Common Sense Morality and the Limits of Normative Control

Abstract: What we ought to do or what it is obligatory for us to do is determined by which action(s) are backed by the most deontic weight. Call this the weight-ought connection. Though plausible, the claim seems to conflict with our intuitions about a number of cases involving permissions and restrictions. In the paper, I explore a simple and theoretically neat way of squaring this platitude with our common sense moral intuitions. On the Deontic Weight Strategy, agents have a limited ability to alter the deontic weight that supports each action in a choice situation. This allows them to control what they ought to do in a way that is consistent with our common sense moral intuitions. Though promising, the paper examines and critiques potential grounds for this ability. I conclude by considering more radical alternatives if the Deontic Weight Strategy is ultimately untenable.

Keywords: Normative Ethics, Common sense Morality, Reasons, Deontic Weight

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Introduction

Consider the following initially plausible claim: what we ought to do or what it is obligatory for us to do is determined by which action(s) are backed by the most deontic weight.[[1]](#footnote-1) Call this the weight-ought connection.[[2]](#footnote-2) But now consider our common sense moral intuitions about the following cases:[[3]](#footnote-3)

**Exercise or Couch**: I am physically able to exercise and know that doing so would be good for my long-term health. Yet, it is permissible for me to either exercise or lay on my couch.

**My Arm**: A machine is about to painfully maim three strangers’ arms. The only thing I can do to stop it is to jam my own arm into it. Unfortunately, this will lead to the painful loss of my arm. I am permitted to either sacrifice or preserve my arm.

**Your Arm**: A machine is about to painfully maim three strangers’ arms. I am sitting in a control tower as an onlooker. If I push a button, it will activate a mechanism that will jam your arm into the machine which will painfully destroy it in a way that is required to prevent the painful maiming of the strangers. I ought not to press the button.

According to the weight-ought connection, assuming that the goodness of an action’s outcome provides significant deontic weight to do it, it seems that I thereby ought to (or am even obligated to) exercise, sacrifice my arm, and to press the button to sacrifice your arm. Yet, this goes against our above intuitions. This paper will develop and assess what I will call the Deontic Weight Strategy for reconciling the weight-ought connection with our intuitions about the above cases.

The Deontic Weight Strategy, which is partly inspired by arguments from Dancy (1993), Kagan (1989), and Worsnip (2018) among others, states that we have significant control over our obligations and what we ought to do through a limited ability to add to or subtract from the deontic weight attached to various actions in a choice situation.[[4]](#footnote-4) For example, we can create atelic reasons, will-based reasons, or increase/decrease the weight of existing reasons. The Deontic Weight Strategy captures the intuitive idea that *we* have a certain amount of control over what we ought to do and what our obligations are rather than merely responding to existing reasons.

To briefly illustrate the strategy with Exercise or Couch, we are permitted to either exercise or stay on the couch because we are able to place additional deontic weight on either option. Note that the strategy does not account for permissions and restrictions in the way we typically understand them. Nor does it posit a distinction between different types of normative support (e.g., justifying strength versus requiring strength, etc.) Instead, permissions are akin to *potential* obligations/oughts that are finally generated when an agent adds or subtracts a univocal notion of deontic weight. Though this may seem odd at first, I request the reader’s patience as we consider the net advantages and drawbacks of the strategy.

Let me make two preliminary points before proceeding with the paper outline. First, my goal is not to argue that the strategy is the best or only way to reconcile common sense morality with the weight-ought connection (though I do think it is perhaps the most intuitively attractive one). Instead, I think the present strategy is worth developing on its own terms because it captures the intuitive idea that we have significant normative control over what we ought to do. Thus, my goal is not to do a direct compare and contrast with a leading alternative in the literature that accounts for permissions and restrictions by postulating non-deontic commendatory reasons or a distinction between the requiring/justifying strength of reasons.[[5]](#footnote-5)

Second, while I think the strategy is worth further discussion and development, the present paper is an *exploration* and *evaluation* rather than an *endorsement* of the strategy. Though the strategy is simple and independently motivated, I argue that there is no unified ground for our ability to alter deontic weight that is both sufficiently predictive and will make sense of all of our intuitions about the cases just mentioned.

The paper proceeds as follows. In section I, I motivate the strategy. In section II, I develop the strategy and then put it to use by applying it to our three cases. In section III, I consider what could ground our ability to alter the deontic weight that supports an action. First, I consider and critique proposals on which we generate new deontic weight. Second, I consider whether the proponent of the strategy can appeal to Mũnoz’s (forthcoming) thesis that agents can waive or assert rights with pre-existing deontic weight in defense of their choices. I argue that there seems to be no unified ground for our ability to alter deontic weight that is sufficiently predictive while also accommodating our common sense moral intuitions. I conclude by considering potential options if we must reject the Deontic Weight Strategy. We may have to reject the weight-ought connection or even common sense morality after all.

