the feeling a parent experiences when she must dole out a dose of tough love to her child. Parental duties ordinarily require that a parent avoid causing one's child any pain; however, there are times when further parental duties necessitate small amounts of pain in the short term, e.g. a child sitting in time-out or being grounded. It is fitting for a parent to feel a sinking remorseful feeling, when she must perform such acts. However, the feeling differs from when she has simply made a mistake. She knows that her action in this case is necessary, and that necessity changes the nature of the remorse.

The difference of course is that we rarely find "tough love", at least expressed by a parent to a child, to be morally problematic.<sup>15</sup> After all, children might require such lessons. Thus, one might wish to distinguish the parental emotion described from tragic-remorse, insofar as it lacks the same moral tint. For my purposes, I find it plausible that the parent case is indeed morally parallel. The parent-child relationship is a moral one, which includes a number of duties that might conflict. It may be that a tough love situation is characterized by a moderate deontologist as a case in which a threshold against minimally harming one's child has been met. Of course, the absolutist that wishes to make room for tough love of children will likely point to differences in our

---

right was done, our views do not seem problematically different. However, even if there is an important difference between them, I submit that tragic-remorse is equally appropriate in the cases I have in mind.

<sup>15</sup> This, of course, sets aside cases of actual abuse. This is appropriate, however, insofar as abuse is best characterized as something other than "tough love". The "tough love" I am referring to involves generally accepted methods of punishing or teaching a child. It involves acts that one's children tend not to prefer; however, the ultimate result is growth and learning in the child. Abuse does not result in those positive effects.

responsibilities and constraints when it comes to the parent-child relationship. I do not here intend to settle the debate. I simply wish to point out that the moderate deontologist has an elegant story to tell. Cases in which we find it morally permissible to treat a child in a way we otherwise would not, seem parallel to threshold cases in structure, as well as emotional response.

Pointing out that tragic-remorse is an emotion we experience that indeed differs from remorse, regret, and agent-regret, says nothing yet about its relationship to constraint infringements, nor how the emotion might contribute to a moderate deontologist's understanding of threshold cases. With tragic-remorse on the table, I turn now to those issues. The goal, recall, is to characterize the moral residue leftover when an agent performs a permissible constraint infringement in a threshold case. The claim is that the presence of such moral residue represents the normative force of the constraint in such cases, as well as a continued respect for the patient sacrificed in the threshold case.

On my view, it is appropriate in the case of all constraint infringements to feel some sort of remorse. When the constraint infringement is impermissible, the emotion appropriate is the ordinary sense of remorse, while in threshold cases, when the constraint infringement is permissible or required, the type of remorse appropriate is tragic-remorse. Ordinary remorse, it should be admitted, might be felt in other cases depending on one's view of moral obligation. It might be that an agent has a positive moral obligation, which she fails to meet through an act-omission. In such cases, remorse may also be apt. What is key is that remorse is the appropriate response to moral wrongdoing. Tragic-remorse, then, is the appropriate response when an agent performs an ordinarily remorse-apt act, in a tragic and morally necessitated case. While my focus has been on acts, it is open to a

moderate deontologist that an act-omission case might arise that is parallel to ordinary threshold cases. If that were the case, then it is plausible that tragic-remorse would likewise be apt. Again, the agent would find herself in a case in which an ordinary moral wrong would be morally required of her.

On my view, that remorse of some kind is apt is a unifying feature of constraint infringements. That tragic-remorse remains apt in threshold cases represents the way in which an agent is able to continue to respect the victim of the permissible constraint infringement. In order for remorse to do the work I need it to, it is important that remorse and tragic-remorse are appropriate exclusively in such cases, at least within the moderate deontologist's framework.<sup>16</sup> Of course, similar cases may arise that engender similar emotions. However, we can see that within the moderate deontologist's framework, without a constraint infringed or some other moral obligation not met, remorse, of either type, is not appropriate. For instance, suppose that I unwittingly harm my wife. In this case, I might feel a phenomenologically similar pang as I would have had I done so intentionally. However, it does differ. The unwitting nature better fits the agent-regret of Williams' lorry driver. I take on the responsibility, but insofar as the harm was unintentional, I do not feel the same sense of blameworthiness.

A trickier case is that of a moral dilemma. Such a case seems to blur the line between ordinary remorse and tragic-remorse. Many of the circumstances surrounding moral dilemmas are shared with threshold cases. The situation is tragic, insofar as an

---

<sup>16</sup> Of course, if it turns out that a form of consequentialism is the correct moral view, tragic remorse may remain apt in some cases that will not follow the moderate deontologist's framework. What I am getting at here is that *for the moderate deontologist*, tragic-remorse and ordinary remorse are the moral emotions apt when constraints are infringed. If the moderate deontologist also found those emotions apt in other cases, then remorse could not function as the underlying unifying feature of constraints infringements, which allows for a continued respect for persons.

agent is in some way forced to infringe a constraint. Setting aside moral dilemmas that the agent is responsible for creating, we imagine the agent facing a dilemma has similar concerns as the one facing a threshold. Moreover, blame in both cases is highly mitigated. It seems then, that tragic-remorse would be the apt response to a moral dilemma. The problem is that the agent facing a moral dilemma will wrongfully infringe a constraint, and so, on my view, ordinary remorse, not tragic-remorse is apt.

Despite the complications of moral dilemmas, I stand by the view that tragic-remorse is only appropriate for permissible constraint infringements. The difference between moral dilemmas and threshold cases, what makes tragic-remorse only appropriate in the latter, is the feeling of “pride” that is involved in tragic-remorse. Part of what characterizes the emotion is that the action is performed in order to meet one’s overall moral obligation. A right action is done, even though the action tragically required a moral sacrifice. The feeling associated with tragic-remorse reflects, in part, that the action done was what was morally required. Whatever remorse one feels following a moral dilemma, it does not seem appropriate to me to feel a sense of pride at performing a right action. Even if you perform what seems to be the better of the two impermissible acts, the feeling remains that of a despair that there was no right action to perform. Of course, if the moral dilemma was not of one’s own making, it is apt that there be a mitigation of the guilt felt in performing the wrong action. However, pride seems to represent an accomplishment of some kind. It does not seem to be that merely performing the lesser of two evils, both of which are wrong actions, is deserving of pride, even if it



works to relieve a bit of the remorse.<sup>17</sup> In the threshold case, however, one can see oneself as making the hard choice that morality required in order to do the right thing. There is a sense of remorse at the tragedy of the situation and your involvement in it, but a sense of pride that you were able to do your part. If one follows me in finding pride appropriate in threshold cases, but not in moral dilemmas, then this also works as motivation against the view that threshold cases are actually moral dilemmas. If a sense of pride, albeit one accompanied by anguish, is indeed appropriate in Janik's case, we would not want to say that he was facing a genuine moral dilemma. Janik's act was morally difficult, but also morally correct, and it is appropriate for his emotions to reflect that.

So far, I have set aside those moral dilemmas an agent is responsible for creating, but it is worth addressing those complications before moving on. In particular, recall the moral dilemma cases from the previous chapter. There we saw that cases in which an agent is faced with either infringing one constraint or five in a given moment function as moral dilemmas. Even if morality recommends that the agent ought to favor infringing one constraint, the infringement itself is still morally impermissible. Here, it seems clear that pride would be misplaced. The agent did the best she could in the circumstances, but in so doing she simply averted actions that also would have been her own. The complication, however, arises when the intra-personal case is also a threshold case. Imagine that an agent is faced with either killing one or setting off a bomb that will kill

---

<sup>17</sup> It may, of course, be the case that a third species of remorse is needed, one that reflects the tragic nature of dilemmas, while recognizing that no right action results from the case. I even grant that the "tragic" moniker might better suit moral dilemmas than threshold cases. Although it matters not to me what we call the emotion fitting of thresholds, given de Wijze's work, I will continue to call the emotion fitting of thresholds tragic-remorse.

millions. In this case, both actions are her own and both face her in the present moment, but a threshold has also been met. Should she feel any sense of pride in killing the one?

On the one hand my argument seems to suggest that she should not, insofar as she is simply averting her own bad actions. However, insofar as a threshold has been met, I also argue that she is permitted to kill the one, albeit with a feeling of tragic-remorse. It is hard to judge this case without a background story as to how the agent found herself in this circumstance. It seems to me that the more culpable the agent is for her circumstances, the more we expect her feelings to resemble ordinary remorse, rather than tragic-remorse. To be clear, this ordinary remorse will be directed at her actions that led to the threshold situation. My contention is that this remorse will aptly overshadow any sense of pride she may have felt in now killing the one to save millions. However, if we imagine that she is faced with this threshold situation through no fault of her own, I suspect pride is back on the table. Here, it is apt for the agent to feel some sense of Williams's agent-regret at being in the situation at all. But, this ought not overshadow one's tragic-remorse in the same way. Although there remains a sense in which she is minimizing her own bad actions, pride may be aptly felt as she was forced into this difficult situation, and she is still able to save millions.

We have seen that tragic-remorse is appropriate exclusively in threshold situations. Where does this leave us with respect to characterizing permissible constraint infringements? On the moderate view currently on the table, one is constrained from an action, even when such an action is recommended, insofar as there is a moral string attached in the form of appropriate moral emotions. Whenever a constraint is infringed, some species of remorse is appropriate. The fittingness of tragic-remorse in particular is

an acknowledgment that thresholds involve a morally complex situation, in which an agent is required to act in ways ordinarily impermissible. Tragic-remorse does not affect the choiceworthiness of the act, but it allows for a certain kind of respect toward the moral patient in the case, reaffirming the tragic nature of threshold cases.

In contrast, unconstrained actions are ones that agents may perform freely. For our purposes, that freedom amounts to being free from particular negative moral emotions. In ordinary cases, no remorse of any kind is apt. As we have seen, there may of course be cases that justify other moral emotions such as regret. However, on my view, recall that regret is appropriate primarily in cases in which one did not voluntarily cause harm. Even the lorry-driver was unconstrained in his action. Any moral strings attached in these cases will be a result of consequences outside of one's control.

To bring the idea back to deontology in particular, we begin with the idea that deontological constraints arise out of a respect for persons. The moderate deontologist argues that there are cases in which it might be morally permissible and even morally required to sacrifice a person. In order to reconcile these two competing motivations, my suggestion is that other forms of respect are required when thresholds are met. Constraints represent the gravity of performing certain actions. When the moderate recommends those actions, however, the gravity remains insofar as tragic-remorse is apt.

Before moving on, it is worth briefly revisiting the connection between the aptness of tragic-remorse and its normative force. On my view, tragic-remorse is an emotion fitting to threshold cases. I provided motivation to think that it is an emotion that we are familiar with and that is characteristic of such cases. However, I did more than argue for the empirical nature of its fittingness. I also argued that it represents a moral string

attached to threshold cases. Tragic-remorse, on my view, is a moral emotion. It is a fitting response to threshold situations, such that those of good moral character will feel it when faced with those circumstances. Moreover, it is appropriate to judge negatively those that do not respond accordingly. Whether it is a mark of an ill will or a vicious character, an agent who does not feel moral emotions when it is fitting to do so is morally criticizable. It is in this way that the fittingness of tragic-remorse also represents a moral string.

One way of thinking about the moral string is to point to Kant's distinction between acting *in accordance with* duty and acting *from* duty.<sup>18</sup> Here the idea would be that, while the right thing to do, killing the one without feeling tragic-remorse would fail to achieve the full moral worth of the act. This general story is attractive; however, it may need to be slightly modified depending on one's interpretation of Kant.<sup>19</sup> Not only is the agent morally criticizable for failing to feel appropriate moral emotions, as was mentioned already, the agent also fails to fully respect the person whom she was required to harm. Perhaps that just is the "moral worth" of the act, but as I will argue next, expressing respect for all persons is the key to justifying moderate constraints. Thus, in failing to fully respect a person, through both one's actions and one's moral emotions, one fails to fully meet one's moral obligations. I do maintain that the act is permissible, regardless as to whether one is able to meet the full obligation of respect. Moreover, it is one's duty to kill the one. In this way, my view seems to take on something resembling Kant's distinction. I simply maintain that threshold cases require more than mere action in order to fully respect persons.

---

<sup>18</sup> My thanks to Piers Turner for this helpful suggestion.

<sup>19</sup> I am not concerned with whether my view ultimately is in line with Kant's. The distinction is simply a familiar way of thinking about similar cases.

None of what I have said this far is an argument for the inclusion of thresholds. It might be that consequentialists can capture the same results, or that these are results deontologists should avoid.<sup>20</sup> All I have argued for thus far is that there is a way of understanding constraints that allows for permissible infringements. When a constraint's threshold has been met, there are still certain moral expectations on the part of the agent. Respect must still be shown through a particular kind of moral emotion, i.e. tragic-remorse. In this way, an agent remains in some sense constrained; moreover, respect for dignity remains intact, even when thresholds have been met.

