Questions of Partiality: What May and Must We Do for Friends and Strangers?

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Chapter 1

Contractualism and Utilitarianism Redux

Utilitarianism is no longer the dominant view “one must struggle against” that T. M. Scanlon observed it to be when he published his paper “Contractualism and Utilitarianism” in 1982.\(^1\) Since publishing the original article, he has developed the contractualist view in more detail in *What We Owe to Each Other*.\(^2\) One feature that makes contractualism attractive is the thought that it, unlike utilitarianism, can ground a morality that coheres fairly closely with our considered moral judgments. What makes utilitarianism so hard to accept, by contrast, is its drastic departure from common sense morality. In this paper I will argue that contractualism is similarly revisionary. I will argue that it is extremely demanding, significantly curtails the space of the supererogatory, and that it does not make space for meaningful partiality.

\(^1\)Scanlon (1982, 103)
\(^2\)Scanlon (1998)
1.1 Contractualism

According to contractualism, the moral principles are determined by weighing up and comparing the reasons individuals have for accepting or rejecting various potential principles. If my reason for objecting to a principle is weaker than anyone else’s reason for objecting to an alternative principle, then my objection is overruled and the principle is a principle of morality. If, on the other hand, I have more reason to object to a potential principle than at least one person has to object to an alternative principle, then the potential principle is not a principle of morality.

Consider a set of principles that covers every possible moral situation. Call this set \( m \). Now consider the set of all such sets \( \{m_1, \ldots, m_n\} \), i.e. the set of all the alternative sets of principles that cover every possible moral situation. Call this set \( M \). Now take an individual and determine how much reason he or she has to object to the various members of \( M \). Repeat this process for every individual that is part of the moral community, membership of which is, of course, a further moral question. Now, for every \( m_i \), determine how strong an objection each individual has to that set of moral principles. Then determine which of these objections is the strongest. This will be the strongest individual objection to \( m_i \). Once we have identified the strongest individual objection to every \( m_i \) we rank order the sets of moral principles according to the strength of the strongest individual objection. The set of moral principles with the weakest of those strongest objections is the set
that, according to contractualism, is the set of actual moral principles.

The basic idea is that the principles of morality are those that no one could reasonably reject. It would be unreasonable to reject a principle when someone else has a stronger reason to object to an alternative principle. This is all rather abstract. It should become much clearer how this works when we discuss a concrete principle in the next section.

1.2 Increased Wellbeing

According to contractualism, we weigh up and compare the various reasons individuals have for accepting and rejecting principles to determine the content of morality. This raises the question which reasons are eligible for contractualist consideration. The answer is: the morally relevant reasons. Which reasons are morally relevant is a substantive question, but we have some fairly strong intuitions to guide us. It would be hard to believe, for instance, that wellbeing is not a morally relevant consideration. While contractualism need not take reasons of wellbeing as the only kind of morally relevant reasons, it is likely that they will play an important role. In this section I will argue that contractualism would result in a certain moral principle if reasons of wellbeing were the only relevant reasons. If contractualism is committed to this principle then it follows that it is extremely demanding, significantly curtails the space of the supererogatory, and that it does not make space for meaningful partiality. In the following two sections I will consider whether there are other plausible contractualist reasons to reject or modify this principle.
Wellbeing is important to agents and that gives them reason to accept principles that require others to act so as to increase their wellbeing. It also gives agents reason to reject principles that require them to act in ways that take away from their wellbeing. Therefore contractors have reason to accept the following principle.

Increased Wellbeing Provisional I: A is required to act so as to increase B’s wellbeing (or prevent a loss in B’s wellbeing) when doing so is less costly to A than foregoing the increase (or not preventing the loss) would be to B.

If I stand to gain more wellbeing than you stand to lose from you acting in a certain way, my reason for accepting that principle is stronger than your reason for rejecting it. Thus Increased Wellbeing is a principle of morality.

Increased Wellbeing applies in trivial situations as well as in serious ones. Take a trivial situation first. If I have two cookies and you have zero cookies but you quite like cookies, then this principle requires me to give you one of my cookies. For you gain more in wellbeing from your first cookie than I lose from not having a second cookie. Now consider a serious situation. If I can save your life at the cost of a limb to me then I am required to do so. For, again, you gain more than I lose.

The argument for Increased Wellbeing Provisional I makes reference to the wellbeing costs of a principle being followed. How costly something is, is a comparative notion. Consider my plan for Sunday. How costly it will be to me in terms of wellbeing if Betty doesn’t come round for tea depends on what the alternative is. If the alternative is grading papers, then Betty not
coming round for tea will be very costly. If the alternative is that Sue, who is equally delightful, will come round for tea there is no wellbeing cost to me from Betty not coming round for tea. Scanlon does not discuss any baseline against which the costs of various principles are to be assessed. The best way to make sense of the various cases discussed by Scanlon throughout, to my mind at least, is to take the implied baseline to be a world in which no moral principles exist and in which no one does anything to help anyone else. It is against this baseline that we assess the costs and benefits of accepting potential principles. I will return to the question of the baseline towards the end of this section.³

So far Increased Wellbeing is too simple. For it only applies in cases where there are two people. It seems clear that in a case where A can act so as to increase the wellbeing of B or C and A can do more for B than for C, A is required to help B, assuming still that not being helped is more costly to B than helping is to A. For B has a stronger reason for rejecting alternative principles than A or C for rejecting the principle requiring A to help B. Increased Wellbeing thus needs to be reformulated as follows.

Increased Wellbeing Provisional II: A is required to act so as to increase B’s wellbeing (or prevent a loss in B’s wellbeing) when (i) doing so is less costly to A than foregoing the increase (or not preventing the loss) would be to B and (ii) there is no other person C, whose wellbeing A could increase to a greater extent (or where A could prevent a greater loss of wellbeing) and where doing so would be less costly to A than not doing so would be to C.

³Thanks to Jamie Dreier for raising this issue.
One might think that this principle shows that A is not required to help B in cases where there is another person C whom A can help more. But replace B with C and go through the principle again, now it should be clear that A is required to help C.

There is one more complication we need to introduce. Following moral principles is not a one-shot game. Agents are required to follow moral principles for their entire lives and so we need to take account of the costs of following various potential principles over the course of an entire life when determining which principles contractors have reason to accept. Consider Anna who continuously finds herself in situations where she can act so as to increase the wellbeing of another person at significant, but lower, cost to herself. Assume further that those other people never find themselves in a position where they are required to make a sacrifice to help another. Anna has a very strong reason to reject Increased Wellbeing and no one else has a stronger reason for insisting on it. For the overall cost to Anna of acting on Increased Wellbeing, as formulated above, is far greater than the gain in wellbeing to any other individual.

The problem is that Increased Wellbeing does not take into account the sacrifices made over the course of a person’s life by acting on that principle. We thus need to amend the principle once again.

Increased Wellbeing: A is required to act so as to increase B’s wellbeing (or prevent a loss in B’s wellbeing) when (i) the cost of doing so would not bring A’s overall cost of acting on this principle above what the cost to B would be of not being helped in this
instance and (ii) there is no other person C, whose wellbeing A could increase to a greater extent (or where A could prevent a greater loss of wellbeing) and where doing so would not bring A’s overall cost of acting on this principle above the cost to C of not being helped in this instance.

Let me illustrate how this principle works. I have healing hands and can cure headaches by touching a person’s forehead. Whenever I do so I get a headache of the same strength that lasts one hundredth of the time the headache would have lasted for the person, had I not relieved them of it. Now consider the following case. Assume that I have not incurred any wellbeing costs from acting on Increased Wellbeing yet. I come across someone who is suffering from a severe headache that will last another 100 minutes. Increased Wellbeing requires me to relieve their headache. Just after I have done so I encounter another person suffering from the same kind of headache. Again, I am required to help them. Two minutes of pain is still less bad than 100 minutes of pain at the same level. I encounter another 97 such cases and relieve the pain in each case, as I am required to do by Increased Wellbeing. Once I encounter the 100th case the reasons are balanced, so perhaps I ought to flip a coin whether to help that person or not. But as soon as I encounter person 101 I don’t need to relieve their headache. For if I did, my overall cost of acting on Increased Wellbeing would be greater than the difference I would make to the 101st person, and so Increased Wellbeing does not require me to help in this case.

It is at this stage that we should return briefly to considering the issue of
the baseline for assessing how costly a principle is. When choosing a principle, contractors have to determine the costs of the various principles under consideration. This is easy if there is a baseline, as we have been assuming so far. But consider the following way of thinking about how costly principles are. You are person 101 and I am the person with the healing hands. You might argue that accepting a principle that requires me to help you only costs me an extra minute of pain compared with accepting Increased Wellbeing, whereas you stand to gain the obviation of 100 minutes of pain. Surely, you might argue, your reason for accepting a principle where I have to help you is stronger than my reason for rejecting it. This raises two important questions for contractualism. First, whether there should be a baseline for assessing the costs of principles, and if so, what the baseline should be. Second, if there should not be a baseline, how the costs of accepting a principle are to be determined. I note that the consideration discussed in this paragraph suggests that having a baseline might be problematic. I leave the development of this challenge for contractualism for another day. I want to note further, however, that on a way of comparing the costs of principles along the lines suggested in this paragraph the implications of contractualism would likely be even more drastic than what I argue in this paper. For Increased Wellbeing has a built in limit to how much people have to do when facing a series of cases in which they could help others. The way of comparing costs suggested in this paragraph would remove that limit, however. For now, let us return to Increased Wellbeing and contractualism with a baseline.
This third version of Increased Wellbeing is actually still not quite right. There is no reason why the principle should require you to help persons one through 99 rather than, assuming an ongoing row of people suffering from headaches, say, persons 50 through 149, or person 2, person 4, person 6, etc. up to person 198. Given that contractors assess the impact of principles over the full course of a person’s life there is no reason for preferring a principle where you do good now over one where you do good later. Things get even more complicated when we consider that various people you encounter throughout life can be helped to varying degrees at varying cost to yourself. Consider the following case. I have two kinds of healing hands; my left hand works differently from my right hand. My left hand has the power described above. With my right hand I can heal small to medium sized wounds with a fixed cost of 50 minutes of pain at the level of the headache sufferers discussed above to me per wound healed. Say that not having a medium sized wound healed is as bad as a headache, of the same strength as the headaches considered before, that is 120 minutes long. Imagine that I have already encountered and helped 80 headache sufferers with my left hand and I now come across someone with a medium sized wound. Helping that person would bring me up to 130 minutes of pain so, by Increased Wellbeing I am not required to help him. But that doesn’t seem like the right conclusion. Surely I should have only helped the first 69 headache sufferers, skipped the next 11, and then helped the person with the medium size wound. That would bring me up to 119 minutes of pain and save the wounded person pain equivalent
to 120 minutes of headache pain, which is more than any of the individuals suffering from headaches had to endure. This suggests that contractors have reason to further qualify the principle in such a way that I hold off helping now if, by doing so, I can benefit some other person to a greater extent at a later time. The problem with that principle is that agents don’t know who they will encounter in the future and how long they will live. I take Increased Wellbeing to be the best epistemically manageable principle that agents could act on. While, strictly speaking, this isn’t the principle that contractors would accept, I will continue using it throughout this paper to simplify the discussion of an already somewhat cumbersome principle. This should not have any impact on my conclusions.

1.3 Implications

In this section I will draw out some of the implications of Increased Wellbeing that are in conflict with common sense morality. I will make three points. First, Increased Wellbeing is extremely demanding; second, it significantly curtails the space of the supererogatory; and third, it leaves no room for meaningful partiality.

First, Increased Wellbeing is an extremely demanding principle. There are many people in the world in dire straits whose wellbeing can be significantly increased by preventing death from starvation or from diseases against which there are effective vaccines. Their wellbeing can also be significantly increased by direct resource transfers. But it is not just people in dire straits that can
be helped. Increased Wellbeing requires us to make the lives of others go better whenever we are in a position to do so and the cost is not too high. Even people who are not in dire straits can often be helped significantly by our making some slightly smaller sacrifice. Given how many people there are who can be helped to such a great extent, Increased Wellbeing will demand significant sacrifices from typical readers of this article. If someone else’s life is at stake, Increased Wellbeing requires you to give up almost everything but your life. We will have to give up a lot before the costs of our helping sum up to an amount greater than the cost of not being helped are to someone in dire straits. The level of sacrifice required seems to be so high as to make it impossible, for as long as there are people in dire straits, to permissibly live a life that includes relationships and projects of our own that aren’t centered on saving lives and alleviating poverty. This suggests that Increased Wellbeing, just like utilitarianism, is revisionary of common sense morality in being very demanding.\(^4\)

How demanding the principle will be is, in part, determined by the degree of compliance of others. If everyone acts on Increased Wellbeing then there will be fewer cases for me to encounter. If no one else acts on Increased Wellbeing then there will be fewer cases for me to encounter. If no one else acts on Increased Wellbeing then there will be fewer cases for me to encounter.

