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The Case for Authority

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The Case for Authority¹

1. The Overdemandingness Objection

Consequentialism² is the view that the right thing to do in any situation is the act with the best consequences as judged from an impersonal point of view. Understood in this way consequentialism is a single-principle view; it is exhausted by what is called the optimizing principle of beneficence.³ Many disagree with this principle, however, emphasizing the significance of the personal in moral life. In this paper I discuss one particular objection: the claim that consequentialism is overdemanding, hence unacceptable as an account of what we are morally required to do. Henry Sidgwick puts—but does not advocate—the point like this:

¹ This paper has been long in the making since it was first presented, in a form very different from the present one, at the Royal Holloway in 2001. I have accumulated many debts throughout the years. I would like to thank János Kis, Krister Bykvist, András Miklós, Hugh LaFollette as well as other friends, colleagues and audiences in Lisbon, Dundee, Oxford, Stockholm, Oslo and Budapest. While writing, revising, and redrafting the paper I have been supported by a Guest Scholarship from the Swedish Institute, a Postdoctoral Fellowship of the Swedish Research Council (Grant number: 435-2007-7830), the Hungarian State Eötvös Fellowship, and a Fellowship from the Zukunftscolleg at the University of Konstanz.

² By “consequentialism” I have in mind what is normally called act-consequentialism. I have removed the qualifier because in what follows I will not be interested in other forms of consequentialism, some of which were born in response to OD (in particular, as instances of the restructuring strategy mentioned below).

³ In this paper I disregard the distinction between utilitarianism and consequentialism. The two can differ either because on consequentialism the goodness of consequences need not solely be a function of human well-being, or because utilitarianism need not require the impersonal promotion of aggregate well-being. The former difference does not influence the upcoming discussion, while non-consequentialist utilitarians are not subject to the Overdemandingness Objection. Hence my equivocation in the text.

Indeed, from a practical point of view the principle of aiming at the “greatest happiness of the greatest number” is *prima facie* more definitely opposed to Egoism than the Common-Sense Morality is. For this latter seems to leave a man free to pursue his own happiness under certain definite limits and conditions: whereas Utilitarianism seems to require a more comprehensive and unceasing subordination of self-interest to the common good. And thus, as Mill remarks, Utilitarianism is sometimes attacked from two precisely sides: from a confusion with Egoistic Hedonism it is called base and groveling; while at the same time it is more plausibly charged with setting up too high a standard of unselfishness and making exaggerated demands on human nature.⁴

Let us call the last charge Sidgwick mentions the *Overdemandingness Objection* (OD). As the quote from Sidgwick also shows, OD has had a long a history.⁵ This paper is an attempt to assess its significance as a challenge to consequentialism.

OD is built on two pillars. One is the idea that consequentialism is extremely demanding. Two simple considerations show this. First, the optimizing principle requires the agent to do what is best overall, that is, to promote the good until the point where further efforts would burden her as much as they would benefit others. Second, the situation that determines what would be best overall is far from ideal. Just to mention few things, today’s world involves mass poverty both in the agent’s own country (with few exceptions) and in the world as a whole; the number of people who donate money to charity is very low; and the political institutions that might make things better are not too efficient especially on the international level. Hence it seems that if one takes seriously consequentialism, one must devote much of one’s financial resources, energy and leisure time to charity work.⁶ At the same time, most of us have a firmly held belief that this cannot be right, that people should not be required to sacrifice their life on the altar of morality. This is the second pillar of OD. For this belief seems to ground an intuitive constraint on admissible moral theories requiring them to avoid un-

⁴ Sidgwick (1907): 87.

⁵ For references see Hooker (2009): 162 footnote 4, Carter (2009).

⁶ In fact, even if the demands themselves are not extreme, the iteration of such requirements may easily add up to altogether extreme demands (Cullity (2004): Chapter 1).

acceptable demands. If they do not, we think, these theories should not be allowed to guide our conduct. OD is an attempt to articulate this constraint.

Let me put this more formally by spelling out the structure of OD in more detail. This will help us to put things in context. Here is the structure:⁷

- (1) Consequentialism makes demand D.
- (2) Demand D is intuitively unacceptable.
- (3) Therefore, consequentialism makes intuitively unacceptable demands.
- (4) If a moral theory makes unacceptable demands, then we have reason to reject it.
- (5) Therefore, we have reason to reject consequentialism.

This more detailed structure well illustrates the possible ways of tackling OD. The strategy of “denial” rejects premise (1) either because it holds that the premise rests on false empirical facts, or because it argues that the internal structure of consequentialism is such that it does not make the demand.⁸ The strategy of “extremism” rejects premise (4) by trying to undermine or discredit the intuitions that underlie the premise,⁹ or by pointing out that other moral theories also fall prey to OD, thus they are all “companions in guilt”.¹⁰ Although it is logically possible to reject premise (2), this is a move that is rarely (if ever) appealed to in the literature. This is for good reason: it is hard to deny that the intuition exists. This leaves us with the strategy of denial and the strategy of extremism. I disregard the idea of rejecting the empirical basis of OD because I think these arguments do not succeed.¹¹ I also set aside the other version of the strategy of denial because I think this discussion has become increasingly cumbersome and hard to follow, thus to discuss it within the constraints of a single paper would be a futile enterprise.

⁷ Mulgan (2001): 25.

⁸ Cullity (2004), (2009), Hooker (2000), Murphy (2000), Mulgan (2001), Scheffler (1994), Slote (1984).

⁹ Singer (1972), Kagan (1989), Unger (1996), Tännsjö (2002), Sobel (2007).

¹⁰ Mulgan (2007): 103-104.

¹¹ Ibid: 31-37.

Instead, I will side with the strategy extremism, but provide an approach to OD different from its advocates. My idea is that once we have a careful analysis of OD at hand, we will see that all the possible interpretations have serious problems. To show this, I will first spell out the three dimensions of moral demands along which one can interpret OD: those based on its scope, content, and authority respectively. This will not only provide us with a clear view of the different ways of advocating OD, but will also make it possible for us to see the shortcomings of these interpretations. In particular, I will argue that of the three possible interpretations of OD only one, the version based on the authority of consequentialism, is viable, but this one too has its (serious) problems. The case for authority, thereby the support for OD is thus weak, if there is any at all.