### III.

With a better grasp of what exactly moderate deontology is, we are now in a position to consider the motivations for such a view. Absolute deontologists and consequentialists alike have raised doubts about justifying moderate deontology.<sup>21</sup> Absolute deontologists hold that constraints are absolute, i.e. they can never be permissibly infringed. Their charge against the moderate deontologist varies, but two prominent complaints are (i) that the moderate, in conceding that consequences can outweigh constraints, has conceded that consequences are really the moral bottom line,

---

<sup>20</sup> With respect to consequentialists, I have in mind here that consequentialist views may be able to provide a view extensionally equivalent to moderate deontology, à la the consequentializing project. It might, however, also be argued that consequentialists adhere to constraints on my view. Consequentialists can also point to cases in which agents perform actions that are ordinarily impermissible, but may be required under certain extreme circumstances. In those cases, consequentialists can likewise point to the fittingness of tragic-remorse. I concede that this is likely. If tragic-remorse is empirically robust, it should be appropriate across different moral theories. There are, however, at least two reasons why this does not worry me. First, I am interested in presenting a view of constraints that is consistent with deontology's requirement of respect for persons. Although the consequentialist will point to similar emotions, when I turn next to the foundations of the moderate's constraints, the views will likely diverge, both in the justification for such emotions and the cases in which it will be apt. Second, depending on the consequentialist view at issue, whether we ought to criticize an agent, or perhaps even feel a certain moral emotional response, may be tied to the good done by such things. On the deontological view I am proposing, it is apt for the agent to feel tragic-remorse because it is both fitting and a sign of respect for the moral patient, not because it will lead to a better state of affairs. If the consequentialist view at issue agrees, my first point remains.

<sup>21</sup> See for instance, Alexander (2000), Davis (1991), and Fried (1978).

thus giving up deontology, and (ii) that the moderate does not properly respect the dignity of persons, insofar as her view treats one's dignity as something that can be weighed against the good (or in some way infringes whatever other motivation the deontologist might have for defending constraints). We have already seen how a moderate conception of constraints may be able to respect dignity after all. The recognition of the nature of tragic-remorse allows us to understand how moral agents can feel the genuine weight of their actions throughout their deliberations, their action, and in the after math, in a way that both constrains their action and shows respect for the person whose sacrifice was morally necessitated. It remains to be seen, however, whether deontological foundations lead to such a view, as opposed to absolutism. Many consequentialists, likewise, agree that the moderate has in some sense conceded to consequentialism. They suggest that insofar as moderate deontologists admit that the good may indeed override a constraint or one's rights (whether it is by "outweighing" or simply meeting some threshold), the moderate admits that the goodness of consequences indeed takes precedence over considerations of rightness. Once consequences are given priority, the moderate can no longer consistently defend meaningful constraints. Thus, the task in front of us is to show how moderate deontology may indeed be justified as a genuine deontological view.<sup>22</sup>

---

<sup>22</sup> Some may argue that I am asking too much in requiring a deontological foundation for the view. Moderate deontologists adhere to the practice of reflective equilibrium. The goal is to discover and systematize our intuitions through thought experiments and theorizing. The practice of reflective equilibrium itself provides the justification. No foundation is required. And, importantly, the practice reveals that moderate deontology best fits commonsense intuitions. In order to forbid such actions as a surgeon sacrificing one individual to save five or the mayor framing an innocent person to prevent riots, deontological constraints are often embraced (which is not to say that consequentialists cannot get these results, just that these cases tend to be the motivation for deontological constraints). However, in order to permit lying to the murderer at the door or killing an innocent person if all of India is at stake, it seems that those constraints require a threshold.

For some, this response is sufficient motivation. However, I think we should strive for more. First, "commonsense" intuitions shift over time and across cultures. Thus, relying on those intuitions will not prove a firm foundation for moderate deontology. Moreover, it should be noted that even theories that

The clear place to look for a justification or foundation for a moderate deontological view is traditional deontological foundations. Deontologists typically argue that rights or constraints are generated via a concern for respecting the dignity of persons, which is often cashed out in terms of our capacities for rationality and autonomy. Why is it impermissible to push the fat man off the footbridge? Well, because the fat man is a person, and respect for his personhood requires that we treat him as an end in himself and not merely as a means to some further good. Different versions of this story can be told, but for my purposes, so long as the foundation is some sort of respect for persons, we will end up with the same result.

Let us now attempt to justify a moderate deontology based on this traditional deontological foundation of respect for dignity. There seem to be two possible strategies. First, we might try to argue that while dignity generates constraints, there is some *other* moral consideration that imposes limits on them. Alternatively, we might try to argue that there is something about dignity itself that generates constraints or rights that are not absolute.

Consider first the approach that takes into account multiple moral factors. The idea is that while concern for human dignity generates stringent rights and therefore

---

seem to arise out of reflective equilibrium are often backed by further justifications. Take the Doctrine of Doing and Allowing (DDA) as an example. After considering a number of cases, we discover that an agent's doing some harm is morally significant in a way that allowing some harm is not. DDA is established. However, the story does not end there. There is still the question of why we should think doing really is more morally significant than allowing. Rather than brushing off the question, DDA is connected to the importance of moral agency, a foundational tenet of most deontological views. It is this latter step that I am calling for. A moderate deontologist can of course insist that a successful framework for thresholds borne out of reflective equilibrium is sufficient. I am simply challenging her to do more than systematize our intuitions. Ideally, we should be able to say something about why our intuitions cluster the way they do, and point to general principles that support those intuitions. Whether that practice goes beyond reflective equilibrium or is simply part of being at equilibrium does not concern me here. My suggestion is simply that a fully worked out theory of thresholds requires a justification for those intuitions, not just a framework. Moreover, this challenge seems to be one that deontologists have, in the past, charged themselves with meeting.

deontological constraints, concern for, say, human welfare, generates limits to those rights. This approach stems immediately from the very idea of a threshold. A moderate constraint is impermissible to infringe until the amount of good that would be done by infringing it reaches a threshold.<sup>23</sup> It is the good that might be done that is at issue, and so it seems that that very goodness would justify the constraint. Moreover, the argument goes, concern for human welfare is nothing new for, at least some, deontologists. After all, if saving lives does *not* require infringing rights, deontologists often maintain that one ought to save lives. According to this view, the absolute and moderate deontologists can agree on the importance of human welfare; the disagreement simply lies in how those moral factors are weighed.<sup>24</sup>

My main concern with this approach is that it strays too far from traditional deontology. Although, many deontologists do consider welfare in their moral calculations, many traditional deontologists would resist the move from merely considering welfare to granting it the same foundational importance, commensurate with dignity. Indeed, this approach seems to lean towards consequentialism, insofar as dignity is weighed against—and may even be outweighed by—considerations of the good, a worry I had about weighing language from the start. While the moderate deontologist may be able to save constraints on this approach, it seems more likely that the first-order view that is

---

<sup>23</sup> For simplicity, I mean to include in “the good that would be done” both the prevention of harm and whatever other moral considerations the deontologist may have in mind. For instance, it might be that when I lie to a person, I wrong them even if I do not harm them. If the deontologist does not want to include these considerations into their axiology, then they will want to consider more than just the good that would be done in their threshold calculations.

<sup>24</sup> An immediate concern for this view is that deontologists need not explain their preference for saving lives in terms of the promotion of welfare. While this may make deontologists less inclined to go this direction, it does not alone count the view out. Even if deontologists are not ordinarily in the habit of pointing to welfare in their moral explanations, it does not mean welfare cannot count in the moderate’s extreme threshold cases. Thus, I will set aside this concern. As we will see, there are other reasons to doubt the view.



generated will be akin to simply weighing reasons. And, if one's constraint-based reasons can be simply outweighed, it is unclear the way in which the dignity of the rights-holder is respected when the threshold has been met. Of course, I argued above that the rights-holder is respected insofar as tragic-remorse is apt. However, this understanding of how thresholds are generated does not seem to justify tragic-remorse as described above. When my reasons to respect your dignity are outweighed by other considerations, why feel any sense of remorse? If this is the best we can do for moderate deontology, then perhaps it will be worth revisiting the view. However, these concerns minimally suggest that we look elsewhere for a deontological foundation for thresholds.

In order to justify a more thoroughly deontological conception of constraints, albeit moderate ones, consider instead the approach that focuses on dignity alone. The basic strategy here is to recognize that while respect for the dignity of persons generates constraints, we must also recognize that the potential beneficiaries of my infringing a constraint have dignity, too. Absolutism requires that we in some sense ignore the dignity of all but the rights holder in the case. It may be that absolutists can require that agents in some way notice the would-be beneficiaries of their constraint infringement. However, as I will argue, it remains the case that their dignity will never have a meaningful effect on moral deliberation. That is, it might be argued that the dignity of each and every person living in New York City should play a meaningful, and at times decisive, role in our deliberations, even if saving them requires the sacrifice of a single person. Respect for dignity, then, requires including in our deliberations the dignity of all persons affected by our possible actions.

Taking this a bit slower, there are two explanatory challenges to be met for this view. First, there is the question of how such a view amounts to respecting, as opposed to promoting, dignity, in threshold-meeting cases. One can simply stipulate that respect requires in some way responding to the dignity of all, but acting for the benefit of the masses seems a lot more like promotion than respect as it has traditionally been understood. Second, if it can be shown that infringing a constraint does respect dignity, it must be explained why respect for dignity requires adhering to constraints in some cases, while infringing in others. Why is there a shift in what respect requires?

Take the first challenge first. In what way does an agent respect dignity, rather than promote it, when a constraint is permissibly infringed? In order to make sense of this, we need to analyze the notion of respect. Often, the focus has been on the negative requirements of respect. Respect for persons means (at least, in part) that there are certain things one simply *cannot* do to another person. However, it is important to also highlight a positive requirement of respect, namely what I will call *acknowledgement*.<sup>25</sup> Respect does require that I not do certain things to you, e.g. lie, steal, or kill. However, these requirements can be largely met by simply not interacting with you. Acknowledgement, on the other hand, requires something more positive. It requires that I recognize you as a person with dignity that deserves inclusion in my deliberation when my actions (or non-actions) will affect you.

Returning to the issue at hand, consider again Janik's case above. Janik is faced with killing one person to stop a bomb from detonating that will kill 10,000 persons.

---

<sup>25</sup> It is not part of my argument to suggest this "acknowledgement" is anything new for a deontologist. Rather, my goal will be to simply highlight this aspect of respect, and ultimately show how it provides a justification for moderate deontology.

Moderate deontology recommends that Janik infringe the constraint against killing in this case, which will result in saving 10,000 lives. How is this action an instance of respecting, rather than promoting the dignity of persons? With the explanation of constraints given in Section II and the idea of acknowledgement just laid out, there are two ways in which Janik's action represents respect for persons. First, although Janik must kill someone, that person remains, in some sense, respected via the fitting moral emotions we will expect of Janik. Second, we can now see how respect for persons requires the inclusion of the 10,000 persons in Janik's deliberation. Respect does not require only that we refrain from certain actions. It also requires acknowledgement. Janik's action, whichever he takes, will have a major effect on each of those 10,000 lives. In order for Janik to show respect for the dignity of each of those lives, he must allow their fate to figure into his deliberations. Janik's action thus respects the dignity of the one through the expression of the gravity of his action and the dignity of the 10,000 by acknowledging the dignity of every individual his actions will affect.

The story is not complete, however, without answering the second explanatory challenge. It is one thing to say that Janik must figure those 10,000 lives into his deliberation, but it is another to explain why respect entails that Janik must infringe a constraint in this case, but not when only 5 lives figure into his deliberation. What could possibly explain this shift in what respect dictates except that at some point the benefitted lives outweigh the harm that might be done to a single individual?

The absolutist of course argues that there is no shift in what respect dictates. In all cases, respect requires that the agent refrain from infringing a constraint. In light of my focus on acknowledgment, she will argue that an agent may indeed acknowledge the

10,000 lives. Just as I allow that tragic-remorse is fitting in threshold cases, so too may the absolutist. Janik must indeed acknowledge the lives of the 10,000. He must consider them in his deliberations, and when he ultimately allows their deaths by refraining from infringing a constraint, it is fitting for Janik to feel tragic-remorse in response to the lives lost. Insofar as absolutism can indeed acknowledge all agents, why think respect requires moderation at all?

I agree that the absolutist can make this move. Indeed, I find the view more plausible in light of this very story. However, I also wish to argue that there is room for this focus on acknowledgment to yield a moderate view. My goal in this chapter is to provide an understanding of and justification for moderate deontology, insofar as the view has not received this sort of attention and defense in the literature. What I want to argue here is primarily that the moderate may also make use of acknowledgment to justify her view. I will attempt to show why one might prefer this move to the absolutist's; however, I concede that it will not in any way be a knockdown argument.

My proposal for the moderate again focuses on the idea of acknowledgment. Acknowledgement, as I mentioned, requires including in one's moral deliberations all persons for whom one's actions will have a known effect.<sup>26</sup> Moderate deontology, I submit, arises from an insistence that true acknowledgment requires that there is at least some situation in which the person at issue would be a difference-maker in one's

---

<sup>26</sup> Respect does not require that someone predict effects that are not reasonably expectable. Consider a case of buying a used car. Imagine that I found a really great deal, and went ahead and bought the car. Unbeknownst to me, you were in much more dire need of a reliable car at that price, and in buying the car before you got to the dealership, you were genuinely harmed. We would not, however, say that I disrespected you by not acknowledging you in my deliberation. I could not have known. Respect dictates that I acknowledge, and therefore include as a real part of my deliberations those for whom I can reasonably be expected to know will be affected by my actions. Note, that this does mean that I do behave wrongly if I am culpably ignorant of the effects my actions will have on you.

deliberations, i.e. it would change the result of one's deliberation about what one ought to do. The idea is that there is something insincere about claiming that the 10,000 persons are truly a part of Janik's deliberations.<sup>27</sup> On the absolutist's view, once Janik recognizes that the possible action is a constraint infringement, nothing else really matters. The only possible factor that could cause Janik to change his action is if he is in a moral dilemma, forced to choose between two constraint infringements. Otherwise, according to the absolutist, no circumstance could permissibly change the result of Janik's deliberation.<sup>28</sup> Thus, even if an absolutist claimed that Janik ought to include the 10,000 in his moral deliberation, insofar as there are no stakes in which the result of Janik's deliberation would change, there is no real sense in which anyone else is really playing a role in deliberation. Thus, on this view, acknowledgement will require that there is some point at which the result of one's deliberation will shift.