\(^4\)See Elizabeth Ashford’s excellent (Ashford 2003) for a similar argument for the demandingness of contractualism. Ashford argues directly for a demanding principle of aid whereas I arrive at the same conclusion through the more general Increased Wellbeing principle. My argument is like hers in being based on the comparative nature of wellbeing claims. Ashford further argues that contractualism is extremely demanding because of its treatment of probabilities. I agree with her conclusion though I think that contractualism need not be committed to Scanlon’s treatment of probabilities. The comparative nature of wellbeing claims that underlies Increased Wellbeing, however, strikes me as so central to contractualism that it can’t be be avoided without giving up the contractualist project.
Wellbeing, then it will be more demanding for me. This is similar to the way in which utilitarianism is demanding. If everyone were a compliant utilitarianism there might be fewer sacrifices to make for compliant individuals. How demanding acting on Increased Wellbeing actually is depends on the contingent facts about the world—how well others comply with the demands of morality and what the world is like. The principle itself, however, has no threshold of demandingness, which agents aren’t required to exceed.

Second, Increased Wellbeing significantly curtails the space of the supererogatory. Typical instances of what might be thought to be supererogatory acts turn out to be required. If I can sacrifice a limb to prevent you losing two limbs, I have to do that. Or consider another case. The fence around your garden needs painting. You would really get a lot out of it looking freshly painted but you are also quite busy. To paint the fence you would have to skip one activity that you really enjoy doing. I have more free time at the moment and am a competent painter of fences. If the cost to me of painting your fence is smaller than what you gain from a newly painted fence, as seems plausible in this case, then Increased Wellbeing requires me to paint your fence. Commonly we would say that it would be extremely nice of me to paint your fence but that it’s implausible that I am required to do so.

Two types of supererogatory acts remain. First, I can do something that benefits you but costs me more than it benefits you. For instance, I could take upon me an hour of pain to prevent a minute of pain at the same level
to you. Second, I can do something at significant cost to myself that I am not required to do because I have already sacrificed so much in the past but, had I not done so, I would now be required to help you. If I have already relieved 100 people of 100 minute headaches each with my healing hands, then helping the 101st person would be supererogatory.

While Increased Wellbeing does not completely eliminate the category of the supererogatory, it significantly revises what cases do and don’t count as supererogatory and thus departs from common sense morality.

Third Increased Wellbeing is not compatible with meaningful partiality. Permissible partiality is typically thought to take the form of a permission to give one’s own interests extra weight. Following Samuel Scheffler’s classic discussion of the issue this is often called personal a prerogative.\footnote{Scheffler (1993)} It is clear that Increased Wellbeing rules out a personal prerogative as it requires us to give everyone’s interests equal weight when determining what we are required to do. When faced with the choice of preventing a ten minute headache to myself or an eleven minute headache to a stranger Increased Wellbeing requires me to help the stranger.

The three implications of Increased Wellbeing that I have highlighted are that it would be extremely demanding, that it significantly curtails the space of the supererogatory, and that there is no space for meaningful partiality. In these ways contractualism is strongly revisionary of our moral judgments, a complaint usually reserved for utilitarianism. In the next three sections
I will discuss what resources contractualism has for arguing that Increased Wellbeing is not a principle of morality.

1.4 Other Reasons

In section 1.2 I suggested that wellbeing reasons are morally relevant. On the basis of that I argued that, according to contractualism, Increased Wellbeing is a principle of morality. We should ask now what other morally relevant considerations there might be and whether any of them give contractors reason to reject or modify Increased Wellbeing. I will consider the following four candidates: freedom, personal projects and relationships, fairness, and responsibility. I will argue that there are reasons of responsibility to amend Increased Wellbeing. I will further argue that there are no other reasons to reject or amend Increased Wellbeing.

First, consider freedom. Increased Wellbeing seems to be very invasive and not leave enough freedom for agents to make their own plans and live accordingly.\(^6\) Does Increased Wellbeing limit the freedom of agents in such a way as to give them reason to reject or amend the principle? I think that the answer to that is no, but it will take some teasing out to show that. I follow Gerald MacCallum in considering freedom to be a three-place relation of the following form: \(x\) is (is not) free from \(y\) to do (not do) \(z\).\(^7\) \(x\) refers to an agent, \(y\) to an obstacle, and \(z\) to something that \(x\) might do. Thus, for

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\(^7\)MacCallum (1967, 314)
instance, I am not free from (very likely) punishment to disobey the laws of
the land. There is, on this account, no such thing as x’s being free simpliciter
to do z, however.

We can capture the idea that moral principles can limit our freedom as
follows in this schema. When I am morally not permitted to do something
then I am not free to do it without thereby doing wrong. Is not being able to
do something without doing wrong an obstacle? It isn’t the kind of obstacle
that makes it the case that I can’t do something. If a demon were to freeze
me every time I considered playing the piano in public then that would make
it the case that I couldn’t play the piano in public. This would certainly be
an important case of unfreedom. I would not be free from demon freezing to
play the piano in public. We also think that the law, backed by the coercive
apparatus of the state, limits our freedom in important ways. If playing the
piano in public were punishable by imprisonment then it is unlikely that I
could play the piano in public for any prolonged time. Sanctions by the
state seem like obstacles that limit our freedom in important ways, even if
they don’t make it impossible to do something, at least at first. But absent
a state or vigilante moralists who hunt down those who do wrong, the fact
that something is wrong does not limit my ability to do it in the slightest. If
I promise not to sell my Rembrandt while you are gone and can’t bid for it I
can still sell it. It’s just that I would wrong you if I went ahead and sold it
anyway.\(^8\)

\(^8\)This paragraph draws on an argument suggested to me by Dave Estlund.
Does this show that the fact that doing something would be wrong is not an obstacle to doing it and thus does not limit our freedom? I think that might be too quick. For consider our attitude to making promises to do things we would prefer not to do. Think of something you would not enjoy doing, cleaning my apartment, for instance. If I offer you nothing in return you might be disinclined to promise me to clean my apartment. But why? Making such a promise doesn’t limit what you can do in the slightest. However, insofar as you are committed to doing what is morally required, making a promise, and thereby putting yourself under an obligation, will be motivationally efficacious in at least some cases. If you really did promise me to clean my apartment, you might actually end up doing it. This gives you reason to avoid moral obligations to do things you prefer not to do. Something being wrong thus seems to be an obstacle to the extent that we are committed to doing what morality requires. If I cared nothing for morality then being put under moral obligations might not seem like an important obstacle to me. If I do care about doing the right thing however, then something being wrong does present itself to me as a relevant obstacle as doing it would clash with another important goal of mine. While clashing with an important goal might not be what we think of first when brainstorming a list of potential obstacles it is evidently something we care about. This gives us reason to resist being put under obligations to do things we would, absent the obligation, prefer not to do.

Let us assume for the sake of argument that this shows that being put
under a moral obligation limits our freedom in an important way. Does this show that there are freedom reasons to reject Increased Wellbeing? I maintain that the answer is no. The case of promising suggests that being put under an obligation, by ourselves in this case, can limit our freedom in an important way. But we have been looking at cases where, absent the promise, you were not going to do what you promised to do. Our case of interest, however, is a bit more complex, as we are considering the deliberations of contractors. They are already assuming that they will fully comply with the demands of Increased Wellbeing when considering how costly that principle would be to them. What do we add by pointing out that they could not violate the demands of Increased Wellbeing without doing wrong? Consider an analogy. You are on a train from Boston to New York. On the assumption that you won’t get off the train before arriving in New York, how important is it that the train stops in Providence? If the train doesn’t stop in Providence there is an obstacle to you getting off in Providence, for the only way to exit the train is by risking your life and jumping off the train. But we are assuming that you won’t get off before New York anyway, local stop or not. On this assumption, the obstacle is irrelevant. It is similarly irrelevant to contractors that they could not violate the demands of morality without doing wrong, for they are assuming full compliance.

This shows that, while there might be a relevant sense in which moral obligations limit our freedom, considerations of freedom don’t give contractors reason to reject Increased Wellbeing. Contractors already consider the
cost of fully complying with the demands of Increased Wellbeing when determining whether they have reason to accept or reject it. Pointing out that agents could not violate those demands without doing wrong does not add anything relevant to that calculation.

Second, consider the importance to our lives of our personal projects and relationships. Our personal projects and relationships are among the most important things that make our lives worth living. Increased Wellbeing, however, seems to make it impermissible to pursue them in many instances. Does this not give contractors reason to reject Increased Wellbeing? Whether this is so depends on what kind of reasons we take personal projects and relationships to give rise to. The most obvious way in which they are important for us is that they contribute to our wellbeing. But if that is right then that wellbeing is already taken account of in Increased Wellbeing. There is no new argument to be made by pointing to a particular contributor to our wellbeing and saying that it is very important because it contributes a lot of wellbeing. The only way to make our projects and relationships provide an objection to Increased Wellbeing would be if they gave us some non-wellbeing reasons that can be weighed against the wellbeing reasons that support adopting Increased Wellbeing. I find it hard to see what morally relevant but non-wellbeing reasons personal projects and relationships could give rise to. Absent an argument for the existence of such reasons we have no grounds for thinking that our personal projects and relationships give contractors reason to amend or reject Increased Wellbeing. I will consider a
more general argument for the existence of further reasons below.

Third, consider fairness. At one stage Scanlon argues that agents can reject a principle because it is unfair. Might there be reasons of fairness to reject Increased Wellbeing? Scanlon suggests that contractors can reject principles that “arbitrarily favor one person over others”. He introduces this reason to allow contractors to reject principles that exempt specific individuals from contributing to public goods when their contribution is not required to bring about the public good.

Are there similar reason to reject or amend Increased Wellbeing? Consider first the case in which everyone fully complies with the demands of Increased Wellbeing. The principle applies to everyone in the same way and everyone acts on it. No issues of arbitrarily favoring one person over another arise. Consider next a case in which I fail to do what I am required to do. Say there are 100 people with 100 minute long headaches and you and I both have healing hands, as described above. If we each started acting on the principle at the same time we would end up helping 50 people each and suffering 50 minutes of pain as a consequence. I don’t feel like helping anyone, however, and walk away. Increased Wellbeing now requires you to help at least 99 of the people in pain.

What we are considering now is a principle that governs what agents are to do when others aren’t doing what they ought to. The reasons of the

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9Scanlon (1998, 212)
10Scanlon (1998, 212)
individual headache sufferers for insisting on a demanding principle and your reasons for limiting the demands of that principle are just the same as above. The only thing that is different is that I didn’t do what I was required to do. Do you have an objection to Increased Wellbeing being a principle of morality in cases like this? Let us first consider the reason of unfairness that Scanlon introduces. Is someone being arbitrarily favored over you in Increased Wellbeing being a principle of morality in cases like this? The answer is no. There is no permission for me to walk away, so I am not being favored by any principle. Anyone else in your situation would be required to do the same thing. So no one else is being arbitrarily favored either. So Increased Wellbeing, even in a case where others fail to do what they ought, does not arbitrarily favor them over you. Therefore the kind of reason of fairness that Scanlon introduces is not a reason to reject Increased Wellbeing in situations like this.

Yet it does seem unfair that you have to do more than you would have been required to do, had I not acted wrongly. Is there perhaps another reason of unfairness that is a reason for contractors that would let you reject or amend Increased Wellbeing as it applies in cases like this? I don’t think so. We are asking what an agent, like you, would be required to do when someone else, like me, failed to do what they were required to do. When we are concerned with fairness we are asking whether the burdens of obligation are distributed fairly. In this case we want to know whether they are distributed fairly, given that I won’t do what I am supposed to do. But there is no
unfairness here. You don’t have to pick up more of the slack than others. Of course it’s unfair in a sense that you have to pick up any slack at all. But what’s unfair is my treatment of you. My wrongdoing leaves you with extra work. You thus have an objection to a principle permitting me to do that. But we are already assuming that I act wrongly in not doing what Increased Wellbeing requires of me. There doesn’t seem to be any further issue of fairness that gives you reason to reject a principle requiring you to pick up the slack, at least up to the degree that Increased Wellbeing requires.