1. Motivating the Deontic Weight Strategy

To motivate the Deontic Weight Strategy, recall Kant’s claim that the human mind is not just pure passivity or responsiveness to external objects. Human minds also contribute to structuring sense data by necessarily imposing certain structural features on all empirical cognitions. For Kant, empirical cognition involves both passivity to something objective (i.e., things-in-themselves) and activity/spontaneity by subjects on that object (i.e., applying the forms of sensibility and the categories of experience).[[6]](#footnote-6)

The Deontic Weight Strategy is a way of drawing a rough practical parallel to Kant’s claims about the mind’s contribution in the theoretical realm. In order to account for common sense morality, we need to avoid two pitfalls. First, just as Kant thought that there really are things-in-themselves that the mind responds to, there really are objective considerations with deontic weight that we should respond to in practical deliberation. Yet, just as Kant thought that we play an active role by applying the categories on any possible empirical cognition, perhaps we also play an active role in determining the deontic facts in practical deliberation through altering the deontic weight that supports each action.[[7]](#footnote-7)

If something like this is correct in the practical realm, note that complicating our theory of deontic weight might only account for our *passive role* in practical deliberation, but it does not address our potentially *active role* in practical deliberation. What the strategy tells us is that this active role lies in our ability to alter the deontic weight supporting each action in a choice context or to even create reasons to alter our choice context.

Beyond the Kantian point, let us consider a more straightforward motivation for the strategy: it makes sense of more ordinary cases. [[8]](#footnote-8) When we consider low-stakes cases, we intuitively have some direct control over the weight of the reasons that apply to us or others. Having a strong desire to get something (e.g., ice cream) or promising to do something (e.g., buying you a movie ticket) either creates a reason or strengthens an existing reason to do or get that thing. In other cases, we can also reduce the strength of a reason that applies to others (e.g., though you ordinarily have reasons not to poke fun at me, I grant you the permission to do so at a comedy roast for everyone’s enjoyment). If the above is plausible, there is some hope that the lessons we learn from lower stakes cases in common sense morality can be extended into a neat explanation of higher stakes cases.

Lastly, let me explain why the Deontic Weight Strategy differs from appealing to a distinction between the justifying and requiring strength of reasons.[[9]](#footnote-9) As noted, the Deontic Weight Strategy does not posit that reasons have two distinct and potentially incommensurable ways of favoring or disfavoring actions. Instead, it grants that all reasons are commensurable with each other on a univocal notion of reasons weight.[[10]](#footnote-10)

Second, the Deontic Weight Strategy emphasizes an agent’s ability to create reasons or to add or subtract the weight of existing reasons. Though the defender of the distinction between the justifying and requiring strength of reasons can make this point as well, it is not a commitment of their view. Instead, the defender of the distinction can accommodate common sense morality in terms of an agent’s *response* to existing differences in the justifying and requiring strength of reasons.

Note that I will not be criticizing the distinction between the justifying and requiring strength of reasons. Nor will I directly compare it with the Deontic Weight Strategy. Though I think we have reason to reject the distinction, it also provides a fairly neat way of squaring the weigh-ought connection with common sense morality.[[11]](#footnote-11) Finally, if the reader insists that the Deontic Weight Strategy is ultimately another way of explicating the distinction between the justifying and requiring strength of reasons or that these views somehow collapse into one another, then she is invited to view the present discussion as a way of exploring, developing, and critiquing the later view too.

With motivation in place, let us turn to the strategy.

2. The Deontic Weight Strategy

On the Deontic Weight Strategy, agents have significant control over what they ought to do or what they are obligated to do by having the limited ability to add or remove deontic weight that is attached to each action. This control, in turn, is what helps account for the permissions and restrictions we encounter in common sense morality. Before considering what could ground this ability to alter deontic weight, let us demonstrate the strategy by returning to the cases that started our discussion.

Recall Exercise or Couch. We are intuitively permitted to choose between exercising or staying on the couch even though it seems that the former option is supported by more deontic weight.[[12]](#footnote-12) The strategy can capture a version of this intuition about Exercise or Couch without invoking an exception to the weight-ought connection. Instead, it accounts for permissions by allowing the agent to either make it the case that there is most deontic weight supporting lying on the couch as opposed to exercising. Likewise, the agent could have made exercising obligatory by shifting deontic weight in the opposite direction.