From here, the question is why the shift does not occur whenever the stakes for the beneficiaries are greater. That is, why doesn't respect require that Janik sacrifice one to simply save two? This is where the other side of respect comes in. It remains the case on my view that respect requires the negative duty of not treating persons in certain ways, e.g. lying, stealing, or killing. It is simply that we must also acknowledge a duty to aid. The doctrine of doing and allowing (DDA) may be helpful to see how these conflicting duties might figure into moral deliberation. There is an extensive literature on DDA, which I do not plan to rehash here. For my purposes, whatever the underlying

---

<sup>27</sup> One might at this point ask whether it is insincere for the moderate to claim that the beneficiaries of a constraint-infringement are part of one's deliberations when a threshold has *not* been met. I turn to this issue next.

<sup>28</sup> Granted, not even in the moral dilemma do we have a case in which Janik *permissibly* comes to a different result in his moral deliberation. I raise the case simply as one in which the absolutist can admit that other circumstances will have an effect on this deliberation.

justification for placing more moral weight on agents performing an action than an agent merely allowing some event to occur, deontologists tend to agree that DDA holds. And, if DDA is true, it makes sense for the actions an agent performs to be at the forefront of one's moral deliberations. Thus, on this deontological view, morality requires that I *allow* a great deal to occur before I take seriously the possibility of *doing* moral harm.<sup>29</sup> In this way, I contend, the moderate deontologist can also hold that the threshold for killing an innocent, *a doing*, is fixed at a point much greater than the good done by *not allowing* a few to live.

It will be helpful to summarize the view. Respect requires that agents not treat persons in certain ways. Thus, when faced with treating a person in such a way, an agent who respects persons initially rules out that action in moral deliberation. However, in order to respect the dignity of all persons, the agent must acknowledge, and so include in her deliberation, any other person that might be affected by her action. It remains the case that doings ought to have a much more significant effect on our deliberations than mere allowings. Actively harming a person is a much greater disrespect than merely allowing a harm. However, on this stronger view of acknowledgment, in order to truly acknowledge those that will be affected, it must be the case there is some situation in

---

<sup>29</sup> At this point, one might wonder again about intrapersonal cases. Consider again Scott's case from the previous chapter. Scott detonated a bomb, a *doing*, which will kill five innocents unless Scott throws one innocent onto the bomb, also a *doing*. Does my view require that the threshold has been met? I think not. Recall the way in which I set about individuating actions in the previous chapter. Having already detonated the bomb, at the point at which Scott is faced with the option of killing the one, the alternative, I submit, is an *allowing*. That is, he can either kill one or allow to die the five that he previously setup to die. At this moment, it is no longer a doing. Granted, if the bomb were about to kill, say, all of New York City, a threshold *would* be met. But, this is no different from the interpersonal case.

which the stakes would alter the result of the agent's deliberation.<sup>30</sup> Where this shift in deliberation happens is up for debate. However, we can at least see that such a shift is appropriate.

It should be conceded that the account just laid out does not straightforwardly allow that considerations of non-human animals or other things of value, such as plants or art, can contribute to a threshold's being met. Thus, it might be that I am not permitted to so much as break the pinky of another person, even if it would prevent the loss of an entire species of tree. I find this issue to largely be an avenue for future work, but it is worth saying a few things here. First, it seems plausible to me that the interests of plants and other non-sentient things of value, cannot directly contribute to a threshold. Of course, plants and other non-sentient value-bearing objects may provide moral reasons in non-constraint-infringement cases. But, when a constraint must be infringed in order to promote the interest of such an object, that value simply does not contribute to the threshold. That said, there would likely be a large effect on many persons if an entire species of tree were lost. And, to the extent that the losses of non-sentient value harm sentient beings, it is possible on my view that a threshold might still be met.<sup>31</sup>

With respect to non-human animals, however, I think it is important to say more. Insofar as animals are sentient, it seems that their interests should be more directly included in our threshold calculations. Luckily, I think acknowledgement provides a promising avenue. Insofar as non-human animals are non-rational, the respect that we

---

<sup>30</sup> This then concludes the argument against treating threshold cases as moral dilemmas. We now see that the weight of respect-based reasons, i.e. both constraint-based and acknowledgement-based reasons, will eventually lead to respect requiring, and therefore permitting, the infringement of a constraint.

<sup>31</sup> Of course, there may be other ways to go here, and much more would need to be said to fully defend this view, which is why I believe it to be an avenue for future work. I simply mean for this to be a first pass at applying my view of thresholds to these other cases.

afford humans with respect to their rationality will not apply. That is, we are not constrained from interfering with the agency of non-human animals. However, acknowledgement, I argued, requires consideration not just of a person's agency, but also of their welfare. My contention, then, is that a deontologist can hold that non-human animals are persons deserving of the same respect afforded to humans to the extent that they resemble humans. Much of the deontologist's moral view focuses on the aspect of respect concerned with not interfering with the autonomy or agency of a rational being. These aspects of morality will, therefore, not apply to non-human animals. However, the aspect of respect that is concerned with *welfare* does apply. Thus, I contend that non-human animals *can* contribute to a threshold. It may be that they contribute differently, insofar as it is *only* welfare, and not any sense of interfering with agency, that is at issue. However, it is consistent with this view that the lives of a group of animals might meet the threshold for breaking someone's pinky. Much more will need to be said to fully work out and defend such a view. My aim here is simply to show that there may be resources for the moderate deontologist who takes on my view to extend considerations beyond human persons.

#### IV.

There are many challenging questions facing a proponent of moderate deontology. Absolute deontology and consequentialism seem to occupy the clearly consistent ends of the spectrum of views that consider the promotion of good and possible constraints on such promotion. Absolutists put the interests of a right holder above all else, while consequentialists put the goodness of consequences first. Moderate deontologists, on the other hand, seem to waver. The interests of the rights holder matter



a great deal, but so do the interests of others that might be affected by a rights infringement. How are rights and constraints to be thought of, when exceptions are made? And, how could one ever justify some exceptions, but not all?

This chapter worked to shed light on these oft-asked, but rarely answered, questions. Ultimately, I argued that the deontological motivation to respect the dignity of persons clearly justifies a moderate deontology in which the interests of all parties are considered in moral decision-making. Respect does require that an agent not treat others in certain ways, but it also requires that an agent acknowledge the persons who are affected by her action. It may be argued that this acknowledgement requires that those persons figure into the agent's moral deliberations in such a way that there are at least some cases in which those considerations would lead to a different result in deliberation. When this happens, we expect agents to continue to respect the dignity of the rights holder through certain moral emotions, i.e. tragic-remorse, over the circumstances and sadness at the necessity of her actions. This moral residue represents the way in which an agent remains in some sense constrained in her action.

There remains, of course, the question of where these thresholds are located. That is, when should an agent's deliberation shift from its focus on the individual she would directly harm to a focus on the individuals that might be benefitted from such a harm? It would be great if a foundational view could answer this question. However, it seems unlikely that a satisfying response will be forthcoming. Instead, I suggest we rest satisfied having justified a moderate deontology of some sort on the basis of deontological motivations. The views laid out above show that there is at least some point at which it becomes appropriate for an agent to favor the beneficiaries of a constraint infringement

in her deliberation. Indeed, those who agree with the stronger view of acknowledgment will argue that doing so better shows respect for the dignity of all persons. From here, we can now rely on reflective equilibrium to settle the question of where thresholds lie.<sup>32</sup>

There is now an explanation of why our intuitions cluster where they do. It is the point at which the acknowledgement of those that might benefit from my constraint infringement pushes forward to the forefront of my moral deliberation.

In the next chapter, I examine the literature on the topic of where thresholds might be located. While I will not settle on a precise location for thresholds, after critiquing the work of J.J. Thomson and Samantha Brennan, I will work to provide a novel view of how thresholds might be framed.

---

<sup>32</sup> One might recall that I earlier argued that reflective equilibrium could not solve the problem of thresholds. However, my point was not that we ought to reject reflective equilibrium altogether. Rather, my argument was that reflective equilibrium was not *alone* able to settle the debate. What is required is a kind of foundational anchor to justify the results of our reflective equilibrium. As I argued, reflective equilibrium helped deontologists to recognize that there is a moral importance between doings and allowings. However, from there, the deontologist sought to find justification for that result in her foundational view. With a steady foundation now established for moderate deontology, my suggestion is that reflective equilibrium can do its work. Although, admittedly, whatever the result, we will still want to return to the foundations to see if it remains consistent with and justified by the deontological foundation put forth.

## Chapter 5: A Framework for Thresholds

We saw in the previous chapter that there is conceptual space for a coherent and well-motivated moderate deontology. I argued there that the respect for persons that deontology is famous for requires not only that we not treat moral patients in certain ways, e.g. lying to patients, killing patients, and so on, but also that we acknowledge those for whom our actions will have an effect. For instance, consider again the original case facing Janik. Janik can stop a bomb from destroying the majority of the east coast, but only by killing a person. On absolutist conceptions of deontology, Janik is not permitted to kill a person, even if it would save millions. Although the absolutist may suggest that Janik ought to consider in some way the millions in his deliberation, there is no point at which their plight will ever change the result in his deliberation. He simply may not kill a person. However, on the moderate view, I argue that acknowledgment of persons requires that there is some point at which one's deliberations are genuinely affected. Janik's case, I maintain has reached such a point. In order to continue to respect the one Janik must now kill, I argued that his actions ought to be accompanied by certain moral emotions, such as tragic-remorse. Moreover, some level of apology or amends may be appropriate. In this way, Janik remains in some sense constrained in his action. Even when acknowledging all persons requires infringing a constraint, agents are expected to continue to show respect for the moral patient at issue.

## I.

While I have argued that a shift in deliberation at some point is plausible, the question remaining for the moderate is a story about when or at what point that shift ought to occur. Most moderate deontologists do not wish to argue that acknowledging the loss of two persons allows for the killing of one, or even the loss of ten. However, it is also likely that the shift occurs before the losses reach into the millions. This chapter will work to shed light on this shift.

Providing an exact number of persons required before one's deliberations ought to shift will be hopelessly arbitrary. However, this does not mean that no progress can be made. Rather than seeking a precise number, I will investigate the sorts of considerations that one ought to include in their deliberations in these cases. To do so, I will first introduce and critique the two leading views of thresholds: Thomson's (1990) High Threshold Thesis and Samantha Brennan's (1995) Total Requirement with its accompanying constraints. Neither view seeks to provide an exact location for thresholds; rather, they each provide a kind of framework for thinking about the problem. For Thomson's part, the framework involves laying ground rules for adding up harms and guidelines to how much harm must be at issue for a constraint to be permissibly infringed. These guidelines can then be applied to any possible tradeoff at issue, i.e. different kinds of constraints and different kinds of goods that might be done. Brennan on the other hand views her framework as a way of organizing differing views as to what is required for a constraint to be permissibly infringed. For instance, one moderate deontologist may argue that harms cannot be aggregated across persons, while another may permit such a

calculation. Brennan's framework, then, is a guide for moderate deontologists to think through how they might to set up thresholds on their own view.

In critiquing Thomson, I will argue that her view is likely too strict for the majority of moderate deontologists. While it remains consistent, I will argue that there is room in deontological thinking for a less stringent view of tradeoffs. Moving then to Brennan, I will argue that her framework is helpful, but that she fails to capture every possible view of thresholds, as was her claim. After presenting a view that Brennan's framework cannot capture, what I call a domino view of thresholds, I go on to present my own framework for thresholds, which I argue is better able to capture all possible views. Although I will try to provide some motivation for the domino view, acceptance of my subsequent framework does not hinge on the reader accepting the view. So long as it is a plausible view of thresholds, it shows that Brennan's framework falls short of her goal. Moreover, I will argue that it provides good reason to modify Brennan's framework in a way that may lead to other, more promising, views.

## II.

Before diving into the possible frameworks for thresholds, it is helpful to first consider the kinds of cases that moderate deontologists might wish to capture in such a view. When theorists gesture toward thresholds, they often mention the permissibility of infringing upon a deontological constraint in the face of catastrophic moral horror. However, there are many less extreme thresholds that moderate deontologists embrace as well. Thomson, for her part, describes a variety of cases, in which she argues that tradeoffs may permissibly occur. Rather than discuss every possible tradeoff case individually (both Thomson's cases and others), I instead organize cases along four axes of

tradeoffs: amounts of like harm, degrees of harms, types of action, and intra- v. inter-personal harms.<sup>1</sup> The first three concern kinds of goods or actions that may be traded-off, while the final one concern how these tradeoffs may occur. For my purposes, we will largely be focused on the first two, but it is worth considering a case of each axis, if only to set aside the others:

### **Like Harms**

A bomb is about to go off that will kill every inhabitant from Washington D.C. north to Boston. Janik discovers the plot and learns that the bomb can be deactivated only by accessing a detonator placed inside an innocent bystander. The detonator has been placed so that it cannot be retrieved without killing the innocent.<sup>2</sup>

### **Degrees of Harm**

A virus is affecting every inhabitant from Washington D.C. north to Boston, which causes a mild headache. Aleena, a neuroscientist, has stumbled upon a cure in one of her patients. In order to secure the cure and administer it to the population, she must draw the antibodies from her patient, which will result in a severe migraine.