2. The three dimensions: scope, content, authority

The first dimension is also the most straightforward one. It concerns the *scope* of moral demands, that is to say, the circle of voluntary human action that the moral theory making the demand regards as open to moral assessment. This does not mean that only human action is subject to moral appraisal. Nor is it to claim that there are no differences in the degrees of sophistication concerning the moral assessment one applies to different cases. And it is certainly not to say that there are not instances when one does not or, in fact, should not engage in the *activity* of moral appraisal. In certain situations of human life it is just not healthy, or appropriate, or humanly supportable, or desirable to engage in such assessment.¹² With these excusing conditions in mind, we can say that a moral theory counts as overdemanding with respect to the dimension of scope if the circle of actions open to moral assessment is too broad. And we can add that moral theories, which adhere to this claim are *pervasive*: they assess (almost) every element of our life, (almost) every action we take.

The next variable that enters claims of overdemandingness concerns the *content* of moral demands. On the face of it, the idea is simple. Every moral theory involves certain directives that determine what the agent should do in the given situation. If these directives are such that obeying them would be seriously inconsistent with the agent's non-moral goals, projects and commitments, then the given moral theory would qualify as overdemanding with respect to its

¹² Scheffler (1992): 25.

content. Observe that this dimension is different from the previous one. We can see this best if we take a moral theory that is normally regarded as less demanding: charity. On this view nothing is required of moral agents; all acts of beneficence are supererogatory. Yet, theories of charity are pervasive. What they say is not that certain voluntary human actions are exempt from moral assessment, but that the result of such evaluation is unfavorable from the moral perspective: one is *permitted* to pursue one's non-moral goals. And being permitted shows the presence of moral assessment, not the absence of it.

However, unlike scope, this dimension requires further interpretation. In particular, we have to clarify three issues: what it is that moral directives are inconsistent with; how we understand inconsistency; and how we measure it. To answer the first question we must find a notion that captures the idea that the agent has goals and projects that can conflict with moral directives. The notion that best serves this purpose is the notion of the agent's *well-being*. To avoid ruling out the conflict between the agent's well-being and morality *a priori*, we must assume that neither is defined in terms of the other. In this paper I am going to build on this assumption.¹³ I take it that this internal connection is far from being intuitively supported, thus further argument is needed to prove its existence.¹⁴ Also, reference to well-being brings in the question of which account of well-being one adheres to. This is, however, another issue that I set aside in the paper. Given the present situation in the world, it does not matter what account of well-being we advocate. This does not mean that theories of well-being are not important elsewhere; it is only to say that they do not play a significant role in discussions about OD.

¹³ This is consistent with consequentialism's insistence to analyse rightness in terms of goodness since the goodness it refers to is impersonal. Hence to achieve the required congruence, one would have to show that there is a conceptual relation between impersonal and personal goodness, which is just another substantial, intuitively not supported position.

¹⁴ For an early consequentialist discussion see Sidgwick (1907): Concluding Chapter. More recently, Nagel (1986: 197) and Scheffler (1992: chapter 7) have both ruled out the existence of a conceptual connection. It must be noted that Scheffler does not deny that there can be a congruence between the agent's well-being and morality; what he rejects is the idea that such a connection is conceptual as opposed to, say, empirical and thus contingent. Rawls (1971: chapter IX) agrees and argues for congruence.

The second issue concerns our understanding of inconsistency. To get a grip on this notion, we need to clarify another notion: that of a “demand”. Liam Murphy suggests two competing readings. In a *broad* sense of the word a “demand” just refers to a “requirement”: anything that a given moral theory requires one to do counts as a demand of that theory. In a *narrow* sense of the word only certain requirements of a moral theory qualify as demands: those that involve losses and thus are costly to the agent.¹⁵ Accordingly, the broad reading interprets inconsistency as the simple claim that morality involves requirements that can conflict with the agent’s well-being. The narrow reading takes the same route, but adds to it that relevant conflicts also reduce the agent’s well-being. Although the typical approach in the literature follows the narrow reading, the broad reading sounds more plausible with regard to deontic constraints against killing or stealing. For though we can say that a moral theory should impose, in the form of these constraints, certain costs on the agent, it seems more natural to claim that it should not involve certain requirements.¹⁶ Although one may try to collapse the broad reading into the narrow one, I think it is best to set these readings apart until further argument is provided to the contrary.

When some understanding of the notion of well-being and demand is in place, we can proceed to the clarification of the third issue: how to assess demands. This requires a *baseline* relative to which we qualify requirements (broad reading) or assess losses (narrow reading). There are two types of baselines, non-normative and normative.¹⁷ The former draws a line that is empirically understood. A good example is the idea that the baseline is given by the factual status quo: how things are and how we expect them to be. If we use this baseline, then a moral directive that, say, makes us give up

¹⁵ Murphy (2000): 17. Some philosophers argue that in addition to costs one should also consider the factor Scheffler (1992: 98) calls “confinement”. In his formulation a moral theory is confining to the extent the constraints it involves narrow the range of morally acceptable courses of action open to the agent. It is, however, questionable whether confinement indeed constitutes an independent factor. Murphy (2000: 29-30), for instance, argues that a large part of confinement can be explained as losses that the agent suffers in her well-being when obeying with moral dictates. Therefore, given its controversial nature and the fact that I will not need it in the upcoming discussion, I do not deal with confinement in detail.

¹⁶ Hurley (2003): 847-848.

¹⁷ Murphy (2000): 35-36, Hurley (2003): 846-847.

something dear to us that we otherwise expect to have in the future will pose a requirement that it should not (broad reading), and will impose a loss on us that it should not (narrow reading). A normative baseline, on the other hand, may for instance set entitlements and compare demands to them. Hence, if we suppose that we are entitled to our material possessions, constraints against stealing would be requirements that a moral theory should have (broad reading), and would be losses a moral theory should impose on the agent (narrow reading).