1.5 Responsibility

Fourth, and finally, consider responsibility. This issue is more complex so I will discuss it in a separate section.

One common criticism of utilitarianism is that it makes no place for responsibility. If, on a whim, I burn all my worldly belongings and am now in need, you are still required to give me much of your stuff, at least if doing so would maximize utility. That I am responsible for the situation I am in has no place in the utilitarian calculus. Though, of course, if I make a habit of burning my things then giving me things again, rather than giving them to someone with less of a penchant for burning things, will not in fact maximize utility. But even in that case, responsibility plays no important role. It is a distinct advantage of contractualism that it can accommodate questions of responsibility in a straightforward manner. It seems plausible that, next to reasons of wellbeing, reasons of responsibility feature in contractualist argu-
ment. That you broke my watch isn’t a moral judgment but it seems salient in determining who ought to fix it. Contractualism can do that.

Do contractors have reasons of responsibility to reject, or at least amend, Increased Wellbeing? That depends, in large part, on what we are responsible for. Of course responsibility is a thorny subject in philosophy. Responsibility requires choice and choice requires freedom. But does the requisite freedom exist? This isn’t the place to discuss freedom and responsibility. So I will limit myself to a claim that is more conditional in nature. Here is what I think contractualism ought to say about responsibility and Increased Wellbeing, assuming that agents are ever responsible for anything.

Responsibility: When determining what Increased Wellbeing requires A to do for B we ignore the loss of wellbeing that B is responsible for and determine what A would have been required to do for B had the loss not occurred.

Consider the following example to illustrate this. Assume that, right now, Increased Wellbeing does not require me to do anything for you. You bet and lose your car at the races. Assuming you understand the odds and aren’t strong-armed into gambling, then, even if giving you my second car would be less costly to me then not having a car would be to you, I am not required to do that. On the other hand, if your car spontaneously combusted through no fault of your own, then I would be required to give you my second car.

Things get slightly more complicated if B’s wellbeing has suffered through the fault of some other person C. In this case C ought to, in the language of torts, make B whole again. But let us assume that C will do no such thing.
Does A have an objection to being required to help B in this case? Is C’s being responsible for B’s decrease in wellbeing a reason for A not to have to take that amount of wellbeing into account? I don’t see how that could be the case. That C is responsible for the problem is a strong reason for insisting that C deal with it. But we are assuming that C won’t deal with it. Given that, how can C’s responsibility be a reason for B not to act on Increased Wellbeing in this case?

There are issues with Responsibility, well known from discussions of luck egalitarianism, that a contractualist would have to address.¹¹ Are you responsible today for wasting all your resources in a stupid gamble twenty years ago? That seems unduly harsh. And of course, as mentioned above, we would have to be able to say that people are actually responsible for anything and if so for what.

If there are cases in which agents are responsible for a loss of wellbeing or for foregoing an increase in wellbeing, then in some of these cases other people will be required do to less for them then they would have been required to do absent Responsibility. Being responsible for some loss in wellbeing doesn’t mean others aren’t required to help me at all, however. It just means they get to ignore that particular loss when determining what they have to do for me. If you would have been required to do a lot for me before I gambled away my house you will be required to do just as much for me afterwards; you just won’t be required to do more for me. Absent Responsibility, however, the

loss of my house could have resulted in you being required to do more for me.

If we accept, as I think we should, that Responsibility is a principle of contractualism then there will be some further limitations on what people are required to do for others. Overall, however, I see no reason for thinking that this significantly changes the revisionary nature of the implications of contractualism.

In this and the last section we considered four non-wellbeing considerations that might be thought to give contractors reason to reject or amend Increased Wellbeing. I have argued that, apart from responsibility, this is not the case. This points to an obvious way of challenging the conclusion that, according to contractualism, Increased Wellbeing is a principle of morality. All one has to do is to show that there are other morally relevant considerations that give contractors reason to reject Increased Wellbeing. The most straightforward way of doing this would be to find a consideration that seems intuitively morally relevant and that can be shown to give contractors reason to reject Increased Wellbeing. I have considered all the ones that seem plausible to me, but there might, of course, be others. There appears to be another way of arguing for the existence of such a consideration, however.\footnote{Thanks to Dave Estlund for raising this objection.} If we are convinced that contractualism is the right moral theory and that Increased Wellbeing is not a principle of morality, then, this argument goes, we have grounds for stipulating the existence of a morally relevant consideration that
gives contractors reason to reject Increased Wellbeing.

Consider a case from cosmology to see when we might have reason to stipulate the existence of an entity for which we don’t have any direct evidence.\textsuperscript{13} We have strong empirical evidence that the universe is expanding at an accelerating rate. Nothing else that we know about can explain this. Cosmologists take this to be a reason to stipulate the existence of dark energy, a new entity that is assumed to cause this acceleration. This is a case where we have an empirical phenomenon that can best be explained by stipulating the existence of a new entity.

The argument under consideration is different, however. There is no empirical evidence that needs to be explained. Nevertheless I see two cases in which we would have reason to stipulate the existence of a morally relevant consideration that gave contractors reason to reject Increased Wellbeing. First, imagine that the Epistemology Oracle tells us that contractualism is true and that Increased Wellbeing is false. This does give us reason to posit the existence of a morally relevant consideration that gives contractors reason to reject Increased Wellbeing. For this is the only way in which the two claims we have just learned could be true. Second, imagine that contractualism is the only plausible moral theory. There isn’t anything else that even remotely looks like it might be a plausible moral theory. Assume further that we know that Increased Wellbeing is false. In this case, while we

\textsuperscript{13}Thanks to Nina Emery for discussing this point with me and for suggesting the example.
don’t know that contractualism is true, we have extremely strong reason for thinking that it is. So this too seems to be a case in which stipulating the existence of morally relevant considerations that give contractors reason to reject Increased Wellbeing might seem justified.

Now the Epistemology Oracle hasn’t told us that contractualism is true and that Increased Wellbeing is false and contractualism isn’t the only plausible moral theory around. Thus I agree that the argument under consideration could in principle succeed, however, the conditions for its succeeding don’t seem to be even remotely met. In a situation such as ours, where we don’t know that contractualism is true and where we don’t know that Increased Wellbeing is false, stipulating the existence of a further morally relevant consideration seems ad hoc.

1.6 Other Principles

Contractors don’t just pick one or two principles, they pick a set of principles that covers all morally relevant circumstances. So far I have argued that Increased Wellbeing and Responsibility would be principles of morality according to contractualism. But while it seems that contractors have good reason to accept these principles when considered in isolation, might they not have reason to reject a set of principles that contained them in favor of a different set based on the other principles in the two sets? In other words, might there not be other principles that conflict with Increased Wellbeing and Responsibility that contractors have more reason to accept, which, in turn
would give them reason to reject or at least amend these two principles?

I think the answer to that question is no, at least so long as no new types of reason are introduced. To see this, let us discuss a principle that contractors have reason to accept and that conflicts with Increased Wellbeing: a principle requiring one to keep one’s promises. Call this principle Promise. Very roughly put, what gives contractors reason to accept a principle requiring agents to fulfill expectations that one intentionally leads others to form by promising them something is that having such a principle allows agents to create assurance and being able to do that is valuable. Our lives go better if we have the power to assure others that we will do or refrain from doing certain things in the future.14

Consider the following case. You promise to lend me your axe tomorrow in return for borrowing my saw today—it’s woodcutting season and we are both short on tools. Now assume that by giving the axe to someone else, Tom, Tom’s wellbeing is increased more than my wellbeing is decreased from not getting the axe. Increased Wellbeing requires you to give the axe to Tom. But Promise requires you to give the axe to me.

Contractors won’t accept a set of principles that is inconsistent. So what should they do? Amend Increased Wellbeing or Promise? Reject one of the two? They should amend Promise to say that one ought not to keep one’s promise when doing so conflicts with the demands of Increased Wellbeing. Increased Wellbeing and Promise are both accepted by contractors for

the same reasons, namely reasons of wellbeing. In the axe case Tom has a stronger reason to insist that Increased Wellbeing prevails than I have that Promise prevails. But all cases in which Increased Wellbeing and Promise conflict are like that. Increased Wellbeing only conflicts with Promise when there is some other person who, like Tom, would could be helped more than the person who stands to benefit from the promise being kept.

Increased Wellbeing just is the contractualist way of reasoning and the importance of wellbeing in the shape of a moral principle. There thus can’t be a different principle that conflicts with it, that is also justified by appeal to wellbeing, and that contractors have more reason to accept than Increased Wellbeing.

We can now see that there is a fourth revisionary implication of contractualism. The scope of common sense moral principles, such as the obligation to keep promises, is significantly revised.

1.7 Conclusion

I have argued that contractualism, like utilitarianism, is a morally revisionary view. It is extremely demanding, significantly curtails the space of the supererogatory, doesn’t allow for meaningful partiality, and revises other common sense moral principles such as the obligation to keep promises.

Can contractualism avoid these conclusions? One could try to argue that there are important reasons that contractors ought to take into account that I have not discussed. Such reasons might counteract the reasons of wellbeing.
One might go further and argue that reasons of wellbeing are not morally relevant and that other reasons ought to be used in the contractualist framework. It strikes me as implausible that reasons of wellbeing are not morally relevant and I don’t see any plausible candidates for reasons that could counteract the demands of wellbeing. That doesn’t, of course, show that they don’t exist. Absent such an argument, however, the conclusion remains that contractualism, like utilitarianism, is morally revisionary. The view is still very demanding though, in certain circumstances that don’t currently obtain, there would be space for meaningful partiality and supererogation.

\[\text{\textsuperscript{[15]}For an attempt to develop a contractualist view that replaces reasons of wellbeing with other reasons see my chapter 3}\]
Chapter 2

Are There Moral Obligations of Friendship?

While we have moral obligations to all members of the moral community, simply in virtue of membership, it appears that we have further obligations to our friends, lovers, parents, children, compatriots, and others with whom we have significant relationships. Derek Parfit observes that “Common-Sense Morality largely consists in such [special] obligations”\(^1\) and Samuel Scheffler notes that “associative duties supply much of the substance of morality as it is interpreted by most people.”\(^2\) While some associative obligations\(^3\), such as obligations to compatriots and the obligations that grown children owe to their parents, have been the subject of much philosophical discussion, obligations of friendship have been largely neglected. It is true that obligations of friendship do feature frequently as a premise,\(^4\) but they are rarely the

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\(^1\)Parfit (1986, 95)

\(^2\)Scheffler (2001, 54)

\(^3\)There is no agreed upon term for the moral requirements that we owe to people with whom we share significant relationships. Special obligations seems overly broad as it is most naturally understood to include promissory duties as well. I prefer associative obligations though I don’t mean anything by the preference of calling them obligations over calling them duties.

\(^4\)Loci classici are Stocker (1976) and Williams (1981).
conclusion of an argument. It is this situation that I seek to remedy in this paper.

I will consider what strike me as the most plausible arguments for obligations of friendship. I will argue that none of these arguments is successful and that that gives us reason to think that there are no obligations of friendship. In other words, I will argue that friends don’t typically have greater obligations to each other than they have to strangers.

2.1 Role Obligations

Friendship is a role. By a role I mean a social position a person can occupy and where that position includes certain normative standards. The normative standards of a role define what it is to perform that role well. To be a good friend is to do certain things and to refrain from doing other things. There are many roles other than friendship: one can be a soldier, a doctor, a parent, a child, a compatriot, and many more. Each of these roles has attached to it a set of normative standards. Some of these standards are enforced through regulatory bodies or the law while others are primarily reinforced through approval and disapproval. The normative standards of roles are often referred to as role obligations.