Crucially, the strategy explains permissions in terms of (i) a *lack of restrictions* on how the agent is able to alter deontic weight and (ii) the possibility of altering weight *so that either option could be supported by the most deontic weight*.[[13]](#footnote-13) As a result, there is no need to posit two different types of normative support or to defend satisficing on the basis of a variable threshold. To be clear, this might not capture our initial intuition about the case (e.g., that both options are just *outright* permissible). Nonetheless, I propose that this might be an acceptable cost given the strategy’s simplicity and general applicability to other cases.

For example, consider My Arm. The case involves an agent-centered prerogative (i.e., an option or permission not to sacrifice one’s good for the sake of the impartial good). If I were to sacrifice my arm to save the arms of three strangers, it would be supererogatory for me to do so. We can also pump the intuition by reducing the impartial good at stake. For example, suppose that the tradeoff is just my arm for one stranger’s arm. Suppose I find out that the stranger is a great guitarist whose playing brings far more pleasure to others than whatever I choose to do with my arm. Intuitively, it is supererogatory for me to sacrifice my arm. Yet, I am also permitted to do so.

The Deontic Weight Strategy can accommodate these intuitions as follows. If I am allowed to shift deontic weight towards preserving my own arm, I can make it the case that there is most deontic weight to do so. On the other hand, if I refrain from asserting any additional deontic weight and simply let the existing deontic weight of saving three arms override the deontic weight of preserving my own, then there will be most deontic weight to sacrifice my arm instead. What I ought to do will again depend on how I alter deontic weight in this case. Furthermore, a defender of the strategy can also allow that I shift deontic weight towards benefiting someone else and sacrificing my own interests *even though doing so would produce less overall good* (e.g., suppose I was the great guitarist instead).[[14]](#footnote-14)

That said, a proponent of the strategy can and should accept that there are limits to how much deontic weight one can add or subtract for any given action. To see why, consider a modification of My Arm by increasing the impartial good at stake so that it can no longer seem permissible to preserve one’s arm. Suppose the sacrifice of my arm is required for the preservation of humanity. No matter what I do, the deontic weight supporting the sacrifice of my arm will plausibly outweigh preserving it. This suggests that my ability to make it so that I ought to preserve my arm is limited because the deontic weight I can apply to protect my arm is itself limited. To claim that it can never be the case that I ought to sacrifice my arm for any outcome given the strategy, one will have to claim that I can place infinite deontic weight on preserving my arm. This is rather implausible.

Now consider Your Arm. This case involves a patient-centered restriction (i.e., a restriction on imposing significant costs on others to realize some impartial good). Plausibly, I ought not to push a button to sacrifice your arm to save the arms of three other people. The Deontic Weight Strategy can help explain this restriction if we make the further assumption that we recognize that *others* can also place deontic weight on actions that would favor their own good. Now, suppose you object to my pushing the button. When you do so, you can thereby make it the case that the deontic weight in favor of pushing the button is now less than the deontic weight of refraining from doing so. Acknowledging this shift in deontic weight, I now recognize that I ought not to press the button. However, if you consent to my pushing the button and refrain from shifting deontic weight in favor of preserving your arm, then the deontic weight of pushing the button will plausibly be weightier than not doing so. In that case, I ought to promote the impartial good and push the button.

Having illustrated the deontic weight strategy in a fully general way, we have yet to say anything about what actually *grounds* our supposed ability to alter deontic weight. Let us consider some candidate grounds.

3. Candidate Grounds

To organize our discussion of grounds, consider two general (though not the only) motivations for common sense morality.[[15]](#footnote-15) First, our intuitions about common sense morality are partly motivated by the idea that an agent’s point of view which includes her desires, valuations, commitments, and special projects is distinctively valuable and not reducible to the objective point of view associated with impartial morality.[[16]](#footnote-16) Second, our intuitions about common sense morality are partly motivated by the value of freedom and autonomous agency. Agents have a sphere of agency in which they can act in any number of ways along with a correlative claim on others not to hinder that activity. We will cover the first theme by considering how agents can *generate* deontic weight. We will cover the second theme by considering how agents can shift *existing* deontic weight in the form of rights as a way of protecting that sphere of agency.

3.1 Generating Deontic Weight

New Reasons: Atelic and Will-Based Reasons

One way to shift deontic weight towards a particular option is to simply generate weight that did not exist before. A number of philosophers have proposed that we can do this by creating new reasons with their own deontic weight when faced with a choice situation. We will critically examine two such strategies.