### **Types of Action**

A child murderer appears at the door of Maikel's house asking whether his two children are at home. The murderer is upfront; he will kill the children if they are home. Maikel knows his children are at home, but if he lies, the murderer will leave without harming anyone.

### **Intra v. Inter-personal harms**

*Intra-personal:* César, a lifeguard, rushes into the water to save a drowning victim. The victim is trapped under a rock. In order to save the victim's life, César must break her arm.

---

<sup>1</sup> There are at least two other axes one may consider including: types of harm and relationship to victims. The former I think is covered by the combination of "degrees of harm" and "type of action". If there are cases still missing, then this axis may need to be added. With respect to relationships to victims, I take it this consideration may affect how harms are aggregated in order to meet thresholds on each of the other axes, rather than a consideration that is itself an axis. See fn. 15. Finally, I have set aside issues of risk for the purposes of building a framework. A fully worked out application of a threshold framework will require defending a view of whether and to what degree the mere risking of lives or harms might contribute to a threshold. I hope to address this issue in further work. However, I put the issue to the side here as it does not affect the building of the framework itself.

<sup>2</sup> The idea here is that the harms are both deaths. It may seem that other kinds of harms are less usefully grouped together as "like" harms. In non-death cases, I would have in mind that the harms done similarly harmful, as opposed to trading headaches for lives, as is the crux of the next case.

*Inter-personal:* Sierra, a lifeguard, rushes into the water to save a drowning victim. When she arrives at the scene, she notices that there are two victims, both of whom are trapped and unconscious. While the one is in no danger of drowning, the only way to save the life of the second is to break the arm of the first.

In each of these cases, the moral agent is faced with a tradeoff of sorts. Should one life be traded for millions? Should one severe migraine be traded for millions of minor headaches? Should we infringe one kind of constraint in order to prevent a larger harm or the infringements of some other constraint? Does it matter whether the traded harms will affect the same or different patients?

I suspect that in each of these cases, the commonsense intuition is that it is permissible to infringe on the (assumed) constraint. Or, if not in these exact cases, cases may be crafted along the same axes that a moderate deontologist will want to defend. Ideally, then, a framework for thresholds should be applicable to each of these kinds of cases. For my purposes here, I will largely focus on Like Harms and Degrees of Harms. We will see that a framework based on these just these two axes will still allow for the considerations found in Types of Actions and Intra v. Inter-Personal Harms<sup>3</sup> to be incorporated as coefficients on the harms at issue.

Before moving on, it is worth briefly addressing the relationship between harms and dignity. As seen above, threshold cases have been largely cashed out in terms of harms to individuals. However, in the previous chapter, I focused my defense of moderate deontology on respecting dignity. It certainly is not the case that every diminution of welfare is a threat to dignity. Rather, respect for dignity, I argue, requires an acknowledgement of persons, which includes not only their agency, but also their welfare. As described in the previous chapter, acknowledgement requires that those affected by

---

<sup>3</sup> See fn. 15.

my possible actions play a role in my moral deliberation. In particular, it requires that at some point, it is possible for that role to have an effect on the outcome of my deliberation. I focus on harms in this chapter in order to discern the point at which the harms at issue ought to provide a shift in my moral deliberation such that I now ought to infringe upon a constraint, when otherwise such an act would be impermissible. This shift, I argue, is required to fully acknowledge and respect the dignity of persons.<sup>4</sup>

### III.

With the preliminaries out of the way, we turn now to the framework itself. While many have weighed in on the possibility of, or objections to, thresholds, there has been a dearth of work done to fully lay out a view of where thresholds might lie, with two notable exceptions: J.J. Thomson and Samantha Brennan. Although I will ultimately reject both views, lessons can be learned from each, and so I begin by assessing their views on the basis of two criteria. First, the views should seem plausible in light of the justification for moderate deontology laid out in the last chapter. That is, it should be clear that the view works to embrace the dignity of all persons involved. Second, the views should minimally capture our intuitions in certain cases, or provide good reason for rejecting those intuitions. To that end, I will at times motivate intuitions that I think ought to be captured and consider it a mark against a view if it cannot do so.

Consider Thomson first. In order to capture the many tradeoff cases she develops, Thomson proposes a very simple view of thresholds, what she dubs the High Threshold Thesis (HTT). HTT comprises two main tenets: (i) a great deal more must be at stake for

---

<sup>4</sup> My thanks to Justin D'Arms for pressing me on this point.



the ones who would benefit than the rights bearer, and (ii) benefits cannot be aggregated across agents.

The first tenet seems uncontroversial, though vague, amongst moderate deontologists. Grant that I have a right that you not break my wrist. Imagine now a case in which, if you break my wrist, you will save another from a broken ankle. Supposing a broken ankle is worse than a broken wrist, the idea of a tradeoff arises. However, most moderate deontologists would not think that breaking my wrist in this case is permissible.<sup>5</sup> The beneficiary of infringing my right does not have very much more at stake. However, if we alter the case, such that breaking my wrist would save a life, intuitions might shift. It now seems permissible to infringe my right that you not break my wrist. Why? Because a great deal more is at stake for the beneficiary of the rights infringement. A life at stake is a great deal more than a wrist.

Although the absolutist resists the idea that a right or constraint may ever be permissibly infringed, requiring a great deal more to be at stake for the beneficiary does lend some credibility to the moderate deontologist's claim that they indeed respect rights.

---

<sup>5</sup> In the case I am imagining, you were not causally involved in the situation leading to the broken ankle. We might imagine another sort of case, one in which you *are* causally involved in the ankle breaking. Imagine that Don is at bat in a baseball game. He swings the bat and realizes, too late, that he has lost control of it and the bat will fly out of his hand. He cannot keep his grip on it. However, if he makes an extra effort to twist slightly more than he would normally, he could change the trajectory that the bat will take without that extra effort. The effect would be that instead of Don's breaking someone's ankle, he will break your wrist. Here we may have different intuitions about what Don ought to do. This might be for two reasons. First, this is a deflection case. It resembles pulling a switch to direct an already out of control trolley to hit one person rather than five. There are interesting questions, and a large body of literature addressing these sorts of cases. The tradeoff cases I have in mind, however, are instead akin to the Footbridge case, in which we are faced with pushing a large man off a footbridge to stop that same trolley from running over five persons. In these cases, we are faced with introducing a new threat to minimize harm. We could imagine, however, another case in which an agent is causally involved in the ankle-breaking and breaking the wrist does introduce a new threat. It still seems possible that our intuitions would shift. Perhaps I ought to minimize my own damage, even if it requires introducing a new threat. However, in Chapter 3, I argued at length that constraints should not function this way. If it is not permissible to sacrifice the wrist in an inter-agential case, it is likewise not permissible in an intra-agential case. My thanks to Don Hubin for pushing me to clarify these cases.

Although rights are not as stringent in their view as the absolutist's, depending on how "a great deal more" is cashed out, moderate deontology is far cry from a view that simply permits constraint infringements whenever more good might be done. Moreover, the moderate deontologist may point out that she allows for the acknowledgement of the dignity of others, in a way that absolute deontology does not. I argued in the previous chapter that true acknowledgement of persons requires that there is some point at which their consideration might lead to a change in the result of one's moral deliberation. In refusing to ever infringe a right, the absolute deontologist does not allow for this level of acknowledgement.

Turning to the second tenet, which is more controversial among moderate deontologists, Thomson's HTT does not allow for the aggregation of harms across persons when considering what is at stake in infringing the right of an individual, that is, for Thomson there must be a single person with "a great deal more at stake" in order for a permissible tradeoff. For example, imagine now that breaking my wrist would prevent 100 or even 1000 broken ankles. On Thomson's view, it remains impermissible to break my wrist. Why? Because there is no individual for whom there is a great deal more at stake than myself. Thomson admits that this is a strong claim and provides little defense, except to note that all views will at least want to limit distributions in *some way*. After all, she claims, "surely it is on *no* view permissible to kill a person to save billions from a minor headache" (1990:169).<sup>6</sup> The thought, then, is that all moderate views will require a

---

<sup>6</sup> As we will see in both Brennan's and my own view, it is possible to get this result while allowing for aggregation. It may be that it is impermissible to kill to save people from headaches because the particular harms are incommensurable, rather than because one cannot aggregate. Thomson's point is simply that most will want to capture this intuition, and her method does so. Moreover, Thomson maintains that denying aggregation altogether is more readily defensible and better motivated than other views.

principle for how benefits considered in tradeoff cases are to be calculated across persons. For Thomson's part, she suggests the strong view, no aggregation at all.

Denying aggregation makes HTT a rather strict view, but doing so also provides a number of theoretical benefits. For starters, proponents of aggregation face similar objections, as some do at least some consequentialists. On some versions of consequentialism, especially utilitarian views, it seems that individuals are treated as mere vessels of wellbeing that can be added and subtracted. However, I am more than just my level of welfare. Moreover, my pains and interests may not be commensurable with that of others. Why think that my headache can be compared or added on to your headache? While we can make sense of balancing goods within a life, doing so across lives threatens my individual interests and personhood, or so the argument goes.<sup>7</sup>

By rejecting aggregation, HTT embraces and respects the separateness of persons. My rights can be permissibly traded only for the potential good of another single individual. It does not matter that 100 or even 1000 people would be slightly worse off than me for having a broken ankle. My right may not be infringed unless there is an individual who would be a great deal worse off. Insofar as persons are separate, considerations of tradeoffs are limited to individuals. As Thomson writes, "where claims are concerned, the numbers do not count" (167). By insisting on the separateness of persons, HTT strengthens its claim to be a true deontological view, fully respectful of the rights of persons.

---

<sup>7</sup> None of this is to say that all consequentialists face this worry, nor that there are no satisfying responses. My point is simply that this is a concern often levied against views that aggregate harms that HTT simply will not have to deal with. See Brink (1993) for a helpful discussion about these issues.

Of course, the absolutist will likely deny that Thomson really does fully respect the separateness of persons and an individual's rights. After all, HTT does allow for the weighing of rights and lives across persons, even if it is restricted to two individuals. On the absolutist's view, any weighing whatsoever of a person's claims against another's is a rejection of the separateness of persons. Put another way, there is simply no consideration that makes it permissible to infringe a person's rights.

This objection should not deter the moderate deontologist, however. Of course, moderate deontology does not protect the rights of individuals as perfectly as absolute deontology. My appeal to the separateness of persons above should not be taken as an argument to prove otherwise. Rather, we can think of views concerning rights as points on a spectrum. On the one end are absolutists who never permit infringements. On the other end are views (which may or may not be consequentialist in nature) that permit rights infringements whenever the smallest amount of net good would be gained by doing so. My contention is simply that by rejecting aggregation, Thomson pushes moderate deontology towards the absolute deontological end, further away from the opposing end absolutists may have feared.

Despite HTT's attractions, I think moderate deontologists should ultimately reject the view. The main problem with Thomson's view is that it simply does not capture many of the intuitions that moderate deontologists are likely to want to capture. As Thomson admits, it is a rather extreme view. First, notice that there are going to be certain rights that remain absolute, insofar as there are limits to what might be at stake for a person. For instance, I have a right to not be tortured and killed. Arguably, no one can have a

great deal more at stake than my being tortured and killed.<sup>8</sup> Thus, on Thomson's view, even if six million lives are at stake, there is no situation in which my right to not be tortured and killed may be infringed. She dubs these rights "maximally stringent rights" and includes among them the rights not to be killed, tortured, or have one's legs amputated.<sup>9</sup>

One might respond that 6 million lives is indeed a much greater thing at stake than my single un-tortured, two-legged life. However, since HTT does not allow for aggregation, no number of lives at stake makes any greater difference than a single life at stake. That is, whether 1 life or 6 million lives are at issue has no bearing on tradeoffs for Thomson.

Even if a moderate deontologist is unmoved by my arguments against maximally stringent rights, aggregation is needed to capture other moderate cases. Imagine that for some reason a villain plans to break the two index fingers of every individual in the world, save one, unless you break a single ring finger of that remaining one innocent person. Arguably, two broken index fingers is not "a great deal more at stake" than one ring finger. Indeed, if only one other person were at issue, I think we would not allow an agent to break the ring finger of the innocent person. However, when the index fingers of the

---

<sup>8</sup> Of course, one might argue otherwise. Perhaps there is a great deal more at stake if the victim is a child with an otherwise long future ahead of her, as opposed to an elderly victim. For Thomson's purposes, she simply asserts that there is nothing that is a great deal worse than torture and death, as well as leg amputation. Even if you disagree with the particular stakes Thomson points to, it is enough for the coming objection that you agree there is at least some stake such that there are no other stakes that are a great deal worse. For my purposes, I will stick with torture and death, but you may substitute in whatever you find appropriately worse.