It might be thought that the mere fact of occupying a role that has certain normative standards grounds moral obligations. The mere fact that there are normative standards of friendship, according to this line of thought, shows that there are moral obligations of friendship. This would be mistaken. There
are many cases in which a person occupies a role with normative standards where it is clear that the person has a moral obligation *not* to fulfill those standards. Consider the role of a mafia hitman. A good mafia hitman will kill whoever the mafioso in chief directs him to kill. It seems clear that in cases like this the role obligations are in direct opposition to the moral obligations agents have not to kill. Working for the mafia does not give one a permission to ignore those obligations. Cases like this show that we can’t infer the existence of moral obligations from the existence of role obligations.

Of course, for all I have said, there might be some role obligations that do independently ground moral obligations and friendship might be one of those. In the remainder of this section I will recapitulate an argument by A. John Simmons that I take to establish that the normative standards of a role—the role obligations attaching to that role—have no independent moral weight. Simmons argues that there are two categories of cases in which the content of a person’s moral obligation is identical to the content of her role obligations. He argues that in neither kind of case do the role obligations directly ground the moral obligations. First, there are cases in which one voluntarily takes on the obligations of a role. Consider a soldier who enlists voluntarily and with full knowledge of what the role requires. She has a moral obligation to follow the commands of her superior. Compare her to a foreigner who was forced to join the army. She also occupies the role of soldier, though against her will. It seems clear that the second soldier has no moral obligation to

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5Simmons (1979, 16ff)
obey the commands of her superior, though she might have overwhelming prudential reason for doing so, given the disciplinary methods of the army. This case shows that while some soldiers have moral obligations to fulfill their role obligations, the mere fact of inhabiting the soldier role does not ground any moral obligations.

Second, there are cases in which one does not voluntarily take on the obligations of a role, yet one has moral obligations with the same content. Consider a person who is forced to become a doctor. Perhaps there is a shortage of doctors and the powers that be threaten to harm her family if she does not go along with the training. One night she is the only person working at the hospital and a man is brought in by an ambulance who will die if he does not receive expert medical help within the next few minutes. It seems clear that she has a moral obligation to save the man’s life and that this obligation is identical in content to what the normative standards of the role of doctor require of her. It is true that she has a moral obligation to save the man’s life, but anyone who could save the man’s life has a moral obligation to do so, doctor or not. Given her training she is in a better position to do so, but if an untrained person could save the man’s life, that person would be just as much morally required to do so. What explains this is a perfectly general duty to aid those in great need, at least when we can do so at no more than a reasonable cost to ourselves. This case shows that there are instances in which a person can have moral obligations that are identical to one’s role obligations, even in cases in which one did not
voluntarily take on the obligations of that role. The moral obligations in cases like this, however, are not grounded in the normative standards of the role but in perfectly general moral requirements.

The argument of this section shows that if there are moral obligations of friendship their existence cannot be established by merely pointing to role obligations of friendship and inferring that they are moral obligations. That inference is not valid.

### 2.2 Constitutive Obligations

Many people find the following thought compelling: obligations of friendship are constitutive of friendship. Without there being obligations of friendship there could not be friendships, just as without there being words there could not be novels. This thought is influentially expressed by Joseph Raz: “A relationship between people who enjoy amusing themselves in each other’s company but do not owe each other any special duties is not friendship.”

This thought leads to the following argument.

(1) Obligations of friendship are constitutive of friendship.

(2) There are friendships.

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6Raz (1989, 19)

7Raz’s own argument is different and rather puzzling. He argues as follows.

(1) Friendship is intrinsically valuable.

(2) Obligations of friendship are constitutive of friendship.

(3) Therefore, there are obligations of friendship.

It is unclear how the premises are supposed to support the conclusion. My objection will focus on premise (1) and will thus be an objection to Raz’s argument in any case.
(3) Therefore, there are obligations of friendship.

This argument is valid and premise (2) seems to be obviously true. I don’t think this argument succeeds, however. The reason is that obligations of friendship are not constitutive of friendship.

Consider a world in which act utilitarianism is true and the non-moral facts are such that maximizing utility involves working hard to improve the lives of strangers. In this world there are two people, Peter and Paul. Peter and Paul spend a lot of their time together and almost no time helping strangers. When one of them fairs poorly the other is there to help. They are very fond of each other and their character and interests are shaped through their interactions.\textsuperscript{8} They consider the relationship they have to be one of the most valuable things in their lives.\textsuperscript{9} It seems obvious that Peter and Paul are friends yet, by hypothesis, they don’t have any moral obligations of friendship. In fact, morally speaking, they are falling far short of what they are required to do. They are good friends but bad people. This case shows that obligations of friendship are not constitutive of friendship. Thus arguments appealing to that premise, as the ones discussed in this section, cannot succeed.

\textsuperscript{8}For views of friendship that emphasize a mutual process of creating and shaping one’s identity see Cocking and Kennett (1998), Keller (2000), Nehamas (2010), and Bagley (2015).

\textsuperscript{9}That friendship is very valuable has been a common place at least since Aristotle (Nicomachean Ethics 1155a5). For a contemporary discussion of the value of friendship see Hurka (2013).
2.3 Promissory Obligations

Friendship, it is often noted, is a voluntary relationship. The paradigm for voluntarily acquiring new moral obligations is by way of promising. This suggests the thought that obligations of friendship might be grounded in the, perhaps implicit, promises people make to each other in the process of becoming friends. T. M. Scanlon, for instance, observes that “[o]bligations to our friends [...] might be explained by arguing that in treating people as friends we invite them to form expectations about our concern for them and that it is wrong to disappoint such expectations”. Given the centrality of inviting others to form expectations on a number of accounts of promissory obligations, including Scanlon’s, this suggests that promises or something close to it might ground obligations of friendship.\(^{10}\)  

An immediate objection to the promising account might seem to be that rarely, if ever, do two people, in the process of becoming friends, say to each other

\(^{10}\)Scanlon (1998, 172)

\(^{11}\)We should note that Scanlon does not think that everything we take to be obligations of friendship will be explained in this way or, in fact, in any other contractualist way. He seems open to the idea that some obligations of friendship are in some sense moral, though not part of what we owe to each other. I won’t pursue that idea as I take it that most people who think there are moral obligations of friendship think they are the kind of obligation that we owe to our friends.

\(^{12}\)I take Christina Hoff Sommers’ account of the obligations we owe to those we have an important relationship with to be another account that is, at least, in the spirit of a promise based approach. She is primarily interested in explaining the obligations that grown children have to their parents but she does so via a more general account of special obligations. She takes as her starting point A. I. Melden’s theory of promises (Melden 1977), and argues that obligations to keep one’s promises and the obligations to parents, friends, and others we have important relationships with, are all instances of the same general principle. See Sommers (1986).
other, “I promise henceforth to give your interests extra weight.” But making a promise need not involve using the words “I promise” nor, indeed, need it involve using any words at all. Consider the following two cases. First, I say, “Shall I pick you up from the airport when you get back?”, and you reply, “That would be lovely!” If I don’t come and pick you up it seems pretty clear that I have broken a promise. Second, as you leave the house in the morning you say, “Do you promise to do the dishes before you go to work?” My mouth is full, but I nod. If I don’t do the dishes before I go to work I have broken a promise that I made just by nodding. These two cases are clear instances of making a promise by uttering some words that don’t include the phrase “I promise” and by making a promise without saying anything at all respectively. It is even possible to make a promise by doing nothing at all, though “doing nothing at all” does, in this case, constitute making a promise and is thus not really an instance of doing nothing at all. Consider the following case.\footnote{This case is modeled on A. John Simmons' case of tacit consent. See Simmons (1979, 79-80).} A group of people are over at Sophia’s place. Sophia says, “If you promise to keep secret what I am about to tell you, stay, otherwise leave now.” No one leaves. If one of the people who stayed later tells someone else about the secret, they are breaking a promise.

Not just any instance of doing nothing at all, even in the presence of someone else wishing me to promise something, is a case of me making a promise. The following four conditions are plausibly necessary for making a
promise by doing nothing at all.\textsuperscript{14} Call these the *implicit promise conditions*.

(1) The promising party knows that in performing or not performing a particular action they are thereby making a promise.

(2) There is a clearly identified alternative to doing nothing that constitutes not promising.

(3) The promising party knows what the content of the promise is.

(4) The alternative is not very costly.

Let us consider them in turn. First, if Sophia says, “I’d rather people don’t hear anything about what I am going to tell you”, then remaining would not constitute a promise, even if she mistakenly thinks so. Second, if Sophia says, “Now I take you all to promise that you won’t tell anyone what I’m going to tell you next” and proceeds to tell people her secret, no promise is made. Third, if Sophia says, “By remaining seated I take you to promise what I want you to promise” then no promise is made. Fourth, and finally, if Sophia says, “If you promise to keep secret what I am about to tell you, stay; otherwise jump out of the window”, no promise is made either. These examples support the four conditions on successfully making a promise by doing nothing at all.

This shows that promises can be made in a variety of ways. Do we make the relevant kind of promises in becoming friends with someone? Consider

\footnote{\textsuperscript{14}These conditions are very similar to, and modeled on, those that Simmons takes to be necessary for successful tacit consent. See Simmons (1979, 80-1).}
the beginning of a friendship. Kate and I met at university. We were doing
the same course and during the first meeting of everyone on the course she
made some jokes that I enjoyed. We subsequently had a class together and,
as she had seemed friendly to me, I sat next to her. After class we would chat
a little about the course and having moved to this new place. Conversation
came easily. A few weeks into the semester I asked her if she wanted to
have some tea at my place after class; my room was just around the corner
from where our class took place. We started regularly having tea after class
and talking about a wider range of topics. A few weeks later it was Kate’s
birthday, to which she invited me. After that we started making various
plans together, rather than just having tea after class. We would go out
for dinner, explore the neighboring colleges, go to a concert in the big city
nearby. In the summer between our first and second year I invited Kate to
visit me in my home town. She stayed for a week and I showed her all my
favorite places.

Somewhere between my being amused by Kate’s jokes at the first gathering
of our course and her visiting me at home we became friends. There is no
precise point at which our relationship changed from being acquaintances
to being friends; it seems to be more a gradual change from one to the
other. According to the promising account of friendship some of the things
we did together have to constitute promises. Now we certainly did make some
promises to each other. When we made a plan for Kate to come and visit me,
doing so involved me promising to put her up and show her around when she
came to visit. But that isn’t the kind of promise that we are looking for on
the promising account. Of course friends, like other people, make promises
to each other. But my promise to put up Kate and show her around is a
promise to do a certain, discrete thing and after her visit my promise was
discharged.

Consider a different situation. Kate calls me early on a Sunday morning.
Her movers cancelled at the last minute and now she desperately needs people
to help her move. She asks whether I can come and help. Assume that I
haven’t made a promise to help her move. This is a typical case where I
might be thought to have an obligation of friendship to help. This case
shows that, for the promising account to capture cases like this, we need
to locate promises of a more general nature in the process of our becoming
friends. A promise to give extra weight to the interests of one’s friend is a
good candidate. I don’t have to help a stranger move, but if I have promised
Kate to give her interests extra weight then her plight of not having movers
might be great enough to require me to help her.

It is my contention that no sufficiently general promises were made by
either Kate or myself. It seems to me further that this is typical of the
coming to be of friendships. Consider the case of Kate and myself. I can
report that at no stage did we sit down to make an explicit mutual promise
of giving each other’s interests extra weight in the future. Now I have argued
that we can make promises by doing nothing at all, but only when the implicit

— See Shiffrin (2008) for a discussion of the importance of promising within relationships.
promise conditions (1) through (4) are met. Is it plausible that, in the coming
to be of friendships, there will typically be a situation that meets those
conditions where would-be friends make a sufficiently general promise to
ground anything that resembles what we think of as obligations of friendship?
The answer to that seems to be a clear no. Arguably conditions (2) through
(4) are met. There is a clearly identified alternative (2), namely not becoming
friends with the person in question. The promising party knows what the
content of the promise would be (3), namely to be a good friend. Now what
being a good friend amounts to is not always clear, but I can make equally
vague promises explicitly, for instance by saying, “I promise to be a good
friend”. So that should be no hurdle to condition (3) being met. Condition
(4) is that the alternative is not very costly. Not becoming friends with
someone isn’t costly in the sense that we don’t lose something we already
had, though we might miss out on gaining something great. It seems that
condition (4) is met too then.