First, consider atelic reasons. These reasons may help explain why an action is obligatory even though they do not show why doing that action would produce a valuable outcome. For example, Dorsey (2016, 173) argues that the fact that I have promised someone that I would do something or that I have committed to a particular course of action can provide me with additional deontic weight to do it. However, such promises and commitments do not thereby make doing the action or its outcomes more valuable.[[17]](#footnote-17) Such reasons are thus atelic but still contribute deontic weight to an explanation of what one ought to do. Even if one is skeptical of this last claim, the main point is that these reasons are (i) freely generated by the agent and (ii) can create deontic weight where none existed before.[[18]](#footnote-18)

Granting this ability, can it help account for our intuitions about common sense morality? We should grant that our commitments and promises can have significant deontic weight. Such weight can even outweigh explicitly moral concerns (i.e., watching your favorite team finally win the championship as a life-long fan is supported by more deontic weight than helping your friend with yet another minor weekend home improvement project). Yet, it is unclear how atelic reasons can be employed to justify Exercise or Couch or other cases of prudence generally. In Exercise or Couch, let us grant that regular exercise is the better option. Even if we were to somehow make a promise to someone or commit ourselves to staying on our couch rather than exercising, the deontic weight of such reasons is relatively weak. This suggests that even if atelic reasons have deontic weight of their own, any such deontic weight may importantly depend on whether the thing that is promised or committed to is valuable in the first place (e.g., there is little to no deontic weight attached to a commitment or promise to count blades of grass, be a couch potato, aid a robbery, etc.).[[19]](#footnote-19) Finally, it is unlikely that promises and commitments play a role in explaining our intuitions because I am intuitively permitted to remain on the couch even if I have no intention to make commitments or promises to anyone (including myself).

My Arm and Your Arm are also hard to accommodate. Perhaps I can commit to saving my own arm or make a promise to someone that I preserve my arm in My Arm, but neither self-serving consideration seems deontically weighty enough to make it the case that I thereby ought to do so.

Now consider Your Arm. We can imagine that from the control booth, I am in no position to make promises or commitments to you to save your arm. The other option is that I make a commitment to myself or a promise to others that I will refrain from inflicting certain costs on others to promote the impartial good. However, if such a restriction is justified, it is not *because* of my making a promise or commitment to myself. Instead, the deontic weight attached to the restriction exists independently of the promises or commitments that we make even if the latter adds some additional deontic weight to it. In sum, the deontic weight that results from atelic reasons are either typically too weak or some other factor explains the relevant permissions and restrictions in these cases.

Consider another strategy for generating new deontic weight. Chang (2013) has argued that we have the ability to create will-based reasons only when the reasons supporting alternative actions are on a par. Chang might be right. Perhaps we do have this kind of ability and we can use it to get out of practical impasses ranging from important career choices to trivial dessert choices for dinner. The problem is that even if we face many choices where options are on a par, the cases we are considering (Exercise or Couch, My Arm, and Your Arm) are either not parity cases or not the kinds of cases where Chang’s proposal would apply. Exercising is better than staying on the couch and the reasons that favor sacrificing my own arm or pushing a button to sacrifice your arm deontically outweigh not doing so.[[20]](#footnote-20) Of course, a proponent of will-based reasons could propose that our ability to create such reasons applies in all cases (not just parity cases). But this is implausible. Chang restricts the ability to create will-based reasons (i.e., increasing the weight of an existing favoring consideration) to parity cases by acknowledging that there are given reasons that set limits on practical deliberation.[[21]](#footnote-21) Thus, she denies that we can justify doing whatever we want simply by creating enough will-based reasons to support whatever action we so happen to choose.[[22]](#footnote-22)

Increasing the Weight of Existing Reasons: Desire and Value

Instead of creating a new reason with its own deontic weight, agents can also affect the deontic weight of a pre-existing reason by altering a factor that is directly proportional to the weight of said reason. Consider the two most common candidate factors: desire and value.

For Humean proportionalists about reasons, the weight of a reason is directly proportional to the strength of a desire for a particular outcome. For example, the fact that there is food in the fridge is a reason for me to go to the fridge if I desire food. The weight of that reason, according to proportionalists, is directly proportional to the strength of my desire for food. Though Humean proportionalism is controversial, it does capture the platitude that our desires have deontic weight whether they concern trivial dessert choices or something more substantive such as desiring one’s flourishing or the flourishing of another.

In principle, we can appeal to proportionalism to explain all three cases. Depending on whether and to what extend we desire outcomes, we have the ability to obligate or not obligate ourselves in any number of ways. In trivial prudence cases such as Exercise or Couch, the present strategy is plausible (on the controversial assumption that desires are under our control in the first place).[[23]](#footnote-23) However, the present strategy is far less plausible in My Arm and Your Arm. We can grant that my desire to preserve my own arm provides additional deontic weight against sacrificing it for a stranger’s arm. However, as noted, there are limits. No matter how strongly I increase the desire to preserve my own arm, few would accept that this desire alone provides enough deontic weight to outweigh sacrificing the arm for the arm of three strangers. The strangers presumably have the same desires. Likewise, my desires to inflict or not inflict harm and my desires for your well-being will only have limited deontic weight compared to the deontic weight of three arm maimings. In fact, a desire to inflict harm on others plausibly has no deontic weight.[[24]](#footnote-24) Lastly, the restriction against pushing the button in Your Arm intuitively has nothing to do with *my* desires. Instead, if the restriction is grounded in desires at all, they will plausibly depend on *your* desires – desires that are irrelevant for determining what reasons *I* have according to *standard* Humean proportionalism.[[25]](#footnote-25)