With these three notions at hand we can now define when a moral theory is overdemanding with respect to its content. We can say one of two things. Either a moral theory is overdemanding if it contains requirements that we think it should not; this follows the broad reading of demand. Alternatively, we can say that a moral theory is overdemanding if it imposes costs on the agent that we find unacceptable; this follows the narrow reading. As shown above, both interpretations require an account of the agent's well-being as well a properly set baseline. We can call moral theories that fall into either of these categories *stringent*: they are theories that require the agent to give up most of her goals, projects, and commitments in order to act morally.

Both the dimension of scope and the dimension of content focus exclusively on the moral side and regard the non-moral as passive. However, in real life there is a battle going on and this battle is fought with reasons.¹⁸ Whenever we act in a situation where moral options are also present – and if one follows a consequentialist morality the number of such situations is high – we have to decide among competing reasons for action. This suggests a further dimension that I am going to call *authority*. With the new dimension comes another understanding of overdemandingness. It stems from what is often called the Overridingness Thesis (OT): the idea that moral reasons override other conflicting reasons of the agent. The thesis has a weak and a strong form depending on whether reasons to act as morality requires *always* win out in the clash of reasons (strong version), or only sometimes, albeit, perhaps, most of the time (weak version). For reasons to be explained later, the weak reading is

¹⁸ Perhaps the dimension of authority is not exhausted by reasons, however. For example, Broome (2000, 2004) argues for the existence of what he calls “normative requirements”. For more on this see Broome (2007), Kolodni (2005), Scanlon (2007).

enough to support OD. It is important, moreover, not to confuse this dimension with the previous two. The present interpretation is about overall normative verdicts; it is about what the agent on the whole ought to do. In contrast with this, the dimension of scope deals with the object of those verdicts, whereas the dimension of content concerns the content of the reasons that enter those verdicts.

This dimension also requires interpretation. In order to have a clear view of what in this sense an overriding moral theory consists in we need to clarify the notion of a moral reason. To this purpose, it is best to use Thomas Nagel's distinction between agent-relative and agent-neutral reasons.¹⁹ The latter involve essential, that is to say, ineliminable reference to the agent who has the reason, whereas the former do not. Pain and pleasure, according to Nagel, are typical agent-neutral reasons since it makes no difference who has them: they ground reasons regardless of who their holder is since it does not matter *whose* pain or pleasure we are dealing with.²⁰ As to agent-relative reasons, Nagel distinguishes three types of agent-relativity.²¹ There are reasons of autonomy that are provided by the agent's projects and goals (it matters that they are *my* goals); reasons of special obligations that are based on the agent's obligations to those who are closely related (it matters that they are *my* loved ones); and deontological reasons that are grounded in the claims of other people not to be maltreated in certain ways (it matters that it is *me* who commits the murder).

Put in this framework, the reasons consequentialism provides are agent-neutral: to do what produces the best consequences overall is a reason that is not indexed to any particular agent.²² Other moral theories take morality to be more agent-relative. A good example is Kantian deontology, which identifies moral reasons with Nagel's deontological reasons, but contractualism and virtue theory may also be cited here. Similarly to the dimension of content, there is a caveat here, too. To avoid ruling out the conflict between moral and non-moral reasons *a priori*, I again assume that there is no conceptual connection between the two. To prove this kind of internal relation is another substantial position, which requires further support.

¹⁹ Nagel (1986): 164-166, Ridge (2005).

²⁰ Nagel (1986): 164-165.

²¹ Ibid.

²² Ibid: 164.

Moral reasons are also normative practical reasons; hence this latter notion too needs to be clarified. Given the confines of this paper, any attempt for clarification will be severely limited; yet, there is space to introduce some important distinctions and interpretations. Recently there has been an upsurge in the literature in this regard, so I will only highlight the main points here. The most widely shared view is that a reason is a consideration that speaks in favor of action.²³ In other words, a reason is a fact that stands in a normative relation—we can call it favoring or reason-relation—to action. Reasons understood in this way are *pro tanto* considerations: they have a certain weight and when we decide what to do overall what we do is weighing them against each other. Jonathan Dancy's notion of contributory reason sums up the idea well. He says: "A contributory reason for action is a feature whose presence makes something of a case for acting, but in such a way that the overall case for doing that action can be improved or strengthened by the addition of a second feature playing a similar role".²⁴

Reasons, however, can do other things than outweigh or be outweighed by other reasons and this additional ability is important for a proper understanding of authority. Here are two examples for the "alternative" behavior of reasons. According to Joseph Raz, in the sphere of legal practice there exists what he calls exclusionary reasons.²⁵ The reasons that law provides do not merely outweigh opposing considerations but also exclude them: they say that rival considerations simply do not qualify as reasons in the given situation. Thomas Scanlon notes a similar phenomenon with respect to reasons for action. He says that certain reasons, typically those that come with some role of the agent, silence other considerations by urging that the agent should not attach any weight to them.²⁶

The two abilities we attributed to reasons single out two rival understandings of OT. The first is the idea that moral reasons *outweigh* non-moral reasons. This is the typical understanding of overridingness in the literature.²⁷ The other ability of reasons, however, suggests an alternative picture on which moral reasons *silence* non-

²³ Raz (1975): 186, Gibbard (1990): 163, Scanlon (1998): 17, Dancy (2004): 33.

²⁴ Dancy (2004): 15.

²⁵ Raz (1975): 73-76, 185-186.

²⁶ Scanlon (1998): 51-53.

²⁷ Scheffler (1992): Chapter 4, Nagel (1986): Chapter 10.

moral reasons: they urge that we attach no weight to them disregarding them as reasons. John McDowell is the primary representative of this position.²⁸ In his interpretation the virtuous person is not someone who overcomes non-virtuous inclinations because this is what the balance of reasons requires; instead, she is someone who does not consider those inclinations as reasons at all. They just do not appear on her “normative horizon”, they do not count normatively.

Given these two readings of OT, we get two corresponding interpretations of OD with regard to the dimension of authority. The claim is that a moral theory is overdemanding because our reasons to meet its requirements, at least according to the theory, override—meaning: outweigh or silence—other competing reasons, resulting in situations when it demands us, with alleged decisive force, to do things that we do not have decisive reason to do.²⁹ To put it shortly, a moral theory in this case is unreasonably demanding because it is *inescapable*: it is a theory whose directives are (most of the time) not overruled by other, non-moral considerations.