The problem, however, concerns condition (1), that the promising party
knows that in performing or not performing a certain action they are making
a promise. Consider again the case of Sophia discussed above. It was Sophia’s
saying that she took people to promise keeping her secret by staying that
ensured that people knew that that is what they were doing by staying. It
arguably takes something fairly explicit for condition (1) to be met, such
as a sign on the door (“By entering you agree to being recorded for my art
project”) or someone saying something, as was the case with Sophia. Nowhere
in the ordinary coming to be of a friendship does this sort of thing happen. It could, of course. I might sit you down and say that by going out to the movies with me one more time I take you to promise to give my interests extra weight in the future. But this doesn’t normally happen. This shows that condition (1) is not met in most instances of friendships coming to be. Thus, ordinarily, there are no promise based obligations of friendship.

A defender of the promising account might object that I misconstrue the theory by looking for a discreet act within the process of becoming friends. It is instead the whole process of becoming friends that constitutes the making of a promise. The shift to making a promise across time does not help with condition (1), that the promising party knows they are making a promise by doing or not doing something, being met, however. While many people think that in becoming friends they acquire new obligations few if any think that they are making a promise. The former does not entail the latter. When I negligently break something that belongs to you I acquire an obligation to repair or replace it; when I choose to have a child I acquire an obligation to look after it until it grows up to be an independent person. Neither of these are cases of making promises. If, in becoming friends, people don’t think they are making a promise then they don’t know that they are making a promise and thus condition (1) is not met.

The main problem with the idea of taking the whole process of becoming friends to constitute the making of a promise is that it doesn’t seem as though there is such a thing as making a promise slowly across time. I can think
of no clear and compelling example of a promise that is not a discreet act. In the absence of such cases it seems ad hoc to claim that the process of becoming friends is an exception. Consider the following case. Two people have been in a romantic relationship for a while and in their social context monogamy is the norm. They never have an explicit conversation about not sleeping with other people but both firmly expect the other not to. Many people think that in this case there is an obligation to remain what is called faithful. I can see that there are moral reasons not to sleep with other people in such a case if it would hurt one’s partner, but that is the only reason I can discern. There are also prudential reasons not to sleep with other people as one’s partner might leave one, if discovered. Even if it is a widely shared intuition that partners in cases like these have a moral obligation not to sleep with other people what does that show? Again, absent a clear intuition that a promise has been made this case just shows that many people think there are obligations not just in friendship but also in romantic relationship. But the question we are trying to answer in this paper is whether that position can be defended, not whether people find it pre-theoretically plausible. Absent further argument pointing to another relationship which also seems to involve obligations is not a promising way of arguing for the existence of obligations of friendship.

I conclude that the promising account of obligations of friendship, while initially appealing, does not succeed.
2.4 Reliance Obligations

Consider again the thought that “[o]bligations to our friends […] might be explained by arguing that in treating people as friends we invite them to form expectations about our concern for them and that it is wrong to disappoint such expectations”.\textsuperscript{16} Promises might not be the only way in which we can come to acquire obligations that are connected with the expectations of others. T.M. Scanlon suggests that the following is also a principle of morality.

Reliance\textsuperscript{17}: If one has intentionally or negligently led someone to expect that one is going to follow a certain course of action, X, and one has good reason to believe that that person will suffer significant loss as a result of this expectation if one does not follow X, then one must take reasonable steps to prevent that loss.\textsuperscript{18}

The three main ways in which one can prevent such a loss is by warning that one won’t do X, doing X, or compensating the other party for their losses.

This suggests the thought of identifying obligations of friendship with reliance obligations. In becoming friends with someone we intentionally or negligently lead them to form the expectation that we will give their interests extra weight. Our friends will act on this assumption and incur significant losses if we don’t act accordingly. If Reliance is true this grounds obligations to our friends.

\textsuperscript{16}Scanlon (1998, 172)

\textsuperscript{17}While Scanlon calls this principle Loss Prevention it is more appropriately thought of as a reliance principle, for it is concerned only with losses that occur due to others relying on our doing or not doing something.

\textsuperscript{18}Scanlon (1998, 301)
I see three problems with this account of obligations of friendship.\(^{19}\) First, this account would be highly revisionary of what our obligations of friendship are in a number of ways. Reliance obligations, unlike promissory obligations, do not require specific performance. We can discharge them by warning that we won’t do what others expect us to do or by compensating resultant losses. Say that Kate just had surgery and needs to stay in the hospital for a few days. I might be thought to be under an obligation of friendship to visit her. On the reliance approach there are two other ways in which I could discharge my obligation. I could either warn Kate, before she goes in for the surgery, that I won’t visit her or I could compensate her for the loss of not seeing me. More generally speaking, it would also be open to me to cancel my friendship obligations temporarily by, for instance, saying that I won’t give Kate’s interests extra weight next Sunday. I take it that most people don’t think we can discharge our obligations of friendship by letting our friends know in advance that we won’t be there for them or by paying them off later. I don’t take this first objection to be decisive against the reliance account. If there are no other problems for the reliance account then all that this objection might show is that obligations of friendship are very different from what we ordinarily took them to be, not that they don’t exist.

The second problem for the reliance account is that it does not cover a

\(^{19}\)A fourth problem might be whether all, or even many, cases of plausible obligations of friendship involve losses that are significant enough to trigger the principle. I will grant, for the sake of argument, that this problem can be solved, perhaps by understanding the stringency of the obligation to correlate with the significance of the losses without a threshold for triggering the principle.
wide range of cases typically thought to be obligations of friendship. Consider again the case where Kate just had surgery and has to stay in the hospital for a few days. Reliance concerns cases where someone does something because they believe someone else will act in a certain way. However, Kate didn’t go to the hospital because she thought I would visit her; she went because she needed surgery. She might of course expect me, her best friend, to come and visit her. But her expectation that I will come to visit her did not play any role in her deciding to go to the hospital. Thus Reliance does not apply in this case. It seems that many, perhaps most, cases where we are said to have obligations of friendship don’t concern our friends doing something because they think we will act in a certain way and where they would suffer losses if we don’t act accordingly. I might be though to be required to offer Kate help when she is moving, to pick her up from the airport, and to stay in touch with her when I go away for a the year. None of these obligations can be explained by Reliance. Thus there would be very few, if any, of what are typically thought to be obligations of friendship on this approach.

Furthermore it doesn’t seem that acting on the assumption that someone will do something where their not doing so would be costly to us occurs more frequently within friendships than with strangers. It strikes me as exceedingly rare for friends to make plans that rely on the other party doing something where they don’t receive some extra degree of assurance. I don’t just book my round-the-world ticket to accompany you, my friend, on your trip after hearing that you intend to take such a trip; I ask you first whether
you are really going and if you are indeed happy to travel together.\textsuperscript{20} Thus it is unlikely that there will be other Reliance based duties that friends owe to each other that they don’t typically owe to strangers.

The third and final problem for the reliance account is that Reliance is not a principle of morality. Consider the following case. I plan to play a surprise gig at the town square with my band next Sunday. I mention the plan when you, a casual acquaintance, are over at my house for a party. As it happens, you are currently trying to get signatures for a petition to the mayor and you know that our band will draw the sort of people sympathetic to your petition. You call in some favors and get a bunch of people to promise to help you gather signatures on Sunday. I hear about your plan through a mutual friend. On Saturday night my bandmates and I go out drinking. Things get a bit out of hand and we wake up with a big hangover the next day. We decide not to do the gig after all. I recall that you are planning to gather signatures, so I text our mutual friend who tells you that the gig won’t happen. While this prevents some of your losses you still end up having called in a bunch of favors for nothing. Those people have cancelled their Sunday plans to help you gather signatures and while they won’t actually spend their Sunday doing so now, they did repay you the favor that they owed you by cancelling their plans and being at your disposal. You are now out of favors and will have a much harder time gathering enough signatures for your petition.

\textsuperscript{20}See again Shiffrin (2008) for the role of making promises within friendships
It is implausible to think, I submit, that I owe it to you that I get the band and myself to get our hungover act together and play the gig anyway or that I compensate you for your losses, perhaps by helping you gather signatures. This is what Reliance requires, however. It is plausible that I am required to let you know that the gig won’t be happening. But this doesn’t seem to have anything to do with my negligently having lead you to expect that we will play a gig on Sunday. For say I only talk to my fellow band members about the plan when we have very good reason for thinking that no one else is there, but you overhear us anyway (maybe, unbeknownst to us, you were in the ventilation shaft, doing some repairs). It seems clear that in this case I lead you non-negligently to form the relevant expectation and thus Reliance does not apply. If I later find out about your plan it still seems that I ought to let you know that the gig won’t be happening once we wake up hungover on Sunday afternoon. The reason I have to warn you thus seems to derive from a general principle of helpfulness according to which we are required to help someone when we can do so at almost no cost to ourselves.21 Our mutual friend, who saw me come home as he was getting up for his early morning run and can gather from my state that I won’t be playing a gig that afternoon is under the same obligation to inform you, even though he has not lead you to form any expectations about his (or even my) behavior. This case gives us reason to think that Reliance is not a principle of morality.22

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21See for instance Scanlon (1998, 224) for such a principle.
22Seana Shiffrin discusses a case she takes from Charles Fried (Fried 1981, 9), involving someone buying land, that is also a counter example to Reliance. (Shiffrin 2008, 511
The discussion in this section gives us reason to reject the reliance account of obligations of friendship.

2.5 Duties of Aid and Helpfulness

We saw in the previous section that we might have obligations to help, or at least warn, someone, even when they don’t rely on us or when we lead them to form expectations about our future behavior in a non-negligent way. This suggests an alternative approach to duties of friendship. A principle along the following lines is widely accepted.23

Duty of Aid: We are required to help others in great need when we can do so at a moderate cost to ourselves.

Given how well we know our friends and how entangled our lives are we are often in a good position to benefit them. One might argue that we typically find ourselves having far more obligations of aid to our friends than to similarly situated strangers. If this is right, then, one might argue, there

\[n. 44\) Niko Kolodny and R. Jay Wallace argue that the case is not a counterexample to Reliance because it is situated in a commercial context and \textit{caveat emptor} applies in cases like that (Kolodny and Wallace 2003, 126 n 10). I don’t find their reply compelling. First, because it is not clear that \textit{caveat emptor} can be justified as a legal principle. Why should it always be up to the buyer to find out what the flaws with the product are? This skepticism can be found in actual legislation. Under UK law, for instance, \textit{caveat emptor} no longer applies to consumer purchases. Second, even if there were good reasons for it being a legal principle, that does not entail that, for instance, knowingly selling land unfit for the intended purpose of the buyer is morally permissible, even though \textit{caveat emptor} permits it. As a moral principle \textit{caveat emptor} strikes me as hard to defend. At any rate, my case does not involve a legal context and is thus not subject to Kolodny’s and Wallace’s objection.

\[23\) See for instance Scanlon (1998, 224).\]
would be obligations of friendship based on the Duty of Aid.

The first thing to note about this approach is that obligations of friendship would turn out not to be special obligations. We wouldn’t have obligations to our friends as such, rather, we would more often be in a position where our general duties would be triggered with regard to our friends than with regard to strangers. I think it would be wrong to take this as a reason to reject this account however. I take it that what matters is whether friends typically have obligations to each other that they don’t have to strangers. If it turned out that we had a wide range of obligations towards our friends based on the Duty of Aid that we didn’t have towards strangers it would seem like a merely verbal point to insist that those were not obligations of friendship properly speaking as they are general rather than special obligations.

The Duty of Aid is a serious duty in the sense that it is usually thought to apply in cases where a person is in great need and that it can demand at least some non-negligible sacrifices. Arguably very little to none of what are paradigmatic cases of obligations of friendship would be covered by the Duty of Aid. The problem is that such cases are not usually ones where a friend is in dire straits, so the threshold of severity for the Duty of Aid to be triggered is not met. Consider a few examples. Kate is throwing a party and is worried and would really like me to be there to make sure everything goes well. It might be thought that, as her best friend, I am required to go. My coming would not, however, prevent some great disaster. She might be a little more nervous at the beginning of the evening and not have a helping hand cleaning
up at the end of the evening, but this is not the kind of thing where the Duty of Aid is triggered. What if Kate is stuck at the airport and I could go and fetch her late at night? I might be thought that a friend would be required to go. If I don’t come she might have to spend the night at the airport until the first train goes early in the morning. That isn’t the most pleasant way to spend the night, but, again, does not seem like the kind of case where the Duty of Aid would be triggered. Consider a final case. A friend might be thought to be required to stay in touch when they move away. I just moved to Paris for the year. I might be thought to be required to call Kate regularly or at least write her the odd email. It is implausible, however, that this is something the Duty of Aid requires. These examples suggest that very little to none of what are typically thought to be obligations of friendship would be covered by this approach.