Another option is to consider whether we can directly alter the deontic weight supporting an action by altering the value of the outcome that is realized by that action. For example, Maguire (2017) points out that engaging in a loving relationship with someone is itself valuable. In virtue of this value, the deontic weight that supports favoring one’s beloved will typically outweigh aiding a stranger. Likewise, another way of viewing the deontic import of commitments and special projects is that engaging in them produces objectively valuable states of affairs. It is implausible to deny that we do have this ability to generate value. The problem is that our ability to create such values typically arrives too late to help us account for these cases.

For example, in Exercise or Couch, we cannot suddenly make staying on the couch more valuable than exercising by an immediate commitment to staying on the couch. On the other hand, maybe there is some value to adopting a long-term project of being a couch potato that could outweigh the value of exercising. But even if we do grant this implausible assumption, we now no longer have an option anymore once this value is accounted for – we ought to now stay on the couch. Yet, we intuitively want to say that both exercising or staying on the couch are permissible.

Now consider My Arm and Your Arm. We could try explaining Your Arm as follows. Suppose I have committed to refraining from harming others. Perhaps following through with this commitment is actually valuable and makes refraining from pushing the button more valuable than preventing three maimings. But again, even if we grant this assumption (which is controversial), this is not a value that I can just immediately create to justify the restriction. If the commitment were to have this value, it cannot just be something that I have suddenly adopted to justify my present action. Instead, it must have been a long-standing commitment that I have honored up until this point. Furthermore, the present explanation of the restriction gets things backwards. Rather than a fact about me (e.g., a commitment to refraining from harm), what plausibly explains the restriction is a fact about you (e.g., that you will be losing your arm unwillingly).

My Arm is even harder to accommodate. In the case of My Arm, suppose that over time, I have made my arm extremely valuable (e.g., through practice, I am now a great guitarist providing pleasure to millions). Suppose the value of my arm deontically supports preserving it over sacrificing it for the three strangers’ arms. While this preserves the intuition that I am permitted to keep my arm, we can no longer preserve the intuition that I am also permitted to *sacrifice* it given the weight-ought connection.[[26]](#footnote-26) The only way I could do this according to the Deontic Weight Strategy is to somehow instantly annihilate the value attached to my arm. This is something that I cannot do short of destroying it (which would be impermissible because I could have sacrificed it instead to prevent three maimings).

General Findings

Thus far, we have considered several ways in which an agent can generate new deontic weight. Though we have not exhausted all of the possibilities, we can nonetheless note some general issues that such proposals will have to address.

First, what we have seen is that the deontic weight generated by promises, commitments, will-based reasons, and increasing the strength of our desires/values will often be quite limited. Thus, even though we have had some success accounting for Exercise or Couch, we have had significantly less success accounting for My Arm and Your Arm. This should not be surprising. Recalling the historical parallel with Kant, even if we do play a role in creating deontic weight, there are limits – there is existing deontic weight that we must respond to grounded in objective features of the world.

Second, in order to account for our cases using the Deontic Weight Strategy, an agent must be able to immediately alter deontic weight on command. For example, if I am permitted to exercise or go on the couch, then I must be able to immediately make either option obligatory by placing deontic weight on it. Likewise, a permission to either sacrifice or not sacrifice my arm requires an immediate ability to make either option obligatory by placing or removing deontic weight from it. The strategies we have encountered do not typically allow agents to alter deontic weight immediately in this way. We typically cannot immediately generate or destroy value. Nor do we typically have direct control over our desires. Even if will-based reasons are under our direct control, they can only be created in the context of parity cases. Lastly, even if we can generate commitments or promises on command, we have seen that they only have limited application in the cases we are considering.

In order for the strategy to work, what we need is a ground for our ability to alter deontic weight that involves (i) an already existing and significant amount of deontic weight that (ii) we can immediately alter on command. Mũnoz has proposed a normative entity that seems to play this exact role: waivable rights.

3.2 Waiving and Asserting Existing Deontic Weight – Waivable Rights

Mũnoz (forthcoming) has recently proposed that prerogatives are grounded in waivable rights (henceforth rights). Crucially for our purposes, rights have an existing deontic weight that an agent can assert or waive at will. Recall that an important motivation for common sense morality is that agents need a protected sphere in which they are allowed to act without hinderance. The appeal to rights seems to naturally accommodate this protected sphere.

