Deontology Can Dispense with Agent-Centered Restrictions

Deontology nowadays finds itself charged, among other things, with a kind of inconsistency deriving from its supposed commitment to the claim that morality furnishes us with what are called agent-centered restrictions. An agent-centered restriction is, in Scheffler’s canonical formulation, “a restriction which it is at least sometimes impermissible to violate in circumstances where a violation would serve to minimize overall total violations of the very same restriction, and would have no other morally relevant consequences.” It is plain that lines of defense against this charge available to deontologists will fall into two categories: deontologists can claim that they are not in fact committed to the claim that morality furnishes us with agent-centered restrictions, or else they can claim that this commitment does not render their position inconsistent. I think that the former line of defense has some promise: deontology is not, contrary to certain appearances, committed to the claim that morality furnishes us with agent-centered restrictions. Developing this line of defense requires showing how those appearances can be understood differently.

That would be easier to do if it were easier to state a doctrine and call it “deontology”—a task I will not attempt here. Such consensus as there is about what deontology is does not (as far

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3 For various attempts at the latter line of defense, see Darwall (1986), Harris (1989), Hurley (1997), and Kamm (1992). See Ridge (2001) and Hogan (2010) for criticisms of some of those attempts, especially the appeal to the agent’s integrity in Harris (1989). Hogan (2010) also discusses a view he finds in Kant’s “On a Supposed Right to Lie Because of Philanthropic Concerns” on which each agent is responsible for any morally undesirable consequence of her morally objectionable actions, a view that Hogan refashions (and criticizes) as a defense of agent-centered restrictions as necessary for protecting oneself from unforeseeable moral responsibility. (His criticism amounts to the point that this view that he finds in Kant is not derivable from the moral responsibilities that devolve upon us from what we intend or from what we can foresee. For what it is worth, this objection seems to me to miss the point of Kant’s thought, which is to assert what results from our morally objectionable actions as another source, no less sui generis than what we intend or can foresee, of moral responsibility.)
as I can tell) determine a doctrine; rather, it determines what we might call an “orientation” of moral philosophizing that emphasizes the importance of moral duty. In particular, deontology emphasizes the importance of doing one’s moral duty even when doing so is likely to have morally undesirable consequences, and of doing that duty not just for any reason or from any motivation, but for the morally correct reason and from the morally correct motivation. Although this characterization of deontology is quite rough, it will suffice for the ensuing discussion.

The sort of case in which it most vividly appears that deontology is committed to the claim that morality furnishes us with agent-centered restrictions is exemplified by a moral dilemma in which an agent must choose between two courses of action. Her first option is to kill one person; her second option is to refrain from killing anyone and thereby cause or make it more likely for five other people who would otherwise have been left unmolested to be killed by another agent. Let us give these people names. Our heroine is Olga; the person she herself will kill if she chooses her first option is Penelope; Quisling is the one who will kill five others if Olga does not kill Penelope; and the five people who will be killed if Olga does not kill Penelope are Abner, Baxter, Cuthbert, Dexter and Edgar. Now let us consider all of the deontological theories committed to the claim that in this situation morality forbids Olga to kill Penelope (and thereby, according to the opponents of deontology, to the claim that morality furnishes us with agent-centered restrictions). These various theories, which agree that morality forbids Olga to kill Penelope, are nevertheless free to differ in how they account for the existence and force of this moral restriction. Whether that moral restriction counts for any given deontological theory as an agent-centered restriction will depend on the details of that theory’s account of it. And there are many plausible accounts of this moral restriction on which the moral restriction that Quisling
would violate in killing, say, Abner is not, in Scheffler’s words, the “very same” moral restriction that Olga would violate if she were to kill Penelope.\(^4\)

I will explain how that can be after some observations about how things would stand if Olga’s only available means for killing Penelope were to press a red button. Here the deontological theories in question would discern for her a moral restriction on pressing that red button, even if her forbearing to press that button were somehow bound to cause five other pressings of red buttons. And there is no air of paradox about that—even though it would appear that Olga’s violating this restriction on pressing a red button would serve to minimize violations of the “very same” restriction, so that the letter of Scheffler’s definition of an agent-centered restriction appears to be realized—because we may presume that morality is generally indifferent about red-button-pressings.