As mentioned before, OD thus understood does not need more than the weak form of OT. Now we can see why this is so. OD in its present form is based on the idea that at least in *some* situations what a moral theory requires us to do is such that, intuitively, we do not have decisive reason to do it. Situations in which this is the case can come about even if moral reasons do not always override non-moral reasons. Surely, we are more likely to encounter such cases if the stronger claim is true, but this is not needed. Moreover, it is more charitable to advocates of OD to proceed on the assumption that the weak version is enough to support the objection.

These are then, the three dimensions of moral demands and the corresponding interpretations of OD. It is important to keep them apart because the dimension one focuses on will determine the form OD takes in one’s hands. Yet, the three dimensions are often not distinguished from each other. Bernard Williams offers a good example. In objecting to consequentialism he seems to oscillate between three

²⁸ McDowell (1978): 26-29, (1979): 335.

²⁹ I do not mean to introduce any new reason-relation by invoking the concept of a decisive reason. As I understand it, what we have decisive reason to do is just what we have most reason to do.

options.³⁰ One is that there are certain fields of our life such as personal relationships that should be immune to criticism: they should lie beyond moral justification. This is a claim about the scope of morality. The other is that morality should not require agents to abandon their ground projects, goals that constitute their character. This is a claim about the content of morality. Furthermore, his wording of OD might also be taken to be a claim about authority: morality should not be too demanding in the sense that its reasons override all non-moral reasons, including those based on one's ground projects.³¹

He is not alone with this confusion. Peter Railton is similarly unclear as to which dimension he has in mind when he formulates OD,³² as is Susan Wolf indecisive when she argues for the undesirability of moral saints.³³ There are exceptions, though. Samuel Scheffler distinguishes different ways of understanding OD and the different dimensions and corresponding interpretations of OD appear in the more recent work of Sobel and Hurley as well.³⁴

Keeping the three dimensions separate also makes visible their different combinations. Thus it is possible to claim that no human action is absent from moral assessment and still hold that certain moral requirements, such as giving up one's ground projects, are not part of the content of morality. One can also argue that not only the scope of moral justification is unrestricted but also its content. Morality can demand anything, including the most financially and otherwise burdensome actions, provided the reasons it gives rise to, do not override the agent's other, non-moral considerations. Finally, as a third option morality can require that we should all be moral saints (although, admittedly, this would also require certain motivational assumptions); in this case, neither its scope, nor its content, nor its authority are restricted. OD can be taken to be based on these combinations of the different dimensions and articulate a constraint on moral theories accordingly.

In the remainder of the paper my primary occupation will be to see which dimension, alone or in combination with others, is best suited

³⁰ Williams (1973a), (1973b), (1981a), (1981b).

³¹ Williams (1981a).

³² Railton (1984): 141, 147.

³³ Wolf (1982): 420-422, 433-438.

³⁴ Scheffler (1992): chapter 2, Sobel (2007), Hurley (2006).

for maintaining the challenge of OD as applied to consequentialism.³⁵ First, I will argue that focusing on the dimension of scope would be a mistaken move. There is no problem with the pervasiveness of consequentialism, constraining its scope is neither helpful, nor is it justified. And though recent approaches interpret OD as a claim about the excessively demanding content of consequentialism, I will argue that constraining the content of consequentialism is also unjustified. This then forces advocates to put OD in terms of the dimension of authority. But I will argue that defending this interpretation of OD is at best an open-ended and perilous enterprise. From this I conclude that although from the point of view of advocates of OD there is a strong case for the authority-based reading of OD, there is an equally strong case for being skeptical about this reading. The case for authority and, thus, for the case for OD, if there is any, is weak.

3. The (very) strong case against scope and content

Let us begin with the dimension of *scope* and the corresponding claim that consequentialism is overdemanding because it is pervasive. There are three reasons why one should not accept this as an adequate reading of OD.

First, reducing the scope of consequentialism would not be enough to avoid OD, and this suggests that pervasiveness cannot itself ground an overdemandingness challenge to consequentialism. Imagine the resulting theory. It would be a version of consequentialism that exempts certain areas of life, probably those most important for the agent (e.g. Williams' ground projects) and/or the most trivial ones (e.g. brushing my teeth in the bathroom), while leaving the rest of the agent's goals and projects open to moral assessment. As a result in *those* areas the "new" consequentialism would still be demanding: it would still require that the agent give up *those* goals and projects, and would do so with overriding force. Of course, there is fair amount of discretion involved here; yet, reducing the scope of

³⁵ In the present section I have deliberately focused on general interpretations of OD that make no reference to any particular moral theory. It is itself a question whether OD only applies to consequentialism, or other moral theories can also be objected to in this way. See Mulgan (2007): Chapter 5 for the claim that the appeal of OD is universal, Ashford (2003) for a criticism of Scanlon's contractualism on these grounds, and some of the essays of Chappell (2009) on OD and virtue theory, basic rights etc.

consequentialism still leaves the bulk of one's life expendable for moral purposes. If there is a problem with pervasiveness, then this problem arises from its combination with stringency and/or inescapability; pervasiveness alone is not sufficient to support OD.

If this objection is not convincing enough, here is another one. It is difficult to find a *rationale* of why the pervasiveness of consequentialism would make it objectionable on grounds of overdemandingness. Even if people do believe that there is something wrong with a pervasive moral theory (an assumption that I think is also open to doubt), it is difficult to find any ground for their belief. There is one supporting consideration that comes to mind, but that does not deliver the goods: Williams' alienation charge.³⁶ With significant simplification, Williams' point is that consequentialism alienates the agent from her commitments, goals and relationships by making her pursuit of them contingent on the impersonal thought that they are morally permitted. That is, the theory claims that the "motivating thought" of the agent, "fully spelled out" is that it is morally permissible or required to do the particular act. And it seems that the reason why Williams says this is the unrestricted scope of consequentialism. Since all voluntary human action is open to moral assessment, the agent's motivating thought will always include the permissibility or requiredness of her act.³⁷

However, there need to be no such direct connection between Williams' charge and the pervasiveness of consequentialism. To begin with, there are some minor discrepancies. Williams' point is completely general, it is about how the agent should not relate to *any* of her goals, commitments and relationships; whereas OD understood in terms of scope is restricted to *some* of the agent's goals, commitments and relationships, presumably the most trivial and most important ones. Also, the alienation charge works best if one supposes that the moral motive is not only one among many other motives of the agent but is also the *primary*, dominant one, while this certainly does not follow from OD as based on scope. But the important difference is that the alienation charge is about the agent's motivating thought, whereas OD is about the moral assessment of human action. Such assessment need not presuppose that the agent has any thought about the moral permissibility of her

³⁶ Williams (1973a), (1973b). See also Stocker (1976), Wolf (1982).