When paired with the Deontic Weight Strategy, rights seem to neatly account for our intuitions about Exercise or Couch, My Arm, and Your Arm. For example, in Exercise or Couch, if I have a general right to non-interference, I can assert it and thereby shift deontic weight towards staying on the couch so there is most deontic weight to do so. On the other hand, I can simply waive the right and let considerations of goodness deontically weigh in favor of exercising. Similarly, in My Arm, I can assert a right to bodily integrity and thereby make it the case that I ought to retain my arm. To go above and beyond the duty in this case consists in waiving my rights and letting existing value considerations deontically weigh in favor of sacrificing my arm to prevent the three maimings.

Things are somewhat trickier for Your Arm but still explainable. In the case of a restriction against pushing the button, what *I* ought to do will depend on whether *you* waive or assert your right to bodily integrity. If you waive your right, then the primary deontically weighty reasons involve the value of outcomes. If so, then I ought to push the button. On the other hand, if you assert your right, then it is no longer the case that value considerations are solely relevant. The assertion of your right now adds deontic weight that can make it so that I ought not to push the button, thereby accounting for the restriction against doing so.

Though promising, the proponent of the Deontic Weight Strategy who wants to appeal to rights still faces three serious issues. The first two issues ultimately depend on the third. Whether the third issue can be resolved will depend on whether we are willing to limit the explanatory and predictive capacities of the strategy.

Rights and Reasons

The first issue is a general concern about the relationship between rights and reasons. Is the decision to appeal or waive one’s rights itself an action that is done for reasons? Recall that appealing to rights was supposed to provide an agent with a protected sphere of agency under which she can choose as she sees fit. If our ability to appeal to rights is itself reason governed (whatever those reasons might be) and those reasons can make it so that I ought to waive my rights in a case like My Arm, then I would no longer be permitted to preserve my arm as existing deontic weight would favor sacrificing it. This runs contrary to our intuitions about the case.

However, suppose that the decision to waive or appeal to rights is not reason governed. There are difficulties here too. If decisions to waive or appeal to rights depend on normatively irrelevant factors (e.g., the psychological ability of an agent to resist social pressure, whether she had recently waived or appealed to her rights, whether she was recently reminded of her genuine rights, unaware of such rights, or lied to about the non-existence of said rights, etc.), then so would the normative statuses of the actions that depend on those decisions.[[27]](#footnote-27) Perhaps the normative status of actions is contingent in this way, but this would conflict with the idea that deontic statuses are, in principle, calculable.

Mũnoz’s response to these worries is to claim that agents not only have first-order rights but also meta-rights to assert or waive said rights. By appealing to said meta-rights, agents can resist any potential reasons to assert or waive their first-order rights. The strategy would work if these meta-rights are immune to the countervailing deontic weight of reasons. Yet, Mũnoz thinks that rights (and presumably corresponding meta-rights) themselves have deontic weight which means they can be outweighed by reasons.[[28]](#footnote-28) If so, then the problem persists even at the level of meta-rights. Granted, such rights and meta-rights may be relatively weighty which allows us to get the verdicts we want in cases like Exercise or Couch. This makes the need for a substantive theory of how such rights (and meta-rights) are grounded and how they are weighed pressing (our third issue).

Extensional Adequacy

Before turning to that issue, first consider the issue of extensional adequacy. In explaining patient-centered restrictions, the appeal to rights seems plausible because such restrictions seem to be grounded in features of the *patient* rather than the *agent*. However, we still need to ask exactly how the restriction is generated. Recall that the restrictions depend on our acknowledging that patients have a similar ability to assert deontic weight as we do. But how exactly does this work? In particular, does the existence or absence of the restriction depend on an explicit assertion or waiving of a right?

Suppose it does. The problem with this answer is that the restriction presumably exists prior to a patient’s explicit assertion of her rights and the agent’s acknowledgement of that assertion. For example, in Your Arm, the restriction against pushing the button plausibly exists *prior* to your explicit assertion of rights and my acknowledgement of that assertion. In fact, the case is set up such that I cannot know what your response is from the control tower.

The workaround is to ground the restriction on my expectation that you *would* assert your rights in order to block my pushing the button even if such an assertion is never made explicit and I cannot become aware of it. The problem with this proposal is that the restriction seems to exist independently of whether I expect you to omit asserting your rights or even if I expect you to waive them. For example, suppose I know that you are a pushover that will waive your rights or are a devotee to the impartial good. There still seems to be a restriction against pushing the button in Your Arm.[[29]](#footnote-29) In fact, it seems that the restriction is lifted only when I know that you have explicitly waived your rights (i.e., you explicitly consent to my pushing the button).