<sup>9</sup> To be clear, Thomson is not necessarily arguing that there is no moral difference between torture and leg amputation. Maximally stringent rights are rights that are impermissible to infringe in all cases. That is, I cannot amputate your legs to save the life of another. However, this does not yet speak to deflection cases, nor does Thomson address intrapersonal cases here. It may be that I can deflect a threat that is going to kill you to another person whose legs will be crushed. Moreover, it may be that if a villain gives me the choice of whether he will amputate my daughter's legs and release her or else he will torture her for 5 years, it is morally appropriate for me to choose the former.

entire world's population, save one, are at issue, a single ring finger might be permissibly broken. On Thomson's view, however, insofar as a broken ring finger is not enough at stake when a single person's index fingers are at stake, the fact that it is the index fingers of the entire world makes no difference. Moreover, if one person among the world's population suffered, say, two broken thumbs, while the permissibility of breaking the ring finger might change, it remains the case that no other fingers count in that calculation.

Although I ultimately reject maximally stringent rights, it is useful to see how one might maintain them while still allowing for aggregation. The inclusion of maximally stringent rights in one's view shows, in an extreme way, that different tradeoff considerations may be relevant for different rights. I do maintain that there exists a set of stakes that may be at issue, which would make it permissible to kill another person. However, the nature of those stakes may differ on more than one axis from what must be at stake to justify a broken thumb.

Thus, consider again maximally stringent rights. Two tenets contribute to their stringency: the amount of stakes that would be required to make the tradeoff and how those stakes are to be distributed. Thomson agrees that different rights will have different requirements for the amount of stakes at issue. Not all rights are maximally stringent. The key is noticing that different rights might also have different distribution requirements. My suggestion is that when the stakes for the rights bearer are lower, just as the stakes required for the beneficiary are lower, so too might be the distribution restrictions. In this way, for maximally stringent rights, when a life is at issue, we can grant that the tradeoff stakes cannot be distributed among more than one person. However, when the stakes are

lower, when for instance a broken elbow is at issue, it might be that some number of broken wrists can indeed be traded.

The upshot is that the requirements for tradeoffs may vary along multiple axes. It might not just be the total amount of good that might be done by an infringement that varies across tradeoff scenarios. How we permit that good to be distributed may vary as well. For my purposes, some degree of distribution will be permissible in all cases; however, there is flexibility with how that distribution functions for each right at issue.<sup>10</sup>

The above is not a full-blown refutation of Thomson's view; although, I maintain that we ought to reject it. What I have shown is that Thomson's view is a rather strict one. To soften the blow, I did show that we can maintain the result that some rights are maximally stringent—that there can never be permissible infringements of them—without denying that the potential harms to others can ever aggregate. However, even if we grant that a life can never be traded, requiring all tradeoffs to be a matter of a *single individual* having a great deal more at stake, I have argued, does not properly acknowledge the scores of other people who might be affected. I set as one of the desiderata of a view that it reflects the motivations set out in the previous chapter. The heart of that motivation was the idea that moderate deontology shows respect for the dignity of all persons. Thomson's view, in rejecting aggregation in all cases, is hardly better than the absolutist on this front.

That said, Thomson does provide a nice starting point for a view. We learned that thresholds may be different not merely in scale, but in kind, depending on the stakes.

---

<sup>10</sup> More will be said concerning both the amount and distribution of stakes at issue when I present my framework in Section V.

Moreover, vestiges of HTT are easily seen in Samantha Brennan's framework for thresholds, to which we now turn.

#### IV.

Brennan's main contribution to the threshold literature is a framework from which she claims that any view of thresholds can be derived. Brennan argues that there are three requirements for a threshold. First, there is the total requirement. This is the total amount that must be at stake for a right to be infringed. For instance, according to Thomson, this total requirement would be "a great deal more than the rights holder". The other two requirements are constraints on how the stakes can be added up to meet the total requirement. For Thomson, it is simple: the total requirement must be met by a single person. Brennan, however, puts forth two kinds of constraints. First is the universal constraint. This constraint requires that each person whose benefits from a rights infringement count towards the total requirement has a minimum amount at stake. So, for instance, when an arm is at stake, the universal constraint might be placed so that broken pinky fingers will not count towards the total requirement for breaking the arm. Likewise, to meet Thomson's challenge of preventing any number of headaches from permitting a killing, the universal constraint can simply be placed above headaches when lives are at issue. Moreover, the constraint can be moved up or down, depending on the right at issue.<sup>11</sup> This leaves the existential constraint. This constraint requires that at least one of the moral patients whose benefit from the right infringement counts must have some (likely higher) minimum amount at stake. So, suppose that broken elbows are worse

---

<sup>11</sup> It is important to remember that this is meant to be a framework for any possible threshold view. How the requirement and the constraints are set will need to be justified by the proponent of each particular view.



than broken thumbs. We might imagine a view that allows for broken thumbs to count towards the total requirement when a broken elbow is at issue (the universal constraint), but require that at least one other broken elbow is also at stake (the existential constraint).

To see the framework in action, consider first how Thomson's HTT fits. As already mentioned, HTT has a total requirement of "a great deal more at stake than the rights bearer". On Thomson's view, the universal and existential constraints will simply be as high as the total requirement, insofar as no aggregation is permitted. On less strict views, however, Brennan's framework allows for flexibility in the two constraints on the total requirement. For instance, Brennan's own view allows for aggregation, but requires that at least one beneficiary have *as much at stake* as the rights bearer. Moreover, we can now see how Brennan rules out the possibility that any number of headaches could ever outweigh a life. Suppose then that Thomson is right about the total requirement to trade a life, a great deal more must be at stake than a life. Allowing for aggregation, the right to life will no longer be maximally stringent. However, not just any aggregation of harms will count. On Brennan's view, the universal constraint will be set at some point above a headache, such that the badness of headaches simply does not count towards the total amount of harm required to trade a life. Moreover, the existential constraint will be set at a life, such that at least one beneficiary must also have her life at stake. Perhaps, then, on Brennan's view, a life may be permissibly taken if it will save one life and a million legs from being amputated. These constraints on the total requirement can be set much lower, as well. It may be that there is no minimum amount of harm required to count towards the total, even if Brennan is correct about the existential constraint. Or, perhaps leg amputations are indeed the minimum required to count towards the total, but there is no

existential constraint. Or, the constraints might *both* be lower, or higher. The benefit of the framework is that it allows for a great diversity of threshold views while providing a system and strategy for thinking about the stakes of tradeoffs.

There is a lot to like about Brennan's system for thresholds, and perhaps that is why the literature has simply shifted to more fine-grained issues, such as aggregation, separateness of persons, and whether headaches can ever be traded for lives. However, it is worth taking a closer look at each tenet of Brennan's framework to see whether more work must be done on this front. Consider first the total requirement. This, of the three, is the least controversial. Although a requirement must be set, the total requirement is essentially just to say that there is a threshold. To suggest that there is a threshold on a constraint is just to say that there is some amount of good that should shift the results of an agent's moral deliberations concerning constraint infringements. That just is the total requirement. The constraints on how the total requirement may be met, however, must be considered more carefully.

The universal constraint, recall, requires that there is a minimum amount of harm that every individual must meet in order to count towards the total requirement. This constraint provides a way for views to capture different intuitions concerning whether certain kinds or amounts of harms can ever be weighed against others. As we saw, this provides an easy solution for those who wish to avoid allowing that any number of headaches could ever be traded for a life. However, someone who thinks that headaches *can* be traded for lives may simply set the constraint lower than headaches. This appears to be a useful constraint. However, I think it is misleading.

Imagine a threshold view that holds that the threshold for a single quadruple amputee can be met by 100 double amputees, the threshold for a single double amputee can be met by 100 broken legs, the threshold for a single broken leg can be met by 100 broken arms, the threshold for a single broken arm can be met by 100 broken thumbs, and so on. On this view, however, no number of broken thumbs alone could ever be added together to meet the threshold for a quadruple amputation. Now imagine the following case: for some reason if the arms and legs of a single individual are cutoff it will save 99 persons from double amputation, 99 persons from broken legs, 99 persons from broken arms, and 100 persons from broken thumbs.

Using Brennan's strategy, in order to not allow for broken thumbs to count, the universal constraint must be placed above broken thumbs. However, in this sort of case, one might argue that while broken thumbs cannot directly count towards the total requirement for quadriplegia, they may indirectly count by adding up, for instance, to a single broken arm. On this view, call it the domino view, the 100 broken thumbs may count as one broken arm, which allows for 100 broken arms that may add up to one broken leg, which allows for 100 broken legs that may add up to one double amputee, which then allows for the 100 double amputees required to meet the threshold for the single quadruple amputee. My contention is that the universal constraint does not allow for this kind of view.

It might be argued that the domino view I am proposing is simply indefensible. Once I allow that broken thumbs can count in the series of harms that add up to a quadruple amputee, I am stuck with the result that they can add up directly, not just indirectly. That is, broken thumbs do indeed count against quadriplegia on this view. I

think there is room for the domino view to resist, however. My proposal is that when considering tradeoffs there are certain minimum stakes needed to get the total requirement started. In addition, each level of stakes has its own parameters of what counts against it. Once the initial stakes have been met, there may be a domino effect of sorts, hence “domino view”. Essentially, each level of harm has its own total requirement and existential constraint that can be referred to within a higher-level aggregation.<sup>12</sup>

In response, Brennan might look to the existential constraint. To get the domino view, set the universal constraint below broken thumbs so they may count, but require that at least one beneficiary have two limbs at stake. This helps, but it still does not allow for the kind of stepwise view I have in mind. After all, this would allow that a single double amputee and some incredible number of broken thumbs could tradeoff against the quadruple amputee. However, the domino view does not allow for these jumps in tradeoffs. Rather, broken thumbs really only count if the total requirement is a broken arm short, which Brennan’s framework simply cannot accommodate.

At this point, rather than resist the coherence of the domino view, Brennan may instead insist that the view has absurd results, and so need not be captured by her framework. The concern is that the domino view may function as a sort of “evil pump”.<sup>13</sup> As just mentioned, the domino view allows for broken thumbs to count only if the total requirement for quadriplegia is a broken arm short. Imagine a situation, then, in which the total requirement for quadriplegia is two arms short, and that 100 broken thumbs is the total requirement for a broken arm. On the model that thumbs only count if the total

---

<sup>12</sup> This is meant to be a brief intuitive presentation of the view. It will be developed further in the next section when I present my own framework. For now, I simply hope to motivate this is a possible view of thresholds that Brennan’s framework cannot capture.

<sup>13</sup> My thanks to Tristram McPherson for raising this concern and pushing me on it.

requirement is a single broken arm short, we must prefer the situation in which we are two arms short and there are one million broken thumbs, to the quadriplegia. However, insofar as the view admits that every 100 thumbs is in some sense equivalent to the harm of a broken arm, this would be a much worse world. By not allowing that degrees of harm form a continuous series, the view requires agents to prefer trades that lead to infinitely worse worlds.

In response, I simply wish to point out that this is a problem not just for a domino style view, but for any view that holds that headaches can never be traded for lives. What generates the evil pump is insisting that harms do not form a continuous series. That is, the badness of headaches cannot ever add up to the badness of a death, despite considering both to be harms. The domino view has a more complex structure than the views that Brennan does capture, however, the problem is no worse. If headaches cannot be traded for lives, but other more intense harms can, the same sort of cases will be generated. Indeed, this just *is* the argument against the view that headaches cannot be traded for lives. There is a wealth of literature on the topic, and some do argue that a discontinuous account of harms can be defended.<sup>14</sup> My aim in this paper is not to defend the domino view, but to simply present it as a kind of view that a moderate deontologist, who is convinced by the argument that headaches cannot be traded for lives, might hold. If it turns out that the view should be rejected on these grounds, then on both Brennan's framework and the new framework I will present, the levels of constraints on the total requirement can be placed accordingly. What I will ultimately argue, however, is that my

---

<sup>14</sup> See Norcross (1997) for a good discussion as to why harms should be seen as continuous. See Carlson (2000) and Dorsey (2009) for responses, as well as accounts as to how a discontinuous account might be defended.

own framework is more flexible, allowing for a new set of moderate views if and when the headaches for lives debate is settled.

Brennan argued that her framework for thresholds is useful insofar as it provides a model for every possible view of thresholds that one might hold. However, supposing the domino view is tenable, Brennan's framework fails on this front. In particular, it seems that the universal constraint is misleading. The total requirement for thresholds may be met in other ways, as is evidenced by the domino view. Moreover, there are strategies other than the universal constraint that can prevent headaches for lives. After all, on the domino view, we can still rule out headaches alone ever counting against lives. Finally, while I grant that the existential constraint may be more helpful, I think it is a mistake to view it so simply. Instead, both the total requirement and the existential constraint may be utilized at various points in our threshold calculations. It is with this in mind that I develop my own multi-level framework.

## V.

At this point, I have only presented the domino view as a possible view of thresholds that Brennan's framework cannot capture. I have admittedly not yet provided any reason to think that it is the *right* view of thresholds. In this section, I want to set aside that issue until the end. What I propose doing is presenting a new framework that I argue can accommodate both the simpler views of thresholds that Brennan has in mind, as well as the domino view presented above. This will provide a better sense of how the domino view functions, which will shed light on the attractions of the view. Then, after presenting the framework, I will argue that it, as well as the domino view, should be preferred, supposing that headaches for lives debate can be settled. If, however, it turns out that

there is no satisfying way to motivate a discontinuous series of harms, or you otherwise remain unconvinced by the domino view, I will at least have shown that my framework remains the more flexible of the two.