Perhaps there are other things we might end up owing to our friends that we don’t owe to strangers on this account however. Usually when we discuss when the Duty of Aid applies we think of rescue scenarios, people drowning or losing their limbs, and those do seem to be paradigmatic. In rescue scenarios it seems clear that being a friend is irrelevant. If two people are drowning, I am usually as well placed to save the stranger as I am to save the friend. So if the Duty of Aid only applies in rescue scenarios then it won’t be the case that we have greater duties of aid to our friends than we have to strangers. Someone defending this account of obligations of friendship would thus have to argue that there are cases in which the Duty of Aid is triggered that
are not rescue cases. One might try to argue, for instance, that friends are typically far better placed than strangers to be there when one is suffering a great loss. Now we need to be careful here. For while the loss is severe it can’t be prevented by a friend in such a case. The only thing the friend can do is help deal with the loss. This is not an insignificant benefit, but we must be careful not to conflate the seriousness of the suffering with the help given by a friend in such a situation. Often one of the tragic elements of such a case is that even a very good friend can’t really make things that much better. We have a strong intuition that friends have an obligation to be there for each other when they are going through rough times. But a defender of obligations based on the Duty of Aid must argue that it is solely the seriousness of the situation and the harm that can be prevented by being there that counts. It is plausible that the situation can be serious, but how much harm can a friend prevent and is that enough to trigger the Duty of Aid?

Perhaps there are cases where the Duty of Aid is triggered among friends where it wouldn’t be triggered with respect to a similarly situated stranger. I am somewhat skeptical of there being many cases like this. The main thing to note is how much a defender of obligations of friendship would have given up by endorsing this view however. It is only in cases where friends can prevent a great harm befalling their friend and where a stranger could not provide the requisite help that something that resembles obligations of friendship emerges. This strikes me as sufficient reason to reject this approach as an
account of obligations of friendship.

2.6 Conclusion

In this paper I have considered and rejected a number of arguments for the conclusion that there are obligations of friendship. While I may have, of course, overlooked the one true account, this gives us at least some reason to conclude that there are no obligations of friendship.
Chapter 3

Partiality, Duties of Aid, and Living One’s Own Life

The question of partiality is not freestanding. If there were no obligation to take into account the interests of others then the question of partiality would not be difficult. If there were no obligation to come to the aid of the needy, for instance, then spending the day with my friend instead of saving a stranger’s life would be unproblematic. It is only because the interests of others do make demands on us that the question of the permissibility of favoring some over others arises.

It is easiest to appreciate the difficulty of the question of partiality in the context of duties of aid. It is generally thought that if someone is in great need and we can help them at not too great a cost to ourselves we are required to do so. But what is too great a cost? Is not buying a new coat this winter or not spending the day with a friend I haven’t seen in a while too great a cost? Perhaps, as some think, the cost to us is only too great if it is greater than the bad we would be preventing.

Common sense does not have a clear answer to the question of partiality.
Or rather, its answer depends on how we ask the question. If we ask whether pursuing our interests and spending money on our lifestyle are permitted most people would say yes. If we ask whether we have to save someone’s life if we could do so by sacrificing a nice winter coat then the answer would be yes too. Say, for instance, that in order to keep someone from freezing to death we had to cut apart our coat, then, I take it, most people would say that that is something we have to do. The problem is that those two answers are not compatible. We can very easily save a person’s life by donating money to an effective charity. According to Give Well, a charity evaluation organization, you can save a life for $900 by donating to *Deworm the World*. A Canada Goose parka costs $1000. So are we permitted to buy the coat or are we required to save the life?

There are two general strategies for approaching the question of partiality in the literature. One, call it the *intra moral* strategy, argues that morality permits a certain degree of partiality. The other, call it the *extra moral* strategy, argues that while morality is extremely stringent, there are non-moral reasons that grant us permissions of partiality. In this paper I will argue that neither strategy in its existing form is successful. I will then introduce and defend a different answer to the question of partiality. I will argue that what is central to answering the question of partiality is a notion of being in a position to live one’s own life. I will argue that being in that position means having a minimum set of capabilities. The view I will defend is, very roughly stated, the following. We are required to help those below
the capability threshold reach the threshold but once everyone is above the threshold we can favor others as we please, as long as we respect their negative rights. In developing this view I will be drawing on insights from the debate about equality, sufficiency, and priority concerning distributive justice. My strategy for defending this view will fall into the intra moral approach but the view I defend is different from the one usually defended, in ways that I will make clear below.

3.1 The Intra Moral View

According to the intra moral view there are reasons of partiality and those reasons are moral reasons. In other words, a certain degree of partiality is sanctioned by morality itself. This view is most influentially explored by Samuel Scheffler and I want to discuss the two arguments for permissible partiality he has made on separate occasions. I will argue that neither of them is compelling. While I argue that Scheffler’s arguments should not convince us I don’t take that to be a reason for abandoning the intra moral approach. In fact, the view I will defend will take that approach to partiality also.

The first argument can be found in his *The Rejection of Consequentialism*.¹ In this book Scheffler explores an argument for what he calls a personal prerogative, a permission to give one’s interests extra weight compared with those of others. The discussion has been influential and many people, I think,
have something akin to a personal prerogative in mind when thinking about permissible partiality.

Scheffler’s main idea concerns the existence of what he calls the personal point of view, the point of view from which agents evaluate the world. To me, as an agent, it matters far more whether something good or bad happens to me or a friend than it happening to a stranger. The fact that there is a personal point of view is a morally relevant fact, Scheffler asserts. He suggests that “a moral view gives sufficient weight to that fact only if it reflects it, by freeing people from the demand that their actions and motives always be optimal from the impersonal perspective, and by allowing them to devote attention to their projects and concerns to a greater extent than impersonal optimality itself would allow.”

Scheffler realizes, of course, that incorporation of a personal prerogative is not the only way in which morality can reflect the personal point of view. An agent-neutral form of consequentialism could reflect it by requiring agents to maximize the number of people who are successfully pursuing their own projects and are thus able to give sufficient weight to the personal point of view in their lives. This would, most likely, involve a number of people sacrificing their own projects so that that a greater number of people can pursue theirs. Thus Scheffler does not take himself to give a conclusive argument for a personal prerogative. Rather he takes himself to give a rationale that

\[\text{\ref{2}}\text{Scheffler (1993, 62, emphasis in original)}\]

\[\text{\ref{3}}\text{Cf. Scheffler (1993, 58ff.)}\]
is as compelling as the consequentialist one. He argues, in other words, that a consequentialist morality and one that incorporates a personal prerogative are equally well motivated, at least with regard to their taking into account the personal point of view.\footnote{His underlying motivation is to show that agent-centered permissions have a rationale whereas agent-centered restrictions lack one, so this result is all he needs in terms of permissible partiality. Cf. Scheffler (1993, 65)}

At the end of the day, by Scheffler’s own lights, his discussion of a personal prerogative does not constitute an argument for such a prerogative. Furthermore, even if there were no alternative way for morality to reflect the existence of the personal point of view that would, arguably, still not constitute a very strong argument for a personal prerogative. It is true that what happens to us matters to us out of proportion. But why should morality be assumed to integrate anything like a personal point of view? Scheffler argues that “[t]o have an independent point of view is part of the nature of a person if anything is”, and that it being such gives us reason to think that morality has to take it into account.\footnote{Scheffler (1993, 58)} Having such a point of view might very well be part of human nature but it doesn’t follow that morality must be accommodating towards it. Cruelty might be part of human nature too, but that is no reason for thinking that morality must integrate a permission for exercising this part of our nature. Thus even if there were no alternative way of integrating the importance of the personal point of view it is not clear that it needs to be accommodated at all. I thus conclude that this argument
for permissible partiality does not succeed.

In a recent paper Samuel Scheffler advances a different argument for partiality that he has been developing in a number of papers over the years.\(^6\) I will argue that it too does not succeed.

Scheffler’s argument is based on observations about the nature of valuing. To value a relationship is, he argues, to see it as giving rise to reasons of partiality. In other words, to value a relationship is to see it as giving one reason to care for it that one does not have to care for relationships that are not one’s own. Similar things hold for valuing one’s projects and one’s memberships in various groups. While we might occasionally value relationships, projects, and group memberships that are not valuable there is no reason to think that we are systematically mistaken in valuing relationships. If we aren’t mistaken in valuing relationships and if doing so involves seeing them as giving rise to reasons of partiality then they do give rise to reasons of partiality. I take the last step to be an epistemic claim. If valuing something involved perceiving there to be reasons that do not exist then, the argument seems to imply, we would be wrong to value that thing. While this is not my main objection it is worth noting that there is reason to be skeptical of this inference. Being justified in having an attitude does not entail that the propositional content of the attitude is true. Loving one’s children might entail thinking that they are smarter and more beautiful than anyone else’s children and loving one’s children is justified. Even if that is so it doesn’t

show they one’s children are in fact smarter and more beautiful than anyone else’s children.

So far the argument is not supposed to have established anything about morality. All it is supposed to have shown is that our relationships, projects, and group memberships give us reasons to care for them to a greater degree than we care for those that are not ours. Those reasons might have no bearing on morality however.

The next step of the argument is the crucial one. Relationships, projects, and group memberships are some of the things we value the most. Morality addresses us qua valuing creatures. For it not to integrate the reasons that arise from some of our most fundamental valuings “would be for it to set itself against our nature as valuing creatures. And that […] would make morality an incoherent enterprise.”7 He expands on this claim towards the end of the paper.

Those who wish to [claim that there is no permissible partiality] cannot deny that we are valuing creatures at all. Nor can they deny that morality appeals to our nature as valuing creatures, since morality is itself a realm of value, and the capacity of moral norms and ideals to motivate and engage us depends on the fact that we are valuers. So the position must be that although humans are valuing creatures, and although morality appeals to our nature as valuing creatures, morality nevertheless gives no direct weight to some of the most basic reasons we have by virtue of what we value.8

This is not persuasive. Perhaps we fundamentally value being better than

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7Scheffler (2010, 43)
8Scheffler (2010, 74)
others and perhaps that gives us reason to put others down. Let’s say, for the sake of argument, that we do and that it does. Surely that does not show that morality should be taken to give direct weight to this aspect of our nature by integrating moral reasons to put others down. The argument gains some plausibility from focussing on the pleasant aspects of human nature, such as our propensity for having loving relationships. But once we replace these with less pleasant aspects we see that it is not very compelling. This challenge stands even if human nature turned out to be thoroughly pleasant. For if humans were less nice surely morality would not be any more permissive of cruelty. But that is what Scheffler’s argument entails. I conclude that this argument for permissible partiality does not succeed either.

In *The Rejection of Consequentialism* Scheffler argues for a personal prerogative. It is less clear what kind of permissible partiality her argues for in his more recent paper, but his discussion suggests that a personal prerogative would be part of the story. In closing this section I want to raise a further challenge for that kind of view of partiality. A personal prerogative allows people to give extra weight to their own interests when weighing moral reasons. The idea is appealing. Everyone gets to equally look after themselves and their loved ones a bit more than they have to look after others. The problem is that people are in vastly different positions to take advantage of this permission. Those who have a lot of resources can use this permission to great effect. Those with few resources, on the other hand, might be just as much permitted to look after their own interests, but, lacking the means,
there is very little they can actually do with this permission. If there were no personal prerogative the well-off would have to regard everyone’s interests impartially. This is likely to be to the benefit of the less well-off as whatever duties of aid would be in place would not be limited by such a prerogative. A personal prerogative is thus harmful to the less well-off and beneficial to the well-off. Perhaps the problem is not with the personal prerogative but with the unequal distribution of resources. If everyone had the same means there would not be this differential effect of the personal prerogative. The problem might then be of a more conditional nature. In cases where resources are very unequally distributed a personal prerogative will act so as to maintain that unequal distribution and the harms and benefits that come with it, at least to a certain extent.