Even if we do grant that the existence of a restriction does depend on our expectations of what a patient’s response will be, note that a similar explanatory story about agent permissions in a case like Exercise or Couch is now less plausible.[[30]](#footnote-30) For example, I know that there is less deontic weight supporting staying on the couch than exercising. Yet, suppose that if I criticized myself or someone else criticized me for staying on the couch, I expect that I would appeal to my right to non-interference. By doing so, I can thereby make it the case that there is most deontic weight to stay on the couch given the Deontic Weight Strategy. A fortiori, I am permitted to do so. In other words, permissions in first-person practical deliberation cases are implausibly grounded in the expectation that I will rationalize (in the bad sense) any number of actions.[[31]](#footnote-31)

One response is to claim that the deontic weight of rights operates only in the context of defending one’s action against another’s criticism. In the case of first-personal practical deliberation, we either cannot appeal to rights or they have no deontic weight. Thus, we can account for My Arm and Your Arm without having to claim that our permissions in Exercise or Couch are grounded in an ability to rationalize our own actions. The problem is that it is unclear why we cannot appeal to rights in the case of first-personal deliberation concerning prudence when we can do so for other cases. We can defend ourselves from criticism for choosing a deontically suboptimal action against another’s criticism. Why are we suddenly not able to do so when we become our own critics? Note that there is no general ban on asserting rights against ourselves.

Mũnoz’s response is to accept that we can criticize ourselves (even when we fail to do what is supererogatory), but we can nonetheless appeal to meta-rights that protect our first-order rights. For example, even if we criticize ourselves for rationalizing an action by asserting a first-order right, we can simply appeal to a meta-right to assert that first-order right. In effect, we can tell the self-critical part of ourselves to “buzz off.”[[32]](#footnote-32) But note that even if we grant that we can rationalize our own actions using rights and meta-rights, there needs to be a limit. If parting with an ordinary penny of mine is required to save my life, assertions of rights or meta-rights cannot override the deontic weight that favors parting with my penny. Again, what we still need is a substantive theory of how such rights (and meta-rights) are grounded and how they are weighed. Let us turn to this third issue now.

Rights and Deontic Weight

We have been considering rights because they neatly play a *theoretical role* crucial to the Deontic Weight Strategy: rights are atelic considerations that have deontic weight that we can immediately assert or waive in defense of our choices. Yet, the present proposal is incomplete unless we have a theory about what deontic weight rights actually have (and presumably a theory of how such weights interact with the deontic weights generated by the other normative grounds we have considered). Furthermore, if the meta-rights response to the problems that I raised is to work, we must have a plausible theory of weight for those rights too.

Granted, Mũnoz does not need a fully worked-out theory in order to defend his claim that prerogatives are grounded in rights. However, a lack of such a theory may well bea problem for the proponent of the Deontic Weight Strategy who wants to appeal to rights as a weighted notion in order to *generate* predictionsabout what actions are permissible or obligatory for an agent rather than *rationalize* them.

While a proponent of the Deontic Weight Strategy that likes the rights-based approach can say that developing such a theory is simply a matter of ordinary normative theory or that everyone has to appeal to some assumptions about deontic weight, they should also recognize the difficulty of providing such a theory and clarifying said assumptions. This is because the two most prominent justifications for rights and their grounds create downstream problems for corresponding theories of their deontic weight when applied to the Deontic Weight Strategy. Rights and weights make strange bedfellows.

First, status-based justifications for rights (rights as grounded in an agent’s freedom, dignity, rationality, etc.) tend to treat rights as trumps that end further practical deliberation.[[33]](#footnote-33) But if rights are supposed to function as trumps, they either have (i) infinite deontic weight or (ii) whatever deontic weight is necessary to generate the restrictions or permissions that we find plausible. The first option is implausible. The second still leaves us without the ability to generate predictions about permissions and restrictions as opposed to a way of merely rationalizing them. The same points apply with even more force to a hierarchy of meta-rights. It is already unclear what such rights are grounded in and whether such grounds can be separate from the entities that ground first-order rights. Furthermore, if meta-rights are supposed to allow us to tell ourselves or others to “buzz off,” then they seem to function precisely as trumps.

But suppose we give an instrumentalist-based justification for rights instead (perhaps using some form of rule consequentialism). But note that on these accounts, rights only have deontic weight to the extent that they are useful for promoting value. Rights can be dispensed with altogether if recognizing them fails to do so. If so, the deontic weight of rights may not be as robust as the defender of the Deontic Weight Strategy might have wanted. At the limit case where rights have no deontic weight, the strategy is even trivialized - asserting or waiving rights with zero deontic weight makes no normative impact.[[34]](#footnote-34)

Granted, there may be a third justification that provides an independently motivated theory of a right’s deontic weight.[[35]](#footnote-35) That said, it is not clear whether such a theory of rights can explain how their weights are not reducible to, but still commensurable with, the deontic weight of other considerations including goodness/value along with other atelic considerations (e.g., promises, commitments, etc.).