³⁷ Scheffler (1992): 21.

action.³⁸ It is perfectly compatible, for instance, with indirect (or, in its special Harean form, two-level) consequentialism that takes consequentialism to be giving us a criterion of rightness and saying nothing about the agent's thinking to this effect. Although this theory would avoid the charge of alienation, it would be still liable to OD since it assesses all human action according to the consequentialist criterion of rightness.³⁹ Hence, the alienation charge cannot be the rationale for OD since it is different from it.

The third reason in its nature is similar to the first. Samuel Scheffler has argued forcefully that moral assessment is always context-dependent, hence it is simply false to distinguish between cases that are open to assessment and those that are not.⁴⁰ We can illustrate this with examples. Although brushing my teeth in the bathroom appears to be trivial enough to escape moral assessment, this appearance quickly disappears once one considers a different description of the situation, when, say, in the other room someone is about to kill my girlfriend. Williams' example describes a case in which the stakes are high. We are to imagine a husband who has to choose between saving his wife and saving a complete stranger. Here, Williams points out, the agent's choice to save his wife "certainly lies beyond justification".⁴¹ This sounds convincing but only until we reconsider the situation under a different description. For instance, we can add that the man's wife is a dangerous serial killer, while the other person is the only man who knows how to cure cancer effectively. When we do this, our reaction to the situation changes. Now it is not self-evident that the husband's action "lies beyond justification". No action, it seems, is immune to moral justification; it is not only that we *cannot* tackle OD on the basis of scope: we *should not* do so. Hence pervasiveness cannot be the (only) ground for OD because it is in fact a desirable feature of moral theories.

³⁸ There is, moreover, good reason to suppose that Williams' alienation charge collapses even without endorsing two-level consequentialism as do Sidgwick ((1907): 413), Railton (1984), Herman (1983), (1991). For proof of this claim building on a psychologically more sophisticated picture of the agent's practical thinking see Scheffler (1992): 31-32, Raz (1999): 114-116, Scanlon (1998): 24.

³⁹ Railton (1984): 161.

⁴⁰ Scheffler (1992): 24-25.

⁴¹ Williams (1981a): 18.

Turn now to the content-based reading of OD. It is this dimension along which OD was typically understood and has attracted the most influential responses: this is the most often advocated form of the strategy of denial mentioned in the first section. Representatives of this position in one way or another all have argued that the internal structure of consequentialism is such that it does not make the excessive demands attributed to it. As I said earlier, I will not deal with these responses. Instead, I will consider two arguments that question the idea that the content-based reading of OD is the right one to proceed with in the first place. The first was recently made by Paul Hurley:⁴² the problem with the content-based interpretation is that a moral requirement only transforms into a moral demand, if there are reasons supporting the requirement. Hence an over-demanding content is objectionable only if it is backed by reasons, which is not something this reading of OD has anything to say about. Therefore, just like pervasiveness, stringency alone cannot give us an overdemandingness challenge. And since pervasiveness is not a problematic aspect of consequentialism, the two together are also harmless to consequentialism. The only important dimension for OD is inescapability; it is this alleged feature of consequentialism that the fate of OD ultimately turns on.

Two related points are in place. The first is Hurley's own.⁴³ Consequentialists, he says, should not be happy to endorse this response since consequentialism has no theory of reasons; hence, it may not, properly speaking, make demands on people. However, while this is true, it does not mean that consequentialism cannot be *augmented* by a theory of reasons. Although Hurley is skeptical about this possibility,⁴⁴ it is nevertheless a viable theoretical option. In that case, the next challenge that follows from the side of advocates of OD is that consequentialism is committed to OT; but this again is a substantial thesis to be proven right. I will say more about this issue in the following section.

Second, in his response to Hurley, David Sobel points out that Hurley must provide arguments for his claim that only reason-backed content matters.⁴⁵ However, Sobel does not consider an obvious re-

⁴² Hurley (2006): 690-691, 725.

⁴³ Ibid: 683, 685-686.

⁴⁴ Ibid: 698-704.

⁴⁵ Sobel (2007): 15-16.

ply: as moral demands are supposed to be action-guiding and if the normative is all about reasons as many claim,⁴⁶ it is hard to see what relevance and significance moral demands that lack the support of reasons would have. No doubt, Sobel is right in that we can meaningfully discuss the demands of consequentialism without reference to the reasons it provides. However, to base an objection of the style of OD on this discussion, we need to show why this discussion is relevant *for our conduct*.⁴⁷ And this is where reasons appear as essential ingredients.

There is another, perhaps less controversial objection to the content-based version of OD, this time coming from Sobel himself. His idea is that the stringency of consequentialism, just like its pervasiveness is not objectionable: no good *rationale* can be found for objecting to it. Unlike advocates of the strategy of extremism, Sobel, however, does not want to refute the offered content-based rationales for OD. Instead, his main point is that there *is* a way to support OD, but this support presupposes “prior and independent breaks with consequentialism”, that is, prior to and independent of issues of demandingness.⁴⁸ This break concerns the distinction between the costs a moral theory requires the agent to bear and the costs a moral theory permits to befall on agents as a result of not requiring others to prevent it.⁴⁹ OD, understood along the dimension of content, Sobel argues, only focuses on costs a moral theory requires to bear, and totally disregards the costs a moral theory permits; this is why it says that consequentialism is overdemanding. However, this distinction and the resulting choice presupposes that we already know something about “the true shape of morality” before we employ OD. That is, when we are concerned with OD what we are concerned with is not excessive demands, but something else that our complaints only

⁴⁶ For instance, Dancy (2004), Scanlon (1998), Schroeder (2007).