But is the fact that a personal prerogative has such a different effect on the lives of the poor and the rich an objection to it? After all, other moral rules also have differential effects on various groups. A prohibition to take something by force benefits the weak and curtails how much the strong might otherwise have. Nietzsche famously thinks that this is a problematic feature of morality, but most of us think that a prohibition to take by force forms part of the fabric of morality. Is there a relevant difference between these two principles that makes one seem problematic but not the other? We can say at least this much. Behind a Rawlsian veil of ignorance people would arguably accept a prohibition to take by force but reject a personal prerogative.\footnote{Thanks to David Estlund for this objection.} \footnote{See chapter 1 for an argument that Scanlonian contractualists would also reject a}
Behind the veil people don’t know whether they would be strong or weak so they would pick a principle protecting them even if they turned out to be weak. Thus they would accept a prohibition on taking by force. They would equally not know if they were wealthy or not, thus they would reject a principle, like the personal prerogative, that would be harmful to them if they turned out to be poor. There might be other reasons to accept a personal prerogative, though it’s not obvious what they would be. Even if there were, this discussion suggests that there is some reason to reject a personal prerogative while there is no reason to reject a prohibition to take by force. I don’t mean to endorse Rawlsian contractualism here; all I take this discussion to show is that one plausible way of thinking about morality shows how there is a relevant difference between the prohibition on taking by force and a personal prerogative. The discussion suggests that there is an objection to a personal prerogative being part of morality.

Both of Scheffler’s arguments pursue the intra moral approach. In other words, both arguments attempt to show that there are moral reasons for partiality. The extra moral approach, which I will discuss in the next section, attempts to show that there are weighty reasons of partiality but that they are external to morality. Nothing I have said in this section suggest that there couldn’t be an argument for permissible partiality that takes the intra moral approach. The view I will defend later in the paper will take just this approach but the argument will be different from Scheffler’s.
3.2 The Extra Moral View

On the intra moral view of partiality there are moral reasons to favor some over others. Susan Wolf explores a different approach to the question of partiality.\textsuperscript{11} She argues that there are non-moral reasons to favor some over others and that these reasons can outweigh the reasons of morality that tell us not to. This is the extra moral view, which I will discuss in this section.\textsuperscript{12}

I will argue that it isn’t a view of partiality at all and thus that it does not address the question at hand.

The following case is the central example of Wolf’s argument.

Consider the case of a woman whose son has committed a crime and who must decide whether to hide him from the police. He will suffer gravely should he be caught, but unless he is caught, another innocent man will be wrongly convicted for the crime and imprisoned.\textsuperscript{13}

Wolf seems to take this to be a case where some people might think that morality permits the mother to hide her son while others take this to be a case where she is clearly not permitted to do so. While Wolf agrees with those who think the mother is not morally permitted to hide her son, she argues that this is not the end of the story. She suggests that morality is not overriding when it comes to practical deliberation.\textsuperscript{14}

\textsuperscript{11}Wolf (1992)
\textsuperscript{12}Wolf also suggests that morality does integrate a fair amount of partiality but she does not offer much by way of argument for that position. I will concentrate on what I take to be the more interesting suggestion that the answer to the question of partiality can be found outside of morality.
\textsuperscript{13}Wolf (1992, 253)
\textsuperscript{14}Wolf (1992, 257). This is of course also the conclusion she argues for in Wolf (1982).
if it is morally impermissible for the mother to hide her son that does not settle the question whether not hiding her son is what she has most reason to do.

Wolf argues that accepting that morality is not overriding allows her “evaluation of the mother’s possible responses significantly [to] coincide with the partialists’ evaluation in this case.” The partialists being, I take it, those who think that it is morally permissible for the mother to hide her son. The evaluation that Wolf argues her position warrants is the following. “One may regard [the mother who hides her son] […] with a kind of admiration and respect, perhaps as much admiration and respect as one regards the woman who, after equally tortured deliberations, makes the opposite choice.” Fur-thermore Wolf’s position, she argues, “allows a part of us to disapprove of the option of protecting her son, while allowing another part of us to withhold judgment.”

There are two questions we should ask about this. First, is the evaluation Wolf describes supported by her position. Second, does this evaluation significantly coincide with that of someone who thinks the mother is morally permitted to hide her son. I will argue that the evaluations described by Wolf are, at least in part, not warranted by her position and, more importantly, that they don’t significantly coincide with those of someone who thinks the mother is permitted to hide her son. I will moreover argue that the extra

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15 Wolf (1992, 254)
16 Wolf (1992, 254)
17 Wolf (1992, 256)
moral approach is not really an approach to the question of partiality at all.

Let us first consider the question whether the evaluation of the mother that Wolf describes is supported by her position. There are two evaluative claims that Wolf makes and I will discuss them in turn. First, she claims that we have reason to admire and respect the mother who hides her son, perhaps to the same degree that we have reason to admire and respect the mother who does the morally right thing and turns her son in. We typically respect and admire those who achieve difficult things that are worth achieving, but only when they play by the moral rules. To see this consider the respect and admiration Lance Armstrong enjoyed and how much of it was lost when his long-term doping came to light. I have a hard time seeing how respect and admiration for the mother could be warranted as long as we accept that she is not morally permitted to hide her son. My intuitive judgment is also that she is not permitted to hide her son, but that makes it hard for me to muster admiration and respect for her. On the other hand, it is easy to feel a great deal of sympathy and understanding for someone making such a decision. Whether respect and admiration for the mother are warranted does not seem to have anything to do with accepting Wolf’s position that morality is not overriding. It seems to have a lot to do, however, with whether we think that the mother is permitted to hide her son or not. I thus don’t share Wolf’s intuitive judgment about the case and I further don’t think that which judgment is warranted has anything to do with whether we think that morality is overriding or not.
The second evaluative claim that accepting that morality is not overriding is supposed to support is that one part of us can disapprove of the mother’s actions while another part of us can withhold judgment at the same time. The language is a bit vague here. I take it that disapproving of the mother protecting her son is meant to be moral disapproval. We are also supposed to be warranted in withholding judgment at the same time. Now this can’t mean withholding moral judgment as we are already warranted in disapproving of the mother’s actions. For surely we can’t be warranted both to disapprove and withhold judgment at the same time as that would be a contradictory position. Wolf’s position warrants a different kind of evaluation. It warrants moral disapproval combined with withholding judgment about what the mother had most reason to do all things considered. But it is important to note that those are judgments about different domains. One is a judgment about morality and the other is a judgment about practical reason.

Let us now turn to asking whether the judgments Wolf describes significantly coincide with those of someone who thinks that the mother acts permissibly in hiding her son. A partialist, as Wolf calls such a person, may or may not agree that the mother is worthy of admiration and respect. That would arguably depend on the circumstances. Doing something morally permissible when it’s easy does not warrant much, if any, admiration and respect. Refraining from shooting you ordinarily does not entitle me to admiration and respect. If the mother doesn’t risk anything in hiding her son there is no reason to think that we should admire and respect her. If, on the other
hand, she takes a great risk by hiding him, still assuming that it is morally permissible to do so, then respect and admiration might indeed be warranted. There is thus a coincidence of evaluation between Wolf and the partialist regarding respect and admiration for the mother only when the circumstances are such that helping her son involves overcoming some difficulty or taking some risk.

There is no coincidence regarding the second evaluative judgment Wolf considers. A partialist will say that the mother is morally permitted to help her son and that approval of her action is thus warranted. Wolf on the other hand thinks that a pair of judgments is warranted: first, moral disapproval of the mother’s actions—Wolf says that “the mother who protects her son does act wrongly, and deserves whatever guilt and punishment flow from that judgment.”\(^{18}\); second, withholding judgment regarding what she has most reason to do all things considered where this takes into account weighty non-moral reasons. Wolf and the partialist disagree on the key moral judgments. To this Wolf adds a further judgment about practical reason that the partialist has no view on. If asked, the partialist would presumably say that the mother who protects her son does what she has all things considered most reason to do. This could be either because the partialist thinks that morality is overriding or because she doesn’t but does not see any non-moral reasons for the mother not to protect her son. So there might be this overlap between Wolf and the partialist: the mother who protects her son does what

\(^{18}\)Wolf (1992, 256)
she has, all things considered most reason to do.

While there is thus some overlap Wolf’s position, arguably, does not allow her evaluations to significantly coincide with what matters to a partialist: namely the moral permissibility of favoring one’s near and dear. This should not come as a surprise. Wolf’s position concerns the overridingness of morality. If morality is not overriding but still very stringent then we might have all things considered reason to act partially. But acting partially is still not morally permissible. Thinking about overridingness has no bearing on the question of partiality. It is one thing to ask what morality demands and permits and another thing to ask whether we always have most reason to do what morality requires. This discussion shows that the extra moral approach to partiality is not an approach to partiality at all. Because when we ask about partiality we are asking a question about morality, not about practical reason.

3.3 The Threshold View

In this section I want to introduce the view I will defend in the rest of the paper. Let us call this view the threshold view. A central element of this view will be a morally relevant threshold, so I shall start by introducing that.

Martha Nussbaum defends a basic set of capabilities as a threshold at which life becomes truly human.\(^{19}\) To have a capability is to have the opportunity to do and be certain things. One can thus, at least in principle, have

\(^{19}\)See in particular Nussbaum (2000, chapter 1).
a capability without exercising it. Nussbaum defends a tentative list of ten
capabilities that constitute the threshold at which life becomes truly human.
I reproduce the list here with shortened explanations.\textsuperscript{20}

(1) Life. Being able to live to the end of a human life of normal length
[\ldots].

(2) Bodily Health. Being able to have good health [\ldots].

(3) Bodily Integrity. Being able to move freely from place to place; having
one’s bodily boundaries treated as sovereign [\ldots].

(4) Senses, Imagination, and Thought. Being able to use the senses, to
imagine, think, and reason - and to do these things in a "truly human"
way, a way informed and cultivated by an adequate education [\ldots].

(5) Emotions. Being able to have attachments to things and people outside
ourselves [\ldots].

(6) Practical Reason. Being able to form a conception of the good and to
engage in critical reflection about the planning of one’s life. [\ldots]

(7) Affiliation. A. Being able to live with and toward others [\ldots], to engage
in various forms of social interaction [\ldots]. B. Having the social bases
of self-respect and non-humiliation [\ldots].

(8) Other Species. Being able to live with concern for and in relation to
animals, plants, and the world of nature.

\textsuperscript{20}Nussbaum (2000, 78-80)
(9) Play. Being able to laugh, to play, to enjoy recreational activities.

(10) Control over One’s Environment. A. Political. Being able to participate effectively in political choices that govern one’s life [. . .]. B. Material. Being able to hold property [. . .]

I will adopt Nussbaum’s basic set of capabilities for my purposes. I will say more about justification below, for now I just want to lay out the view.

With the threshold in hand I can now state the view I seek to defend. The view comprises duties of aid as well as permissions of partiality. Agents are required to help others reach the capability threshold. Aiding people below the threshold is more important the further people are below the threshold, the more they can be helped, and the greater the number of people that can be helped. People above the threshold do not need to be aided.21 Let me unpack this a little. The first thing to notice is that there is a threshold that caps our duties of aid. We are required to help people reach the threshold but, once they are there, we have no further duties of aid to them.22 The second thing to note is that below the threshold a principle of priority applies: if we have to choose between helping two people travel the same distance towards the threshold, without either of them thereby reaching it, we are required to help the person who starts at a greater distance from the threshold. The third thing to note is that the numbers count: if we can help either A or

21 Arguably there will be a duty of helping people above the threshold when the benefit to them is great and the cost of helping them is negligible. Such a duty of helpfulness is not part of an account of duties of aid and, very likely, is grounded in different considerations.

22 Of course people may be in danger of falling below the threshold, in which case we are required to aid them by working to prevent this.
B and C travel the same distance towards the threshold and all start at the same place then we are required to help B and C. Finally, the degree to which we can help people matters: if we have to choose between getting A a certain distance closer to the threshold and getting B even closer to the threshold and A and B start at the same distance from the threshold then we have to help B, i.e. the person we can move a greater distance.