With the argument strategy laid out, we can now move to the framework. To capture the domino view, calculations are required at each level of harm. To set the levels, there are obvious complications. It might be that there ought to be 10 or 20 levels, and it might be that the harm one experiences from a broken hand varies based on whether the person is a concert pianist or a philosopher. Moreover, to apply the framework, it will need to be decided whether there are harms that are not a result of the lowering of one's wellbeing. For the sake of exposition, and with the understanding that harms are more complex, suppose we *can* group degrees of harm into just 5 simple levels. Level-1 harms might be things like minor cuts, bruises, headaches, and perhaps broken pinky fingers. Level-2 harms might be, for example, broken wrists and ankles and cuts requiring many stitches. Level-3 harms would then get into broken limbs, severe migraines and concussions, etc., while Level-4 harms might be amputations and other harms with long-term severe effects. And, finally, level-5 harms will be extreme torture, quadriplegia, death, and whatever other extreme harms one might conceive.

On the framework I am proposing, each level of harm requires its own set of threshold standards that might be a part of any given threshold calculation. Borrowing from Brennan, we should think of each level's threshold requiring a total amount of harm, the calculation of which might be limited in certain ways. The existential constraint seems worth keeping in some form. Meeting a threshold for each level of harm will require at least one person has some similarly severe interest at stake, with two caveats. A

view might require that more than one individual have some amount at stake, perhaps 3 or 10 individuals will require similar stakes. Moreover, the same level of harm might not be required at each level. To meet at level-5 threshold, I could imagine that some number of individuals will require the same stakes, while a level-3 threshold might be met with only level-2 stakes. What will be key is that the existential constraint is stringent. In order for it to be met, individuals *must* meet those stakes. That is, these stakes cannot be themselves met by a separate threshold calculation.

Turn now to the universal constraint, which recall, requires that every individual who counts in the threshold calculation must have some minimum amount at stake. While I agree that headaches should never *alone* add up to a life, I argued that some number of headaches might still contribute to such a threshold if enough other harm is at issue. My suggestion, then, is a constraint that requires some percentage of the total requirement be fulfilled by those with a certain minimum amount at stake. The rest of the total requirement, however, might be met by a high number of people with less at stake. Call this the *proportion constraint*. Unlike the existential constraint, these stakes might be made up by separate threshold calculations. Suppose that the proportion constraint for a level-4 harm is that 75% of the total be made up of stakes of level-3 or higher, while 25% can be made up by level-1 or level-2 harms. If in the calculation the proportion constraint is 1% shy of the 75% required, that 1% can be made up by fulfilling a level-3 harm threshold (with its own total, existential, and proportion constraints). The only hitch is that whatever stakes are required to make up that 1% cannot also count towards the additional 25% required for the level-4 harm calculation.



I will now show how the combination of the stringent existential constraint and the more flexible proportion constraint placed at each level of harm, provides room for the domino view described above. Recall the details of the view: (i) a single quadruple amputee can be traded for 100 double amputees, a single double amputee can be traded for 100 broken legs, a single broken leg can be traded for 100 broken arms, a single broken arm for 100 broken thumbs, and so on, and (ii) no number of broken thumbs alone could ever be traded for a quadruple amputation. In the case in question, if the arms and legs of a single individual are cutoff it will save 99 persons from double amputation, 99 persons from broken legs, 99 persons from broken arms, and 100 persons from broken thumbs. The upshot of the domino view is that the 100 broken thumbs may count as one broken arm, which allows for 100 broken arms that may add up to one broken leg, which allows for 100 broken legs that may add up to one double amputee, which then allows for the 100 double amputees required to tradeoff the single quadruple amputee.

Consider now the multi-level framework I have developed. Categorize the quadruple amputation as a level-5 harm, the double amputation as level-4, the broken legs as level-3, the broken arms as level-2, and the broken thumbs as level-1. To get the domino result, we can imagine that on this particular view, the total requirement to permissibly infringe a constraint against a level-5 harm is 100 level-4 harms. The existential constraint can be set at a number of places to get the correct result, but let's just say it absolutely requires 50 level-4 harms, while the proportion constraint is such that the other 50 may be made up of either level-4 harms or harms that meet the level-4 threshold. The level-4 threshold, let's imagine, is set at 100 level-3 harms, where 50 must

absolutely be level-3, and the other 50 can be either level-3 or harms meet the level-3 threshold. The level-3 and level-2 thresholds follow the same pattern, with the level-1 threshold irrelevant for the case. This particular case is then simple. We have 99 of the required 100 level-4 harms in order to meeting the level-5 threshold. To meet the last 1, we can look to see whether other harms meet the level-4 threshold. Here we have 99 of the required 100 level-3 harms. To meet the last-1, we look to the level-2s, and then the level-1s. The 100 level-1 harms meet the single level-2 harm required to meet the single level-3, which is then used as the final level-4 required to meet the level-5 threshold.

I presented the framework with two restrictions on how the total requirement may be met. This allowed me to make it clear that there will be some part of the total requirement that *must* be built of certain high-level stakes. Now that we see the view in action, however, it might be argued that we can get away with only one constraint. Imagine that instead of one strict and one flexible constraint, both features are collapsed into the proportion constraint. On this view, the total requirement proportions for a level-5 harm might be 5 level-5 harms, 45 level-4 or level-5 harms, and 50 additional level-4 or level-4 threshold equivalent harms. This allows for the same strictness in part and flexibility in the rest, while doing away with the extra constraint.

The biggest benefit of this view, whether it is thought of as having one or two constraints on the total calculation, is that it can capture a view that holds a headache might be relevant for a life, but not headaches alone, no matter how many there are. If the total requirement for the level-5 threshold is almost met, headaches may indeed come into play. However, insofar as each level of harm has its own existential constraint (or strict constraints on its proportions), headaches will only be relevant to adding up to the

level-2 total requirement. More and more headaches will not add up any further, so long as the level-3 threshold has a strict level-2 proportion constraint.

The above, I suggest, clearly captures the deontological motivations set forth in the previous chapter. Recall that respect for dignity, I argue, requires an acknowledgement of persons, which includes not only their agency, but also their welfare. As described in the previous chapter, acknowledgement requires that those affected by my possible actions play a role in my moral deliberation. In particular, it requires that at some point, it is possible for that role to have an effect on the outcome of my deliberation. I set out in this chapter to discern the point at which the harms at issue ought to provide a shift in my moral deliberation such that I now ought to infringe upon a constraint, when otherwise such an act would be impermissible. This shift, I argue, is required to fully acknowledge and respect the dignity of persons. The above view allows for the proper consideration of every harm and every life at issue, while still setting limits to what one may be asked to endure for the benefit of others.<sup>15</sup>

---

<sup>15</sup> There remain a few issues that we may want to incorporate into our view of thresholds: relationships, intra v. interpersonal harms, and types of actions. See Section II, as well as fn. 1. Although it goes beyond the scope of this paper to justify these concerns, we can now see how they might be incorporated. Consider relationships first. Suppose that I am permitted to prefer my mother in my moral decision-making. Depending on the strength of the permitted preference, I can attach an appropriate multiplier to her welfare in my calculations. If my mother is the person I must harm for the sake of others, the threshold will be that many times harder to meet. Likewise, if my mother is one of the beneficiaries of my infringing someone else's right, her benefit count that many more times towards the threshold at issue. Consider now intra-personal cases. Depending on one's views, it may simply be that the threshold can be met whenever infringing upon a constraint would do more good. However, this would seem to allow an unacceptable level of paternalism. Thus, I suspect that a defensible view will simply set the thresholds lower. Less is likely required for you to infringe my right for my own welfare than in interpersonal cases, so the coefficient will be a fraction. Finally, consider types of actions. On some views, types of actions can be translated into amounts of harms, such that lies can easily be seen as a certain amount of harm that can be straightforwardly incorporated into thresholds. However, things will not be so simple on views that hold actions such as lying or breaking a promise result in more than just a diminution of welfare. I do not have the space here to fully develop a proposal for such a view, but I suspect these views will need to be handled by incorporating a different category of "stakes" that must be met alongside the total harm required.

Of course, there remains the question as to whether headaches can indeed be traded for lives. As mentioned in the previous section, I do not wish to settle the debate here. Rather, what I hope to have shown is that if you indeed subscribe to a view in which levels of harms do not form a continuous series that allows for aggregation and trades across levels, then the domino view, and the multi-level framework I present, better capture the options for such a view, as well as the deontological motivations of acknowledgement, as just argued above.

For those unconvinced by the domino view or discontinuous views in general, it remains the case that this new framework can also capture simpler views, such as Brennan's and Thomson's preferred views. To capture Brennan's view that at least one person must have at least as much at stake as the rights holder, we simply need a proportion of the total requirement for each level of harm to equal that level of harm. Then, to capture the idea that some minimum amount of harm must be met, the rest of the proportion of the total requirement will just be set at *requiring* that level of harm or higher. Likewise, for Thomson's view, we simply set the entire proportion at one person with a great deal more harm at stake. Since there is no harm higher than level-5, the level-5 threshold cannot be met, which is in line with Thomson's maximally stringent rights.

Like Brennan, I have not actually presented a view of thresholds; rather the above is merely a framework. While I have argued that the domino view better respects the dignity of everyone involved by allowing for the proper acknowledgement of every harm and every life at issue, I have not attempted to set the actual proportions for each level of

harm. Such a feat goes beyond the scope of this, and perhaps any, discussion. Instead, what I have provided is a new way of calculating thresholds, wherever they may be set.

## VI.

A number of questions arise concerning the moderate deontologist's position.

Why think that an agent can *ever* permissibly infringe a constraint? Insofar as agents are at times permitted to act contrary to a constraint, in what way are agents *actually* constrained? If constraints *can* be outweighed by other considerations, in what way is moderate deontology really a deontological as opposed to consequentialist view? If all of these questions are answered, the moderate deontologist then faces the questions of the circumstances in which an agent may infringe a constraint. Why those circumstances and not others?

In this chapter and the last, I worked to respond to these questions by presenting a view of the nature of thresholds, as well as a framework for where they may be located. In the previous chapter, I argued that the deontological motivation to respect the dignity of persons clearly justifies a moderate deontology in which the interests of all parties are acknowledged in moral decision-making, such that there are at least some cases in which those considerations would lead to a different result in deliberation. When this happens, we expect agents to continue to respect the dignity of the rights holder through certain moral emotions, i.e. tragic-remorse, over the circumstances and the necessity of her actions. This moral residue represents the way in which an agent remains in some sense constrained in her action. In seeking a framework for thresholds, I argued for the importance of threshold considerations at each level of stakes that may differ in both degree and distribution. The multi-level approach I put forth, I argue, best considers the

interests of every life, while still setting limits to what one may be asked to endure for the benefit of others. This, I submit, is a thoroughly deontological ideal.

### Conclusion: Moderate Agent-Time-Relative Constraints (MATRC)

Due to the simplicity of its deontic theory and its compelling nature, consequentialism has dominated the field of normative ethics. Nonconsequentialist views, in the meantime, seem to be riddled with paradox and *ad hoc* seeming complications. To make matters worse for the nonconsequentialist, any advantage they once seemed to hold, adherence to common-sense intuitions, has been called into question by the so-called “consequentializing project”. In response, I have worked to address the consequentializing project, two versions of the paradox of deontology, and the plausibility of thresholds for constraints. In weaving through these challenges, I developed MATRC, a **m**oderate deontology that embraces **a**gent- and **t**ime-**r**elative **c**onstraints. In doing so, I have shown how MATRC is able to stave off both paradox and triviality, something I argued that several other popular and initially plausible versions of nonconsequentialism have failed to do.

Having now responded to the most pressing questions facing a deontologist, I focus my remaining space primarily on the questions left unanswered. After very briefly reminding the reader of the basic claims defended in each chapter, I suggest a number of future research avenues left to be explored in light of the arguments made throughout the preceding chapters. At all points of the dissertation, I sought to show that a nonconsequentialist ethic can make for a plausible normative ethical view. However, I never attempted to defend the view as the *correct* view. Thus, after the summary and

presentation of future research avenues, I conclude by providing preliminary motivation for preferring MATRC over a possible consequentialist counterpart.

## I.

In Chapter One, I rejected the “Consequentializing Project”—the view that all normative moral theories can be “turned into” (or perhaps already are) act consequentialist views. I argued that even if we can consequentialize, we ought not to insofar as the complications that arise when consequentializing ultimately negate the theoretical benefits, and indeed, result in a number of theoretical costs.

In Chapter Two, I addressed the so-called Paradox of Deontology, which challenges the view that agents are not permitted to infringe constraints even when overall constraint infringements would be minimized. I argued that a satisfying response requires the introduction of agent-relative reasons, but that current agent-relative responses fall short by rejecting a class of moral reasons that I argue are indeed present. I then presented the beginning of a view that captures both the agent-relativity required to respond to the paradox of deontology and the myriad of moral reasons we have.

In Chapter Three, I raised a second paradox for deontology by teasing out the significance of an underappreciated aspect of the agent-relative response to the original paradox, i.e. the view provides no guidance as to what an agent ought to do when faced with the prospect of killing one in order to prevent herself from killing five. In response, I offered a view this is both agent- and time-relative, and showed how this view exemplifies the underlying motivations for deontological constraints while successfully responding to both the inter- and intra-personal paradoxes of deontology.

Chapters Four and Five focused on moderate deontology. While absolute views



maintain that constraint infringements are morally impermissible in all cases, I maintain that in certain cases, such as in order to save all of New York City, certain constraint infringements may indeed be permissible. Taking that as my starting point, I worked to show that it is an intuition that can be captured by a thoroughgoing deontological view, and presented a novel framework for such thresholds.