⁴⁷ Note that this view does not presuppose that morality is somehow transparent to its followers, as Rawls ((1971): 182) and Williams ((1973a): 128) demand it to be the case. Reasons may not be available to their possessors, and consequentialism may indeed only give us a criterion of rightness without saying anything about decision-making procedures. All that is claimed is that morality is action-guiding in the sense that it is normative, i.e., that it provides us with reasons (cf. Sobel (2001a), (2001b)).

⁴⁸ Sobel (2007): 1, 3.

⁴⁹ Ibid: 3, 5.

track, namely the distinction between the two kinds of costs.⁵⁰ And though there appear to be ways of supporting this distinction that claim not to jeopardize OD, none of them works out.⁵¹

4. Consequentialism and common-sense morality

These considerations lead me to the conclusion that those who advocate OD should follow the authority dimension. Their claim should be that consequentialism is overdemanding because, while being stringent and pervasive, our reasons to meet its requirements override other competing reasons, resulting in situations when it demands us, with alleged decisive force, to do things that we do not have decisive reason to do. This reading is not subject to any of the points made against the other two interpretations of OD. There is thus a case for authority, but how strong is it? Rather weak, I think. To begin with, as noted earlier, consequentialism, unlike Kantian or Hobbesian moral theories, is a theory of moral standards that has nothing to say about moral reasons: it must be augmented by a separate theory of reasons. Hence, we cannot simply refer to the theoretical construct called “consequentialism” to see if advocates of OD are right when they make or, rather, when we imagine them to make claims about OT, thus about the inescapability of consequentialist directives. There is no evidence that consequentialists typically endorse such a claim, much less that they need to do so.⁵²

However, let us suppose that consequentialists do want to endorse OT. This only creates further problems for the present approach.

⁵⁰ Ibid: 7-8.

⁵¹ Ibid: 6, 8, 10-14. One of these is to rely on linguistic intuitions as to what a moral “demand” consists in: that it is identical with a moral requirement. My earlier interpretation of “demand” may suggest this response. However, Sobel (2007: 8-9) argues that even if we accept this understanding of “demand”, it will still be the case that we need to vindicate the distinction between requiring and permitting costs. Otherwise, he points out, we sap the strength of OD by relying on a reading of moral demand that may turn out to be normatively unimportant.

⁵² In fact, it is possible for the consequentialist to avoid OD in the way we understand it now, by refusing to say anything about moral reasons for action. I do not, however, consider this possibility. This move is not only charitable to advocates of OD but is also in line with Hurley’s aforementioned argument since that stresses the importance of reasons for a moral theory.

First, many regard OT as itself part of common sense (or folk) morality. Sarah Stroud, for instance, argues for this claim at length,⁵³ and Hurley takes it for granted.⁵⁴ But then, with pervasiveness and content discredited for diverse reasons as grounds of OD, it becomes a question whether we get anywhere with the present reading of OD. How can OT, on its own, lead to a constraint on moral theories, which OD is taken to articulate, if it is itself part of common sense morality, that is, if it is itself something common sense morality has no problem with? We cannot say that, intuitively, there is a problem with an overriding consequentialist theory because it demands us, with decisive force, to do things we have no decisive reason to do, when we at the same time think that a moral theory with (inclusively or exclusively) consequentialist content should be overriding.

Two responses can be made. Either one can argue that the empirical claims concerning the embeddedness of OT in our every-day practice do not bring to surface any pre-theoretical intuitions: OT, contrary to appearance, is not part of common-sense morality. However, this is at best an open-ended inquiry. Alternatively, one can point out that even if OT is part of common-sense morality, together with the excessive content of consequentialism and its pervasiveness, it does produce OD. This may be true, were it not for the considerations mentioned in the previous section. For if pervasiveness is a desirable feature of moral theories, and the problem with the excessive content of consequentialism is not that it is excessive but something else, OD will not follow. We will have inescapability that is part of common sense morality, we will have pervasiveness, which is desirable, and we will have excessive content, which is not problematic just in virtue of the fact that it is excessive. There is no way one can derive an intuitive constraint on moral theories based on the over-demandingness of those theories from these three elements. Yet, this is just what OD is supposed to be.

There is, second, the question of how consequentialists would prove that consequentialist morality is inescapable. As both Hurley and Stroud points out, one way for consequentialism to do this would be by appeal to the content of common sense morality. But, as we saw above, this may cause problems for this reading of OD, instead of helping its case. Besides, as both authors show, consequentialism

⁵³ Stroud (1998): 176-177.

⁵⁴ Hurley (2006): 691.

cannot make such an appeal.⁵⁵ There are two main reasons for this that are also related. The first is that the reason why common sense morality endorses OT is that it takes the content of moral demands to be moderate involving both permissions to pursue one's personal projects as well as restrictions concerning what we can do to others (deontic duties, typically). This is so, moreover, because the moral weight common sense morality attributes to the agent's well-being is out of proportion to the weight it has from an impartial standpoint, which is just what consequentialism attributes to it. Of course, consequentialism may be so configured that it becomes as moderate as common sense morality is with regard to its content.⁵⁶ But then the charge of OD would no longer stick: we would have a moderate moral theory that is inescapable but not overdemanding. This is just what some advocates of the strategy of denial claim to have achieved in response to OD. Hence this reading would no longer be a version of OD: it would not be OD at all.

Let me summarize these points. The existing content of common-sense morality has a direct effect on the normative issue of which moral theory to accept. Based on the previous discussion, we can distinguish three options for consequentialism with respect to the content of common-sense morality. All options, let me add, presuppose that we have a fairly good picture of common-sense morality at hand, which is far from the case.⁵⁷ Most probably, to acquire such an account we would need to probe common-sense morality with experimental means such as surveys, questionnaires, and so on. But setting aside this difficulty for the moment, the three scenarios are the following:

- (1) OT turns out to be part of common sense morality with, inclusively or exclusively, consequentialist content (i.e. the optimizing principle of beneficence).

⁵⁵ Stroud (1998): 179-184, Hurley (2006): 691-693.