In many cases we will have to make trade-offs between the three non-threshold considerations—number, proximity to threshold, and distance travelled. The appropriate trade-off between number and distance is straightforward if we can quantify distance to the threshold. If we can bring ten people two units closer to the threshold or one person 19 units closer to the threshold we are required to help the ten people. Given the nature of the capability threshold such measurements might not be possible. That doesn’t mean we can’t make those trade-offs, it just means they won’t be as easily quantifiable. I have said that the view also integrates a prioritarian element. The further away someone is from the threshold the more it matters that we aid her. How much extra weight we give the interests of those further away from the threshold will change the outcome for certain cases. To understand and defend the view generally, however, nothing more precise is required at this stage. \footnote{The view just outlined is structurally similar to the view about distributive justice that Roger Crisp defends in his (Crisp 2003) in that it combines a threshold with a prioritarian element below the threshold.}

In helping others, agents will be required to make some sacrifices. When
deciding whether a sacrifice is required we weigh the interests of the agent making the sacrifice with those of the agent or agents they could be helping taking into account the prioritarian element. In other words, the costs to someone above the threshold will be weighted a little less heavily than those to someone just below the threshold and even less heavily compared with someone far below the threshold. If the cost of helping, adjusted by the priority factor, would be greater to the agent than the benefit they would be giving others they are not required to perform the action, keeping in mind that we only have to bring others up to the threshold. Costs and benefits are to be measured in terms of what agents can do and be, i.e. in terms of capabilities. Whether giving up some material goods to provide them to someone else, for instance, is more costly to the giver than the benefit would be beneficial to the receiver depends on what that good would allow the respective parties to do and be.

So far I have only explained the duties of aid part of the threshold view. Let me now outline the permissions of partiality element. The simplest case is where everyone is above the threshold. In that case no one is required to aid anyone and people are free to favor whoever they like, so long as they don’t interfere with the actions and plans of others. There are also conceivable cases where there are other people below the threshold, but, as we can do nothing to aid them, and those we can help are above the threshold, we are not required to aid anyone either. Consider, for instance, a case where you are stranded on an island with a group of people, all of whom were above
the threshold, which would require a generously stocked island. Assume further that there is no way of interacting with people off the island. In this case the threshold view permits a great deal of partiality, even though there are people below the threshold. As long as there are people below the threshold and as long as we can do something about it at not too high a cost, as outlined above, no partiality will be permitted however.

3.4 Justifying the View

Let us start with the basic set of capabilities. Here is Nussbaum’s case for the moral importance of this threshold.

The core idea is that of the human being as a dignified free being who shapes his or her own life in cooperation and reciprocity with others, rather than being passively shaped or pushed around by the world in the manner of a "flock" or "herd" animal. A life that is really human is one that is shaped throughout by these human powers of practical reason and sociability.24

Nussbaum argues that we can only live with dignity and thus in a truly human way if we have at least the capabilities of the basic capability set. I prefer a somewhat different, though, I think, closely related approach. I take the idea of being able to live one’s own life to be central to the justification of the importance of the basic capability set. This phrase is easily used and does not mean much without further explanation. Of course we live our own life even when we have no shelter and no opportunity to influence the

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24 Nussbaum (2000, 72)
world around us. After all, we cannot literally live someone else’s live. But there is another sense of being able to live one’s own life and that is the idea of being able to give shape and direction to one’s life to a sufficient degree rather than primarily being the object of chance and the actions of others. Being in such a position is of supreme importance to us. Without it we are arguably not in a position to live what Nussbaum calls a truly human life. The basic capability set describes a compelling place to draw the line for what is required to be able to live one’s own life in the way just described. This gives us strong reason to think that the basic capability set is of great moral importance.

Nussbaum uses the appeal of the basic capability set to argue for a baseline of justice. She argues that it constitutes a minimum that any society must provide for all of its citizens to be a decent society. The focus of this paper, however, is not justice but the duties and permissions individual agents have regardless of what societies they are a part of. As described above I want to use the basic capability set to argue for a theory of duties of aid and permissible partiality.

Having argued for the moral importance of the capability threshold I will now defend the threshold view. My strategy will be as follows. I will argue that there is a straightforward consequentialist justification of the view. I will further argue that a variant of the view can also be defended by a contractualist argument. The purpose of this strategy is to show that de-

\[25\text{Nussbaum (2000, 75)}\]
fending the threshold view does not commit me to either a consequentialist or contractualist form of moral justification.

The threshold view is, roughly speaking, consequentialist in nature, as is its most obvious justification. As I have argued, having the basic capability set is of great importance to individuals. If we accept that living one’s own life is of supreme importance and that morality is about bringing about as much good as possible this constitutes a strong case for the threshold view. For it requires us to do our best to maximize weighted proximity to the range above the threshold. Meeting the threshold is of course the closest one can get to it. Unlike more classical consequentialist views, what matters is not maximizing something that people can, in principle, always have more of, but maximizing proximity to a threshold. Once everyone is above the threshold people are free to do with their time and resources what they like, as long as it doesn’t harm other people. Again, this is justified by the importance of living one’s own life. Once agents are in a position to do so, they are responsible for how they fare.

The threshold view is, arguably, easier to defend than more classical forms of consequentialism. While it too endorses aggregation it does not entail that we have to continually work towards improving the lives of others. Due to the threshold there is a natural stopping point at which we are no longer required to do things for others, even when doing them would be less costly to us than they would be beneficial to them. This means that the threshold view does not have one of the implications that people often find implausible about
consequentialism. Another big issue is aggregation. But unlike the issue just discussed it is much harder to find a stable position on aggregation. Ruling it completely out is arguably at least as implausible as allowing it, and intermediate positions are hard to justify.²⁶

While the consequentialist justification of the threshold view is easy to see there is also a contractualist justification of a closely related view. I will use T. M. Scanlon’s contractualism as the best developed version of the view to argue this point.²⁷

According to the contractualist view the moral principles are those that agents have most reason to accept, but where the reasons of various agents are not to be aggregated.²⁸

A further important element of the contractualist picture is a list of reasons that are morally relevant. Typically wellbeing is thought to be an important reason in contractualist decision making. In other words, agents are thought to have reason to accept principles that further their wellbeing and reject those that diminish it. If, however, we replace wellbeing with the importance of living one’s own life, a different picture emerges. According to this way of thinking, agents have reason to accept principles that put them in a position where they can live their own lives and they have reason to reject principles that will make it harder for them to do so.

²⁶See the debate around Taurek (1977) and references in footnote 29.
²⁷Scanlon (1998)
²⁸See chapter 1 for a more detailed explanation of how I understand contractualist reasoning to work.
Arguably, if we replaced wellbeing reasons with reasons arising from an interest in being in a position to live one’s own life, contractors would accept a principle that is closely related to the threshold view outlined above. The basic idea is the following. If what matters is being in a position to lead your own life you have reason to accept a principle that requires others to help you get to that position so long as their sacrifice is less great, weighted by the priority factor discussed above, than what you would be gaining. This principle cannot be rejected as the the sacrifice is smaller than the gain to the other party and thus the reason for rejection weaker than the reason for acceptance. Depending on what the best version of contractualism says about aggregation the principle might differ in how a large number small improvements for different people are to be weighed against sacrifices by an individual. Contractualism has difficulty allowing for aggregation and in its most basic form does not allow for any. Whether versions of it that allow for some aggregation are plausible is controversial. While contractualism has difficulty with interpersonal aggregation it clearly accepts the importance of intrapersonal aggregation, that is, aggregation of sacrifices over a person’s life. Due to this feature the past sacrifices of agents would have to be taken into account when developing a contractualist version of the threshold view. In other words, whether you are required to help someone depends, in part, on how much you have already sacrificed in the past in order to fulfil your duties of aid. This is an issue I have discussed in more detail in chapter 1.

My argument for the threshold view is thus the following. First, the view, arguably, enjoys considerable intuitive plausibility. Second, there is both a consequentialist and a contractualist justification of the view.

3.5 The Demandingness Objection

The threshold view permits, at least in principle, a great deal of partiality. If we manage to get everyone in the world up to the threshold then we could spend our resources freely on the people and projects we wanted to. Given the number of people in the world who are currently below the threshold, however, there won’t be much opportunity for permissible partiality at the moment.

Many people object to very demanding moral views. While there is some intuitive force to the objection it is hard to find a compelling reason for thinking that morality could not be this demanding. After all, there are many people in dire circumstances and it isn’t completely obvious that we are not required to do a great deal to help them. The to my mind most compelling argument for a principled limit on the demandingness of morality can be found in Samuel Scheffler’s *Human Morality*. I will consider his argument in this section, as, if it were successful, it would prove to be a strong objection to the threshold view. I will argue, however, that it does not succeed.

Scheffler argues that “it is a crucial feature of morality that it is motivationally accessible to normal moral agents: that living morally is a serious if not always easy option for normally constituted agents under reasonably
favorable conditions." From this he concludes that morality is what he calls moderate, i.e. that it only demands so much of us as otherwise it would not be motivationally accessible.

The main question to ask about this argument is what motivational accessibility means and whether we should accept this condition. Motivational accessibility must restrict the demands of morality more severely than whatever limitations accepting an ‘ought’ implies ‘can’ principle would place on morality. For I can give away all of my belongings and sacrifice my life for a stranger. Accepting ‘ought’ implies ‘can’ does not make morality moderate in any serious way. Motivational accessibility must thus mean something along the lines of it being relatively easy to do. In other words, Scheffler seems to propose an ‘ought’ implies ‘psychologically not that difficult’ principle.

But such a principle is false. Consider the following case from David Estlund, which he uses to argue against positions like the one Scheffler suggests.

Consider a plausible moral requirement to refrain from dumping your household garbage by the side of the road. Suppose Bill pleads that he is not required to refrain from dumping because he is motivationally unable to bring himself to do it. There is no special phobia, compulsion, or illness involved. He is simply deeply selfish and so cannot thoroughly will to comply. Dumping his trash by the road is easier than wrapping it properly and putting it by the curb or taking it to the dump. He wishes he had more willpower, and yet he doesn’t have it. Refraining is something he could, in all other respects, easily do, except that he can’t thoroughly will to do it.\(^{31}\)

\(^{30}\)Scheffler (1992, 125)  
\(^{31}\)Estlund (2011, 219-20)
Estlund concludes that “[i]t would be silly for Bill to propose this as requirement-blocking.” In other words, it’s implausible to think that the fact that disposing of the garbage properly is not motivationally accessible to Bill is a reason for thinking that he is not required to do so. I take this to be a strong case to reject ‘ought’ implies ‘psychologically not that difficult’ and, along with that, Scheffler’s argument that morality must be moderate. While it is hard to accept in practice that morality might be very demanding I think the result should not be surprising given the amount of preventable suffering in the world.

There is a further reply to the demandingness objection that is worth making. It is plausible that what we take to be anti-demandingness intuitions are really just, at least in part, intuitions that morality is not overriding. Perhaps when we hear what morality demands we think that we don’t have all things considered reason to do that. But that might just be a sense that morality is not the only thing that counts in the realm of practical reason.

3.6 Responsibility

There is one way in which the threshold view does need to be amended, I think. Consider a case in which an agent repeatedly and for no good reason brings herself below the capability threshold. It is hard to accept that others would continually be required to make sacrifices to bring her up to the threshold again and again. What is at issue here, of course, is the question of

\[32\text{Estlund (2011, 220)}\]
responsibility. Classical forms of consequentialism do not make a difference between those people who are in a bad position through no fault of their own and those who are responsible for their misery. That is not surprising for their justification generally proceeds along the lines of recognizing that there is good to be done and that we should do as much of it as possible. We can do good even for those responsible for the position they find themselves in. The threshold view, however, is justified by an appeal to the importance of living one’s own life. We are required to help others to get to the point where they can meaningfully shape their own lives. Such an approach has a much easier time allowing a role for responsibility. To the extent that we are responsible for the mess we are in others might not be required to help us get out of it. There is thus a case to be made that responsibility places limitations on what we are required to do for others. How great those limitations are depends on what people are actually responsible for. This is not an easy question to answer. To what extent are we really responsible for the decisions of much younger past selves, for instance? Addressing the question of responsibility is beyond the scope of this paper. All I can do here is to indicate that the threshold view can take account of responsibility. This is arguably a further advantage it has over more classical consequentialist views.

3.7 Conclusion

In this paper I have considered the question of partiality in the context of duties of aid. I have argued that the two major approaches to partiality in
the literature are not compelling. I have defended the threshold view as an alternative. I have argued that we can make both a consequentialist and a contractualist case for the view. I have considered and rejected the demandingness objection and finally noted that the threshold view can accommodate issues of responsibility.
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