So not just any instance of the (say) Schefflerian schema “There are cases in which morality forbids you to do A even though your doing A would serve to minimize overall doings of A, and would have no other morally relevant consequences” produces an air of paradox. The air of paradox arises only if the doable that goes in for the variable A happens to be a doable concerning which we do not presume morality to be generally indifferent.

Now it may be thought that these reflections, however interesting they may be in their own right, are ultimately irrelevant to the present concern. For the fact is that deontological theories of the kind we are considering here do have an air of paradox, and that is because in the case of Olga they put forward an instance of the Schefflerian schema where the doable that goes in for A is killing someone rather than pressing a red button. And we do not presume morality to be generally indifferent about killings of people. Rather, it seems that morality forbids Olga to

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\(^4\) Cummiskey (1990) agrees with me that deontologists need not commit themselves to agent-centered restrictions, but holds that view because he thinks deontologists can disavow the claim that Olga is forbidden to kill Penelope on the view I elaborate, deontologists need not pay that price in order to avoid agent-centered restrictions.
kill someone in this case not because killing someone happens to constitute an action of some other genuinely morally offensive kind, but because killing someone is genuinely morally offensive in its own right—it offends morality no matter the circumstances. Or at least that is what the deontologist seems bound to believe.

But this objection goes too quickly. To see why, let us imagine a list of Ten Commandments (or however many may be necessary) of the form “Thou shalt not do A!”—one for each doable A that is genuinely offensive to morality. These Commandments will be the axioms of morality, the list of doables from performances of which moral offensiveness originates and infects actions, however else those actions may also be described. (In an Anscombean idiom, we would say that these Commandments specify the *descriptions under which* morality forbids various act-kinds.) Now the question is whether the only way to have such a list entail the Schefflerian schema-instance “There are cases in which morality forbids you to kill someone even though your killing of someone would serve to minimize overall person-killings, and would have no other morally relevant consequences” is by having “Thou shalt not kill!” appear on this list. The answer is no. That is to say, a deontologist can have the view that every person-killing offends morality and ought not to be performed without claiming that every person-killing offends morality because it is a person-killing.

Here is an example of a way to have such a view that I myself happen to find at least *prima facie* plausible. It may be that morality forbids us to kill people because each person is herself the source of moral restrictions on our actions insofar as they bear on her, and, consequently, that the moral restrictions on how we may affect one person are *distinct* from the moral restrictions on how we may affect another. On such a view, morality forbids Olga to kill

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5 For a detailed discussion of this extremely useful idiom, see Anscombe (1979). The expression first appeared in her (1957), p. 11.
Penelope, but this obligation not to kill Penelope is not the very same moral restriction as Quisling’s obligation not to kill Abner. For there is on this view no Commandment that says “Thou shalt not kill!” Rather, Olga is forbidden to kill Penelope because one of the Commandments is “Thou shalt not kill Penelope!” and Quisling is forbidden to kill Abner because another of the Commandments is “Thou shalt not kill Abner!” So by killing Penelope Olga would not be minimizing violations of the “very same” restriction she would violate thereby; she would be preventing violations of various other restrictions all of which merely have something in common (person-killing) with the restriction she would be violating in order to prevent them.\(^6\)