## II.

Solving a couple of paradoxes and tackling the issue of thresholds for constraints certainly does not leave us with a complete and unshakeable nonconsequentialist view. With issues of triviality and paradox set aside, however, MATRC provides a useful foundation for further research into a nonconsequentialist ethic.

Moving forward, I aim to expand my defense of nonconsequentialist ethics by addressing issues, such as moral dilemmas (are there situations in which there is no right action available?), rationality and constraints (do we behave rationally when we adhere to constraints?), and neutrality and relativity of the good (can a state of affairs be good-relative-to-me?). I also plan to further my work on intrapersonal ethics (what can an agent permissibly do in service of her own moral ledger?) and on the development and defense of the domino view of thresholds. Finally, it will be important to further explore how MATRC might be applied to non-human animals.

In both Chapters One and Three, issues concerning moral dilemmas arose. With respect to the consequentializing project, I worried that certain kinds of moral dilemmas cannot be accommodated by a consequentialist framework. While others have sought to reject “obligation dilemmas”, I worked to motivate their plausibility. In chapter three, I made use of moral dilemmas to avoid the costs of permitting intrapersonal minimizing

infringements in certain “present” cases. Moreover, I worked to motivate the claim that while some small number of moral dilemmas is no mark against a view, a normative theory that found moral dilemmas around every corner is problematic.

While I worked to motivate each of these claims, more work needs to be done in order to investigate the nature of moral dilemmas and their role in a normative ethical theory. How should we think about moral obligation, such that we might be faced with incompatible obligations? What is the cost of allowing a few or many moral dilemmas into one’s ethical framework? How ought agents to act when faced with moral dilemmas? How might other moral considerations factor into an agent’s deliberations in these situations? MATRC points to preliminary answers to many of these questions, but more work needs to be done in order to fully elucidate the nature of moral dilemmas.

In Chapters One and Two, I considered the challenge that certain nonconsequentialist ethical theories are irrational to adopt insofar as they reject what Samuel Scheffler calls “maximizing rationality” (MR). It seems only rational to perform whichever action best contributes to your goal, but this seems to be in tension with certain constraint-based views. In response, I argued briefly that many nonconsequentialist views can adopt MR, once maximizing is disentangled from teleology, the view that moral reasons are derived from outcomes.

Although motivated in the chapters, a full defense of the claim is still required. While nonconsequentialist views can “maximize” in some sense, I question whether it is the teleology that is doing the work for Scheffler. Is the sort of maximizing that I point to on behalf of nonconsequentialists an improvement on the rationality of the views? Is it just my brand of nonconsequentialism that can appeal to this alternate conception of

maximizing rationality, or can views such as virtue ethics and Rossian duty-based ethics make use of the same framework?

In Chapters One and Two, issues of agent-neutrality in opposition to agent-relativity were also raised. An important discussion left largely untouched, however, is the tension between importance of neutrality in ethics and the need for relativity. It seems that morality should provide everyone with the same reasons for action, but in response to the paradoxes discussed in chapters two and three, I argued that some moral reasons are relative to individuals.

To deal with this tension, we need to ask what exactly it is about neutrality with respect to ethics that is important. Moreover, it would be an interesting project to compare whatever neutrality remains in a relativized indexical view of constraints, such as my own, with a consequentialized counterpart view that builds the relativity into the theory of the good, rather than the theory of the right.

Focusing on Chapter Three in particular, a number of issues arose concerning intrapersonal ethics. My focus was primarily on a certain kind of paradoxical case, but in laying out ATRCs, a number of further questions might be asked, primarily concerning the weighing of these and other sorts of moral reasons available to agents. What actions might an agent perform in service of her own interests, whether those interests concern her moral ledger or simply her own welfare? What sorts of duties might an agent have to herself that she does not have towards others? When an agent has incompatible duties to herself and others, is she faced with a moral dilemma or might she permissibly favor her own good? Answers to these questions are not required in order to dismiss any sort of

paradox, but will be important in order to develop a complete view concerning the moral reasons we have in addition to those related to ATRCs.

Finally, Chapters Four and Five left open a number of questions. Although I pointed to tragic-remorse, further questions concerning the nature of the moral emotions appropriate when an agent permissibly infringes a constraint may still be asked. If an agent fails to react in the appropriate way, has she then acted wrongly? Do the moral emotions others might feel differ from ordinary cases, as well? And what, if anything, is required with respect to restitution? Although I showed how deontological foundations *can* motivate a moderate deontology, I did not suggest that they do so exclusively. To fully defend my view, more work must be done to develop the nature of acknowledgement to which I point. And, finally, at the first-order level, more work must be done to fill out the details of the multi-level framework I presented, as well as defend the domino view in particular. Where exactly do the thresholds lie at each level of harm? How should the distribution requirements be set, and how should issues of risk, relationship, types of actions, and intra-personal considerations be incorporated? Finally, I provided a first pass at how my view might be able to incorporate non-human animals into threshold calculations. However, it will be important to explore how MATRC might apply to non-human animals more generally, and fully develop the view of welfare acknowledgement to which I hinted.

There are of course many other questions one might ask in response to the many issues addressed in the preceding chapters. However, the future projects listed above will move MATRC a great deal closer to a complete and successful normative ethical theory. The goal for this dissertation was to show that MATRC is able already to navigate a

number of the most pressing challenges that have faced nonconsequentialist views over the years. Many related questions remain, both within the domain of ethical theorizing and in domains of moral education, understanding, decision-making, and responsibility. The upshot of MATRC, I contend, is a firm foundation for future investigations into these questions.

### III.

In closing, I want to say a few words as to why, after all the challenges have been met, one might prefer deontology. In Chapter One, we saw that it may be possible for a consequentialist to develop a view that presents the exact same deontic results as MATRC. That is, in all cases, agents may be directed to perform the exact same actions by MATRC as by a consequentialist counterpart view. Supposing such a counterpart is plausible, why ought we to stick to deontology?

I will not attempt to settle the issue here. Rather, I will simply lay out a bit of my own motivation for sticking to deontology, as well as one more future project, which may help to settle the issue more fully.

One of the reasons, which I presented in Chapter One, to avoid consequentializing is that doing so reverses the order of explanation for deontic results. That is, even if a deontological and a consequentialist view agree on which actions are right and which are wrong, their explanations as to why acts are right or wrong will diverge. The deontologist, at least of the Kantian variety, will likely point to the moral importance of *respecting* (rather than promoting) human dignity, while the consequentialist will point to the moral importance of promoting the good (which may include human

dignity). For my purposes, then, the question of which moral theory to prefer boils down, at least in part, to which of these explanations seems more plausible or morally motivated.

On my view, morality is a human enterprise. Moreover, like Kant, I see moral importance in our capacity for reason and agency. After all, moral rules tend to apply exclusively to those that we deem agents, those who are capable of responding appropriately to reasons. Children, those with certain mental incapacities, and nonhuman animals are not fully capable of responding to moral reasons, and so we in turn, do not view them as moral agents. Each of these categories of beings should, of course, count as moral patients, beings that ought to figure in the moral deliberation of agents, insofar as they are sentient beings, beings whose welfare is affected by the actions of moral agents. However, I contend that it would not make sense to even speak of moral patients if there were no moral agents. Of course, in a world with only non-rational, sentient beings, things could still go better or worse. Indeed, a world with beings in excruciating pain will be a worse world than one without. However, while this may be an issue of goodness in the world, without rational beings, there are no issues of *rightness*. And, while goodness plays a key role in morality, if there is no being for whom actions are right or wrong, there is no morality. That there are agents capable of moral deliberation, on my view, provides the possibility for rightness, and therefore morality and in turn the foundation for it.

In addition to preferring an agent-focused foundation to morality, I worry about what is required of the theory of the good if one is to consequentialize MATRC. While it seems uncontroversial to me that agents would have reasons that are relative to an agent, I worry about the gimmicky concept of goodness that seemed to be required in

consequentializing a nonconsequentialist view. Recall that in order to consequentialize deontological constraints, it is required that each individual agent is presented with a separate ranking of outcomes, which requires that goodness is relative to each individual. What is “good-relative-to-me” is different from what is “good-relative-to-you” such that an outcome in which I infringe a constraint is worse-relative-to-me than one in which you do so, while the opposite is true relative-to-you.

My preference for deontology is thus bolstered by my intuition that relativity in our concept of the good is more problematic than the relativity of reasons that constraints require for the deontologist. At this point, it is indeed mere intuition driving my concerns. However, in future work, I plan to investigate the upshots of relativity in our theory of the good as compared to relativity in our moral reasons with respect to the importance of neutrality in ethics, dangers of further-reaching relativity, and moral disagreement.

For those motivated by concerns similar to my own, this dissertation worked to show that deontology can stand tall in the face of the many challenges that have been raised against it. As we saw above, questions still remain. However, in tackling the issues I have, concerns of paradox and triviality, I maintain that I have left nonconsequentialists in much better shape than when I started.

## References

- Alexander, Larry. 2000. "Deontology at the Threshold." *San Diego Law Review*, 37, 893-912.
- Alexander, Larry and Moore, Michael, 2012. "Deontological Ethics", *The Stanford Encyclopedia of Philosophy*, Edward N. Zalta (ed.), <http://plato.stanford.edu/archives/win2012/entries/ethics-deontological/>.
- Alm, David. 2008. "Deontological Restrictions and the Self/Other Asymmetry." *Nous*, 42(4), 642-672.
- André, Judith. 1991. "The Demands of Deontology Are Not So Paradoxical." *Journal of Philosophical Research*, 16, 407-410.
- Anscombe, G.E.M. 1958. "Modern Moral Philosophy." *Philosophy*, 33(124), 1-19.
- Baker, Derek. 2012. "Knowing Yourself—And Giving Up on Your Own Agency in the Process." *Australasian Journal of Philosophy*, 90(4), 641-656.
- Bradley, Ben. 2006. "Against Satisficing Consequentialism." *Utilitas*, 18, 97-108.
- Bratman, Michael. 1987. *Intention, Plans, and Practical Reasons*. Cambridge, MA: Harvard.
- Brennan, Samantha. 1995. "Thresholds for Rights." *The Southern Journal of Philosophy*, 33, 143-168.
- Brennan, Samantha. 2006. "Moral Lumps." *Ethical Theory and Moral Practice*, 9(3), 249-263.
- Brennan, Samantha. 2009. "Moderate Deontology and Moral Gaps." *Philosophical Perspectives*, 23, 23-43.
- Brink, David. 1993. "The Separateness of Persons, Distributive Norms, and Moral Theory." In *Value, Welfare, and Morality*. Eds. R.G. Frey and Christopher W. Morris. New York: Cambridge.
- Brook, Richard. 2007. "Deontology, Paradox, and Moral Evil." *Social Theory and Practice*, 33(3), 431-440.
- Brown, Campbell. 2011. "Consequentialize This." *Ethics*, 121(4), 749-771.



- Calhoun, Chesire. 1995. "Standing for Something." *Journal of Philosophy* 92(5), 235-260.
- Carlson, Erik. 2000. "Aggregating Harms—Should We Kill to Avoid Headaches?" *Theoria*, 66 (3), 246-255.
- Chappell, Timothy. 2007. "Integrity and Demandingness." *Ethical Theory and Moral Practice*, 10(3), 255-265.
- Darwall, Stephen L. 1986. "Agent-Centered Restrictions from the Inside Out." *Philosophical Studies*, 50, 291-319.
- Davis, Nanc (Ann). 1991. "Contemporary Deontology." In *A Companion to Ethics*. Ed. Peter Singer, Oxford: Blackwell.
- de Wijze, Stephen. 2005. "Tragic-Remorse – The Anguish of Dirty Hands." *Ethical Theory and Moral Practice*, 7(5), 453-471.
- Dorsey, Dale. 2009. "Headaches, Lives, and Value." *Utilitas*, 21(1), 36-58.
- Dougherty, Tom. 2013. "Agent-Neutral Deontology." *Philosophical Studies*, 163, 527-537.
- Dreier, James. 2011. "In Defense of Consequentializing." In *Oxford Studies in Normative Ethics, Volume 1*. New York: Oxford.
- Dreier, James. 2004. "Why Ethical Satisficing Makes Sense and Rational Satisficing Doesn't." In *Satisficing and Maximizing*. Ed. Michael Byron, New York: Cambridge.
- Driver, Julia. 2011. *Consequentialism*. New York: Routledge.
- Ellis, Andre. 1992. "Deontology, Incommensurability, and the Arbitrary." *Philosophical and Phenomenological Research*, 52(4), 855-875.
- Feldman, Fred. 2012. "True and Useful: On the Structure of a Two Level Normative Theory". *Utilitas*, 24(2), 151-171.
- Foot, Philippa. 1985. "Utilitarianism and the Virtues." Reprinted in *Consequentialism and Its Critics*. Ed. Samuel Scheffler, New York: Oxford.
- Foot, Philippa. 1967. "The Problem of Abortion and the Doctrine of Double Effect." *Oxford Review*, 5, 5-15.
- Fried, Charles. 1978. *Right and Wrong*. Cambridge: Harvard.
- Gert, Joshua. 2014. "Moral Rationalism and Commonsense Consequentialism." *Philosophy and Phenomenological Research*, 88(1), 217-224.