⁵⁶ Scheffler's (1992: 57-60) argument against a certain strategy to show that morality cannot be inescapable, which he attributes to Foot (2002a, 2002b) and others, relies in part the claim that these philosophers have in mind a very stringent version of consequentialism.

⁵⁷ My recent work with the social psychologist Martin Bruder involves clarifying some of the issues in the present context, by using the experimental methods of social psychology.

(2) OT turns out to be part of common sense but with exclusively non-consequentialist content (such as deontic restrictions and special permissions).

(3) OT turns out to be no part of common sense morality.

Scenario (1) gives at least some ground for thinking that consequentialism can incorporate OT, but at the same time makes it impossible to run OD. As we saw, it does not help that, given what we have established so far, consequentialism is pervasive and has a demanding content at the same time. Scenario (2) allows for OD, but deprives us of one way of showing that consequentialism conforms to OT; hence we can make no progress in making OD work. Scenario (3) also allows for OD and says nothing about consequentialism, neither positively, nor negatively; hence, we again make no progress towards OD. In sum, common-sense morality either speaks against OD, or it is neutral in this regard: it neither supports nor does it speak against the charge.

5. Consequentialism: its reasons and their strength

If the appeal to common-sense morality does not help, consequentialists are left with the task of showing, on some other ground, that OT is true. This is certainly a viable route. Consequentialism, after all, can be right in its criticism of the alleged moderateness of common sense morality and it might also be shown that consequentialist directives are, against all odds, inescapable. However, this is at best an open ended inquiry.⁵⁸ I see three ways to argue for OT. In ending my paper, I will show that one of these is not a viable route, whereas the other two have serious problems. At the same time, although I will highlight these difficulties, I will not argue decisively against these approaches.

The first approach understands OT as the claim that consequentialist reasons are *morally* overriding.⁵⁹ That is, *within* the moral point of view, consequentialist considerations reign supreme. This might be true, especially if consequentialism is able to incorporate or in some way successfully denies agent-relative aspects of morality such as

⁵⁸ Strictly speaking, anyone who wants to prove the truth of OT must justify two corollary theses: that there are reasons to act morally, and that there are reasons to act as consequentialism requires. In my discussion, however, I presuppose the truth of these claims.

⁵⁹ Kagan (1989): 66-67, Copp (1997).

special obligations towards our loved ones or certain deontic restrictions. There are several such attempts in the literature and I will not question their plausibility here.⁶⁰ The problem with this idea lies elsewhere. For this approach to avoid triviality or to merely play a linguistic trick, it must rely on the substantial claim that a normative point of view from which all other points of view, including that of morality, may be assessed, does not exist. That is, there is no such thing as what one ought to do *simpliciter*, not from just one point of view: adjudication among different, moral, prudential, aesthetic etc., points of views is not possible.

We may name this position normative relativism. Normative relativism is a difficult position to hold. One can point to our moral/normative experience for support of the existence of unqualified ought judgments; one can argue that the sort of bifurcation of normativity that normative relativism supports is not plausible;⁶¹ one can employ an open question argument to show that the concept of ought *simpliciter* exists;⁶² one can show that this concept is useful for several philosophical tasks;⁶³ or one can take an indirect approach that shows, one by one, why alleged sources of normativity do not in fact constitute such a source.⁶⁴ The real problem with normative relativism, however, is that it is incompatible with OD: on this view we simply cannot make sense of the claim that moral reasons override non-moral reasons. For this to happen adjudication in cases of conflict among these reasons should be possible; yet, this is just what normative relativism denies. It is thus no surprise that when normative relativism is appealed to in discussions on OD, it is used to argue *against* the charge.⁶⁵

Normative relativism, then, cannot give us OD; but there is another view, which does not suffer from this shortcoming: moral rationalism.⁶⁶ This position claims that if an agent is morally required to perform an act, then that agent has decisive reason to perform that

⁶⁰ Cummiskey (1996), Brand-Ballard (2004), Portmore (2001), (2003), Sen (2002).

⁶¹ Cf. Sidgwick (1907): 507-508.

⁶² McLeod (2001).

⁶³ Darwall (1990), Stroud (1998), McLeod (2001).

⁶⁴ Tännsjö (2009).

⁶⁵ Cf., for instance, Norcross (2006).

⁶⁶ See, e.g., Brink (1997), Darwall (2006), Portmore (2011a), (2011b).

act. That is, moral rationalism holds that the claim of overridingness, in its strong form, *must* be true for moral requirements: requirements that are not decisive, i.e. not inescapable cannot be *moral* requirements. Consequently, if moral rationalism is true, we are, it seems, compelled to reject consequentialism as too demanding. As noted in the beginning of this section, I cannot decisively argue against this approach. What I will do is to highlight the difficulties and challenges that surround it.

First, we need a defense of moral rationalism. Recently, Douglas Portmore has attempted to defend moral rationalism by deriving it from certain theses concerning the relation between moral requirements, reasons to act morally, and blameworthiness.⁶⁷ The argument is this:

- (1) If S is morally required to perform x , then S would be blameworthy for freely and knowledgeably performing $\sim x$.
- (2) S would be blameworthy for freely and knowledgeably $\sim x$ -ing only if S does not have sufficient reason to $\sim x$.
- (3) So, if S is morally required to perform x , then S does not have sufficient reason to perform $\sim x$.
- (4) If S does not have sufficient reason to perform $\sim x$, then S has decisive reason to perform x .
- (5) Therefore, if S is morally required to perform x , then S has decisive reason to perform x – and this is just the position of moral rationalism.

Premise (2) is the disputable step in this argument, as Portmore acknowledges, since it makes a controversial claim about blameworthiness. Premise (4) is not controversial, but it does require some theoretical work, since it presupposes a distinction between sufficient and decisive reason, which needs to be spelled out in more detail.⁶⁸

⁶⁷ Portmore (2011a): 131, referring to Darwall (2006) and Skorupski (1999).

⁶⁸ Portmore (2011a: 132-140) argues in length for the truth of premise (2), whereas premise (4) is explicated within his own framework of what it is for an action to be rationally required (decisive reason) and permitted (sufficient reason). As Portmore notes, the former explication is not consistent with the silencing behaviour of reasons, thus in this respect his and my use of the concept of decisive reason differ.