As this example makes clear, it is not so easy to ascribe a commitment to agent-centered restrictions to any moral theory just because it forbids Olga to kill Penelope. Such an ascription is fair only if the moral theory in question is somehow committed to criteria of identity and individuation for moral restrictions on which it is settled that the restriction Quisling would violate by killing Abner, Baxter, and the rest is the “very same” restriction that Olga would violate by killing Penelope, but this obligation not to kill Penelope is not the very same moral restriction as Quisling’s obligation not to kill Abner. For there is on this view no Commandment that says “Thou shalt not kill!” Rather, Olga is forbidden to kill Penelope because one of the Commandments is “Thou shalt not kill Penelope!” and Quisling is forbidden to kill Abner because another of the Commandments is “Thou shalt not kill Abner!” So by killing Penelope Olga would not be minimizing violations of the “very same” restriction she would violate thereby; she would be preventing violations of various other restrictions all of which merely have something in common (person-killing) with the restriction she would be violating in order to prevent them.\(^6\)

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\(^6\) Not only is this theory plausible, I think it is at least plausible to attribute it to Kant, supposedly the arch-deontologist (although I have my doubts about that). Kant’s formulation of the categorical imperative as the claim that we ought always to act in such a way that we treat humanity as an end and never merely as a means (Kant (1993): 4:429) can plausibly be interpreted as involving the claim that each person is herself the source of the various moral restrictions there may be on our conduct insofar as it bears on her. So it seems plausible that any moral restriction Kantian theory may reveal on Olga’s killing Penelope will not be the very same restriction as any restriction it may reveal on Quisling’s killing Abner. For, on this at least quasi-Kantian view, morality forbids us to kill Penelope because that would violate the restriction on treating Penelope merely as a means, whereas morality forbids us to kill Abner because that would violate the quite different restriction on treating Abner merely as a means.

Huckfeldt (2007) and Ridge (2009) also attempt to extricate Kant from a commitment to agent-centered restrictions, but in a different way, by reading him as committed both to an agent-neutral moral commendation of “good-willing” and also to a conception of agency on which one cannot ever completely control the will of another person like Quisling. (Indeed, if Olga could completely control Quisling’s will, it would no longer be Quisling’s will.) Hogan (2010), p. 75 ff, rejects a view of this purportedly Kantian kind because it still leaves open the coherence of cases in which our decision can have a powerful “influence” (importantly, a word from Kant’s lexicon) on a villain’s will, which is enough, Hogan argues, to reveal an uncomfortable air of paradox in the view. Huckfeldt and Ridge anticipate this objection in what seems to me an ad hoc way by grafting onto the view a conception of agent-neutral reasons that requires agents moved by them always to minimize the very worst of available outcomes, namely, in our case, the outcome in which Olga kills Penelope and Quisling kills Abner, Baxter, and the rest.
violate by killing Penelope. In other words, the fairness of such an ascription depends on the relevant theory’s metaphysics of morals. And a theory’s metaphysics of morals cannot in general be presumed to coincide in any revealing way with how we might see fit to state its implications for particular agents in particular situations.

It is an old criticism of Kant’s ethical theory that any proposed course of action can have its maxim formulated—some say “gerrymandered”—so as to pass his contradiction tests. The thought I here suggest is that cases like Olga’s, in which deontology appears to be committed to an agent-centered moral restriction because it forbids Olga to kill someone, are cases in which the content of the moral restriction on whose basis deontology forbids her to kill someone can be formulated in agent-neutral terms. When it comes to the old criticism of Kant, the question whether we have gerrymandered a maxim by formulating it one way rather than another is to be settled by consulting the agent’s mind: does it really matter to her that the robbery she proposes to commit is to take place on a Tuesday? Including Tuesday in the maxim-formulation we run through Kant’s contradiction tests counts as gerrymandering if and only if the day selected for the robbery does not really matter to her. In the present discussion, the question whether a deontologist has gerrymandered the content of a moral restriction in order to evade the charge of agent-relativity is to be settled by consulting her mind, too, or at least her theory: does it really matter to, or at least cohere with, her theory, that morality forbids killing Penelope and killing Abner and killing Baxter, and so on, rather than that morality forbids killing people generally? Her adoption of this stance counts as gerrymandering if and only if it does not so matter or cohere.