- Gertken, Jan. 2016. "Mixed Feelings about Mixed Solutions." *Ethical Theory and Moral Practice*, 19, 59-69.
- Harber, Joram Graf (ed.). 1994. *Absolutism and Its Critics*. Lanham, MD: Rowman & Littlefield Publishers.
- Hare, R.M. 1981. *Moral Thinking: Its Levels, Method, and Point*. New York: Oxford.
- Harris, John. 1974. "Williams on Negative Responsibility and Integrity." *The Philosophical Quarterly*, 24(96), 265-273.
- Hedden, Brian. 2015. "Time-Slice Rationality." *Mind*, 124, 449-491.
- Heuer, Ulrike. 2011. "The Paradox of Deontology, Revisited." In *Oxford Studies in Normative Ethics, Volume 1*. New York: Oxford.
- Hirose, Iwao. 2013. "Aggregation and the Separateness of Persons." *Utilitas*, 25(2), 182-205.
- Hsieh, Nien-hê, Alan Strudler, and David Wasserman. 2006. "The Numbers Problem." *Philosophy and Public Affairs*, 34(4), 352-372.
- Hurka, Thomas and Shubert, Esther. 2012. "Permissions to Do Less Than the Best: A Moving Band." In *Oxford Studies in Normative Ethics, Volume 2*. New York: Oxford.
- Hurley, Paul. 1997. "Agent-Centered Restrictions: Clearing the Air of Paradox." *Ethics*, 108(1), 120-146.
- Hurley, Paul. 2013. "Consequentializing and Deontologizing: Clogging the Consequentialist Vacuum" In, *Oxford Studies in Normative Ethics Vol. 3*. Mark Timmons, ed. New York: Oxford.
- Hurley, Paul. 2014. "Comments on Douglas Portmore's *Commonsense Consequentialism*." *Philosophy and Phenomenological Research*, 88(1), 225-232.
- Jackson, Frank and Michael Smith. 2016. "The Implementation Problem for Deontology." In *Weighing Reasons*. Eds. Errol Lord and Barry Maguire, New York: Oxford.
- Jeske, Diane and Richard Fumerton. 1997. "Relatives and Relativism." *Philosophical Studies*, 87(2), 143-157.
- Johnson, Conrad. 1985. "The Authority of the Moral Agent." *Journal of Philosophy*, 82(8), 391-413.
- Kagan, Shelly. 1986. "The Present-Aim Theory of Rationality." *Ethics*, 96(4), 746-759.

- Kagan, Shelly. 1988. "The Additive Fallacy." *Ethics* 99(1), 5-31.
- Kagan, Shelly. 1989. *The Limits of Morality*. New York: Oxford.
- Kagan, Shelly. 1992. "The Structure of Normative Ethics." *Philosophical Perspectives* 6, 223-242.
- Kagan, Shelly. 1998. *Normative Ethics*. Boulder: Westview Press.
- Kamm, F.M. 1989. "Harming Some to Save Others." *Philosophical Studies*, 57(3), 227-260.
- Kamm, F.M. 1992. "Non-Consequentialism, the Person as an End-in-Itself, and the Significance of Status." *Philosophy & Public Affairs*, 21(4), 354-389.
- Kamm, F.M. 1996. *Morality Mortality, Vol. 2*. New York: Oxford.
- Kamm, F.M. 2007. *Intricate Ethics*. New York: Oxford.
- Kelleher, J. Paul. 2014. "Relevance and Non-Consequentialist Aggregation." *Utilitas*, 26(4), 385-408.
- Lawlor, Rob. 2006. "Taurek, Numbers, and Probabilities." *Ethical Theory and Moral Practice*, 9(2), 149-166.
- Lippert-Rasmussen, Kasper. 1996. "Moral Status and the Impermissibility of Minimizing Violations." *Philosophy and Public Affairs*, 25(4), 333-351.
- Lippert-Rasmussen, Kasper. 1999. "In What Way Are Constraints Paradoxical?" *Utilitas*, 11, 49-70.
- Lippert-Rasmussen, Kasper. 2009. "Kamm on Inviolability and Agent-Relative Restrictions." *Res Publica*, 15(2), 165-178.
- Louise, Jennie. 2004. "Relativity of Value and the Consequentialist Umbrella." *The Philosophical Quarterly*, 54(217), 518-536.
- Louise, Jennie. 2009. "I Won't Do It! Self-Prediction, Moral Obligation and Moral Deliberation." *Philosophical Studies*, 146(3), 327-348.
- MacIntosh, Duncan. 2013. "Assuring, Threatening, a Fully Maximizing Theory of Practical Rationality, and the Practical Duties of Agents." *Ethics*, 123, (4), 625-656.
- McIntyre, Alison. 2001. "Doing Away with Double Effect." *Ethics*, 111, 219-255.
- McMahon, Christopher. 1991. "The Paradox of Deontology." *Philosophy and Public Affairs*, 20(4), 350-377.

- McNaughton, David and Piers Rawling. 1995. "Value and Agent-Relative Reasons." *Utilitas*, 7(1), 31-47.
- McNaughton, David and Piers Rawling. 1998. "On Defending Deontology." *Ratio*, 11(1), 37-54.
- McNaughton, David and Piers Rawling. 2005. "Deontology." In *The Oxford Handbook of Ethical Theory*, ed. David Copp. New York: Oxford.
- Nagel, Thomas. 1972. "War and Massacre." *Philosophy and Public Affairs*, 1(2), 123-144.
- Nagel, Thomas. 1986. *The View from Nowhere*. New York: Oxford.
- Nagel, Thomas. 2008. "The Value of Inviolability." In *Morality and Self-Interest*. Ed. Paul Bloomfield. New York: Oxford.
- Nolan, Daniel. 2009. "Consequentialism and Side Constraints." *Journal of Moral Philosophy*, 6(1), 5-22.
- Norcross, Alastair. 1997. "Comparing Harms: Headaches and Human Lives." *Philosophy & Public Affairs*, 26(2), 135-167.
- Norcross, Alastair. 1998. "Great Harms From Small Benefits Grow: How Death Can Be Outweighed by Headaches." *Analysis* 58(2), 152-158.
- Nozick, Robert. 1968. "Moral Complications and Moral Structures." *American Journal of Jurisprudence* (13)1, 1-50.
- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New York: Basic Books. Excerpt "Side Constraints," reprinted in 1988, *Consequentialism and Its Critics*. Ed. Samuel Scheffler, New York: Oxford.
- Oldenquist, Andrew. 1966. "Rules and Consequences." *Mind*, 75, 180-192.
- Parfit, Derek. 1978. "Innumerate Ethics." *Philosophy and Public Affairs*, 7(4), 285-301.
- Parfit, Derek. 1979. "Is Common-Sense Morality Self-Defeating?" *Journal of Philosophy*, 76(10), 533-545.
- Parfit, Derek. 1984. *Reasons and Persons*. New York: Oxford.
- Pettit, Phillip. 2002. "Non-Consequentialism and Political Philosophy." *Robert Nozick*. New York: Cambridge.
- Pettit, Phillip and Michael Smith. 1997. "Parfit's P." In *Reading Parfit*. Ed. Jonathan Dancy. Oxford: Blackwell.

- Portmore, Douglas. 2005. "Combining Teleological Ethics with Evaluator Relativism: A Promising Result." *Pacific Philosophical Quarterly* 86, 95–113.
- Portmore, Douglas. 2007. "Consequentializing Moral Theories." *Pacific Philosophical Quarterly* 88, 39–73.
- Portmore, Douglas. 2009. "Consequentializing." *Compass*, 329–347.
- Portmore, Douglas. 2011. *Commonsense Consequentialism: Wherein Morality Meets Rationality*. New York: Oxford.
- Portmore, Douglas. 2011. "Consequentialism and Moral Rationalism." In *Oxford Studies in Normative Ethics, Volume 1*. New York: Oxford.
- Portmore, Douglas. 2014. "Replies to Gert, Hurley, and Tenenbaum." *Philosophy and Phenomenological Research*, 88(1), 241–255.
- Portmore, Douglas. 2013. "Perform Your Best Option." *Journal of Philosophy*, 110(8), 436–459.
- Quinn, W.S. 1989. "Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing." *The Philosophical Review*, 98(3), 287–312.
- Railton, Peter. 1984. "Alienation, Consequentialism, and the Demands of Morality". *Philosophy and Public Affairs*, 13(2), 134–171.
- Ronzoni, Miriam. 2010. "Teleology, Deontology, and the Priority of the Right: On Some Unappreciated Distinctions." *Ethical Theory and Moral Practice*, 13(4), 453–472.
- Ross, Glen. 1977. "When Do We Do What We Do?" *Philosophical Studies*, 32(4), 419–423.
- Ross, W.D. 2002. *The Right and the Good*, Philip Stratton-Lake (ed.), Oxford: Oxford University Press.
- Scanlon, T.M. 2008. *Moral Dimensions*. Harvard University Press.
- Scheffler, Samuel. 1982. *The Rejection of Consequentialism*. New York: Oxford.
- Scheffler, Samuel. 1988. "Agent-Centered Restrictions, Rationality, and the Virtues." In *Consequentialism and Its Critics*. Ed. Samuel Scheffler, New York: Oxford.
- Schroeder, Mark. 2006. "Not So Promising After All: Evaluator-relative teleology and common-sense morality." *Pacific Philosophical Quarterly* 87, 348–56.
- Schroeder, Mark. 2007. "Teleology, Agent-Relative Value, and 'Good'". *Ethics*, 117(2), 265–295.

- Schroeder, Mark. 2007. "Reasons and Agent-Neutrality." *Philosophical Studies*, 135, 279-306.
- Schroeder, S. Andrew. 2011. "You Don't Have to Do What's Best! A Problem for Consequentialists and Other Teleologists." In *Oxford Studies in Normative Ethics, Volume 1*. New York: Oxford.
- Sen, Amartya. 1982. "Rights and Agency." *Philosophy and Public Affairs*, 11(1), 3-39.
- Shaw, William H. 1991. "On The Paradox of Deontology." *Journal of Philosophical Research*, 16, 393-406.
- Slote, Michael. 1984. *Common-Sense Morality and Consequentialism*, London: Routledge & Kegan Paul.
- Smith, Holly. 2010. "Subjective Rightness". *Social Philosophy and Policy*, 27(2):64-110
- Smith, Michael. 2009. "Two Kinds of Consequentialism." *Philosophical Issues*, 19, 257-272.
- Smart, J.J.C. 1956. "Extreme and Restricted Utilitarianism." *The Philosophical Quarterly*, 6(25), 344-354.
- Steinbock, Bonnie and Norcross, Alastair (eds.). 1994. *Killing and Letting Die*. New York: Fordham University Press.
- Stocker, Michael. 1976. "The Schizophrenia of Modern Ethical Theories". *Journal of Philosophy*, 73(14), 453-466).
- Suikkanen, Jussi. 2004. "What We Owe to Many." *Social Theory and Practice*, 30(4), 485-506.
- Suikkanen, Jussi. 2009. "Consequentialism, Constraints and the Good-Relative-to: A Reply to Mark Schroeder." *Journal of Ethics and Social Philosophy*, <http://www.jesp.org/articles/download/Consequentialism.pdf>.
- Taurek, John. 1977. "Should the Numbers Count?" *Philosophy and Public Affairs*, 6(4), 293-316.
- Tenenbaum, Sergio. 2014. "The Perils of Earnest Consequentializing." *Philosophy and Phenomenological Research*, 88(1), 233-240.
- Thomson, Judith Jarvis. 1976. "Killing, Letting Die, and the Trolley Problem." *The Monist*, 59(2), 204-217.
- Thomson, Judith Jarvis. 1977. "Some Ruminations on Rights." *Arizona Law Review*, (19), 45-60.

- Thomson, Judith Jarvis. 1980. "Rights and Compensation." *Nous*, (14)1, 3-15.
- Thomson, Judith Jarvis. 1990. *The Realm of Rights*. Cambridge: Harvard University Press.
- Timmerman, Jens. 2004. "The Individualist Lottery: How People Count, but Not Their Numbers." *Analysis*, 64(2), 106-112.
- Vallentyne, Peter. 1987. "The Teleological/Deontological Distinction." *Journal of Value Inquiry*, 21(1), 21-32.
- Vallentyne, Peter. 1988a. "Teleology, Consequentialism, and the Past." *Journal of Value Inquiry*, 22(2), 89-101.
- Vallentyne, Peter. 1988b. "Gimmicky Representations of Moral Theories." *Metaphilosophy*, 19(3-4), 253-263.
- Wasserman, David and Alan Strudler. 2003. "Can a Nonconsequentialist Count Lives?" *Philosophy and Public Affairs*, 31(1), 71-94.
- Williams, Bernard. 1973. "A Critique of Utilitarianism." New York: Cambridge. Excerpt "Consequentialism and Integrity." reprinted in 1988, *Consequentialism and Its Critics*. Ed. Samuel Scheffler, New York: Oxford.
- Williams, Bernard. 1976. "Moral Luck," *Proceedings of the Aristotelian Society, Supplementary Volumes*, 50, 115-125.
- Williams, Bernard. 1981. *Moral Luck*. Cambridge: Cambridge.
- Williams, Bernard. 1993. *Shame and Necessity*. Berkeley: University of California Press.
- Woodward, Christopher. 2009. "What's Wrong with Possibilism." *Analysis*, 69(2), 219-226.
- Woodward, P.A. (ed) 2001. *The Doctrine of Double Effect*. Notre Dame: University of Notre Dame Press.
- Zamir, Eyal and Medina, Barak. 2010. *Law, Economics, and Morality*. New York: Oxford.
- Zimmerman, Michael J. 1990. "Where Did I Go Wrong?" *Philosophical Studies*, 59(1), 55-77.