Another difficulty, from the viewpoint of advocates of OD, is that moral rationalism might compel us to *accept* a version of consequentialism that is immune to their challenge; in fact, Portmore uses moral rationalism to argue just for this thesis.⁶⁹ Moral rationalism expresses the idea that what we are morally required to do is determined by what we have decisive reason to do. To this one can add the further claim that the moral status of an action is determined by *both* moral and non-moral reasons. If this is so, the way is open to hold that morality is limited in what it can require us to do—and this limitation is put on morality exactly by what we have decisive reason to do, and, thereby, the doctrine of moral rationalism itself. Naturally, this argument is controversial; but its conclusion is what matters to us now. For moral rationalism, understood and employed in this way, might not take us to OD. It seems that the (perhaps, intended) effect of understanding moral rationalism along these lines is exactly to *limit* moral requirements to the extent that no demandingness problem follows. If one then shows, as Portmore does, that, on independent grounds, moral rationalism compels us to accept *some* form of consequentialism, we get the final conclusion that, instead of rejecting consequentialism, we should endorse a limited version of it.⁷⁰

The last approach to prove the truth of OT is what we might call the old-fashioned one. We take different accounts of reasons for action, examine the relation that they have to consequentialism, and finally see the weight they attach to consequentialist considerations. Roughly, theories of reasons belong to either of two groups: desire-based or value-based. I start with the *desire-based* account of practical reason.⁷¹ On this view reasons are based on the actual desires of the agent in some way: what we have reason to do is what satisfies these desires. This instrumental picture of rationality paired with a teleological account of action fits consequentialism well with its emphasis on producing as much valuable outcome as possible in the

⁶⁹ Portmore (2011b): chapter 5.

⁷⁰ Portmore's (2011b: chapter 2) idea is that moral rationalism forces us to accept some version of consequentialism because of the compelling theory of practical reasons consequentialism involves (he calls this the Teleological Conception of Practical Reasons).

⁷¹ See, e.g., Brandt (1979), Williams (1981b).

world. *Value-based* theories of reasons reject this picture.⁷² They claim instead that there are values, which are not based on desires; in fact, that it is these values (or the reasons they ground) that desires themselves are grounded in.⁷³ Coupled with an instrumental theory of rationality and a teleological account of action, moreover, this view too can be made to fit consequentialism.

Theories of reasons have a troubled relationship towards claims of overridingness. Thus, on the desire-based reasons view, there is no *a priori* reason to believe that moral reasons would be weightier than non-moral ones. Theories that in one way or another base reasons on desires will in turn measure reasons by the strength of the desire(s) they are grounded in, and this creates the problem just mentioned. Although one can invoke the possibility of a properly worked out and institutionally embedded moral psychology, even a suitable institutional framework may not guarantee that the relevant desires will be strong enough in people (cf. Rawls' remarks on stability and consequentialism).⁷⁴

True, there is room for alteration of the original idea. Weighing, as Mark Schroeder has done recently, can be understood in a more complex way invoking a regressive account that employs lower- and higher-order reasons.⁷⁵ But even so it will still be an open question what this new theory of weighing brings with it with regard to the alleged dominance of moral reasons. To mention one possible line of thought, it seems that there are higher-order reasons to place less weight on consequentialist reasons, whereas there are higher-order reasons to place more weight on non-moral reasons. The fact that the agent has already made large sacrifices (or, even, that she has done her fair share) may be a good candidate for the former reason, whereas the fact that most of our non-moral activities are harm-

⁷² See, e.g., Dancy (2000), Nagel (1986), Raz (1999), Parfit (2001), Scanlon (1998).

⁷³ There is a lively debate about which is conceptually and/or metaphysically prior: reason or value. In this paper I take no sides in this controversy. For a thorough treatment see Rabinowicz & Rønnow-Rasmussen (2004).

⁷⁴ Rawls (1971): part III.

⁷⁵ Schroeder (2007): chapter 7.

less or even useful and important, might be a good candidate for the latter reason.⁷⁶

Nor are value-based theories of reasons guaranteed to give a dominant role to consequentialist reasons. There is certainly nothing in the idea of a reason being value-based, as opposed to desire-based, that would necessitate this conclusion. Furthermore, it could be argued, following Joshua Gert, that reasons, including moral reasons have two-values: one value represents their requiring force, the other their justifying (permitting) force.⁷⁷ It could then be claimed that consequentialist reasons, contrary to what OD assumes, have in fact only justifying force and no requiring force.

Finally, both desire-based and value-based theories encounter the problem of what to do with other, agent-relative aspects of morality (the problem being perhaps more pressing for value-based theories since they often independently endorse these aspects of morality). Since consequentialism is an agent-neutral morality it cannot really admit the existence of agent-relative moral reasons; it must accommodate or deny the existence of these reasons. Thus, the challenge for consequentialists is to show that agent-neutral reasons are all the reasons there are and agent-relative reasons are derivable from them. As has been noted above, there are such attempts in the literature; still, we must make note of this as being yet another challenge consequentialists must meet.

6. The (very) weak case for authority

In the preceding two sections we have browsed through the possible ways of establishing OT. We have seen that the appeal to common-sense morality either does not help, or if it does, it jeopardizes the underlying intent to establish OD through OT. After this, we have considered three ways of arguing for OT. The first, invoking the position of normative relativism, we found wanting since even if the position could be established, it would not take us to OD. The other two approaches offer more hope for advocates of OD. Moral rationalism can give us OD unless it is understood in such a way that leads us to endorse a less demanding form of consequentialism. To

⁷⁶ Schroeder offers this line of thought in response to a criticism of his account in the discussion on the blog PEA Soup (November 20, 2008 entry).

⁷⁷ Gert (2004): chapter 5.

defend moral rationalism and then understand it in a way that avoids the above problem, however, is no easy task. The same holds for theories of reasons. They can give us OT, but there are many impediments on the way. In sum, unless we can establish substantial philosophical positions that these two approaches need, we will not be able to defend OT. To do so, however, requires sustained philosophical argumentation, which is at best an open-ended enterprise. Since we have earlier established that no other interpretation of OD is defensible, this means that our case for OD is as strong as our chances that these arguments will succeed: weak, if there is any at all.

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