The attribution of agent-centered restrictions to an ethical theory must always among other things be the attribution to that theory of criteria of identity for moral restrictions. Since
every restriction has something in common with every other restriction, the question is whether
the acts possibly to be performed in an envisioned scenario would have enough in common to
constitute violations of the very same restriction, and that is what depends on the details of the
deontological theory in question. I have given an example of a plausible deontological theory
that can endorse the claim that killing a person is always wrong without committing itself to the
claim that every killing of a person is a violation of the very same restriction. But it may be
thought that this theory I have offered is not as plausible as I think it to be. In that case, however,
deontology can still defend itself from the charge of agent-relativity to the extent that it can
disavow any commitments in that region of the metaphysics of morals that deals with criteria of
identity and individuation for moral restrictions. Perhaps some moralists who go under the
banner of deontology are so positioned that they can simply affirm that Olga is morally
forbidden to kill Penelope without going so far as to have any views whatever about the
metaphysics of moral restrictions beyond what that claim narrowly entails. Forbidding Olga to
kill Penelope constrains their options if they ever do see fit to develop such a metaphysics—it
must be a metaphysics on which Olga’s killing Penelope would be a violation of a restriction
different from those which Quisling would violate by performing any of his five killings. But
that—depending on what else the deontologist aspires to explain, understand or persuade us of—
can be the limit of her commitment in this area.

Every deontological account of ethics generates, or at least purports to provide an
algorithm for generating, generalizations about what it is right, obligatory, morally worthy,
forbidden, or something like that, to do. That is, it provides a picture of what good people do or
refrain from doing. Many critics of deontology—and, to be sure, many deontologists—are
misled by this fact into thinking that a deontological account of ethics is obliged to conceive the
moral grounds for forbidding us in each case to act contrary to these imperatives at the same level of generality. My point is that that is a mistake. The actual thought expressed by these generalizations can be something like: *in each case, there will be a moral restriction on the agent’s doing A*. And it simply does not follow from a thought of this sort that the moral restriction on the agent’s doing A in one case will be the very same moral restriction as the moral restriction on the agent’s doing A in another case. For a picture of what good people do—we may call it a “command picture” of morality—does not have to be interpreted as a depiction of why good people do the things it depicts them as doing. And if, as seems plausible, the criteria of identity for moral restrictions are linked to the reasons for which good people act in accordance with them, then we may say that we do not yet have a moral restriction fully in view when we merely have in view what morality obliges or forbids us to do. The illusion that the debate about agent-relativity gets at some deep feature of deontology has had an unnaturally long life in large part because the command picture of morality has misled many deontologists themselves into thinking that they are, *qua* deontologists, committed to the view that each good person acts in the way that she does on the basis of reasons (typically, perhaps, reasons of obedience) at the same level of generality as the characterizations of their conduct provided by that picture. But general characterizations of morally excellent conduct in imperatival form are not yet necessarily characterizations of identity-conditions for moral restrictions, and thereby of the conditions for what counts as living (as opposed to acting) up to moral restrictions. Deontologists who *take* them to be so are making an additional philosophical move not forced by deontology as such.\(^7\)

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\(^7\) I must remark that my thinking in this paper is deeply indebted, in a roundabout way, to the work of Michael Thompson—especially his great paper “What Is It To Wrong Someone? A Puzzle About Justice” (2004)—for awakening me to the crucial distinction between the content of our moral prohibitions and the commitments of our moral metaphysics. I should also add that, as my acknowledgement of this debt to Thompson may suggest, this paper is not motivated by any commitment to deontology. In arguing that deontology does not differ from other doctrines (quintessentially, consequentialism) by virtue of involving an element of agent-relativity, my aim is to undermine one source of the widespread presumption that there is a philosophically significant difference between
BIBLIOGRAPHY


deontology and consequentialism—neither of which I find attractive. But it is not the only source of this presumption, and I postpone the work of undermining the others for another occasion.