To conclude a bit more optimistically, if no such theory is forthcoming, perhaps we can simply forgo it by claiming that rights are normatively primitive. This would require us to find other ways of resolving the first two issues. If we can do this (a somewhat big if), then just as we already accept basic intuitions about the weights of other purported normative primitives (e.g., reasons, values, etc.), perhaps we can also accept basic intuitions about the weights of rights without further attempts at analysis or reduction. Perhaps the only predictive power we can claim is limited to our rather messy basic intuitions about the weights of rights when compared to the weights of other normative primitives.

There are serious costs against doing this though. For one, positing rights as normative primitives could make it harder for us to understand how we can argue for or against the existence of certain rights (e.g., we can argue for or against a right to healthcare by appealing to the value of human life as its ground). Also, it is unclear how we can commensurate and make trade-offs between rights especially if we take each right to be its own distinct normative primitive. That said, these costs may be acceptable if that is the only way we can thereby reconcile the weight-ought connection and our messy common sense moral intuitions.

Conclusion

We started by considering the conflict between the weight-ought connection and our common sense intuitions about a number of cases. The main contribution of the present paper is to examine a theoretically neat and independently motivated way of reconciling these claims that is inspired by a simple observation: we have limited control over what we ought to do. According to the Deontic Weight Strategy, we can account for permissions and restrictions in terms of an agent’s ability to shift deontic weight in support of different actions.

Though I have tried to show why this strategy is attractive, I am ultimately pessimistic about its prospects. We should grant that we can and do play an active role in determining what we ought to do by directly influencing the deontic weight that supports actions in a choice context. Yet, I have argued that all of the plausible ways in which we can generate, assert, or waive deontic weight are either not sufficiently predictive or fail to provide a unified account of our common sense moral intuitions. This result suggests three different upshots for the reader – all of which are philosophically substantive and worth further development.

First, we could accept that there is no unified ground for our ability to alter deontic weight that would accommodate all of our cases. The alternative is to look elsewhere for a unified ground that does do so. I suspect the rights-based approach comes closest. However, I have pointed out that this approach faces serious issues. In particular, prospects for an independently motivated account of the deontic weight of rights look grim. However, some philosophers may consider the cost of forgoing such a theory and its predictive advantages as a price worth paying.

Second, though I have reservations about appealing to non-deontic commendatory reasons as well as the justifying/requiring strength of reasons distinction, one upshot of this paper is that philosophers who accept the weight-ought connection as well as common sense morality may have to embrace these complications if they previously rejected them. Note that even though the above discussion was focused on our deontic weight altering abilities, it is possible that these abilities are what accounts for these complications in the first place. If the fates of these views are intimately linked, that would be a substantive discovery in its own right.

Third, consider a more radical conclusion (one that I have sympathy towards). If we think that the most promising way to reconcile the weight-ought connection and common sense morality is to develop some version of the Deontic Weight Strategy but ultimately reject the view, then we are faced with a stark choice. We have to reject either the weight-ought connection or common sense morality. As for the first option, though the weight-ought connection is a common assumption in contemporary normative theory about how oughts or obligations work, the history of fairly recent Western moral philosophy has provided us with alternatives that may deserve further attention not to mention much older traditions Eastern and Western traditions.[[36]](#footnote-36) For example, perhaps Prichard (1912) is right that moral obligations are ultimately intuited and cannot be further defined or analyzed in other terms *pace* reasons firsters. We could also follow Anscombe’s (1958) suggestion that contemporary ethics should give up on deontic language removed from a religious context and focus instead on aretaic terms. But more drastically, perhaps we could give up on common sense morality. An objective and impartial morality may seem alienating or dehumanizing despite its theoretical simplicity. But perhaps what is even more alienating or dehumanizing is a morality that can justify the inequalities and injustices we now face.

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1. See Robertson (2008) for discussion and defense. Also see Lord and Maguire (2016) for a series of papers that discuss the relationship between reasons, their weights, and deontic statuses. For worries about the weight-ought connection (and weighing reasons accounts of practical reasoning), see Titelbaum (2019). [↑](#footnote-ref-1)
2. A more familiar way to restate the connection is that what we ought to do or what it is obligatory for us to do is determined by what action(s) we have most reason/weightiest reasons to do. However, proponents of commendatory reasons contest that there are reasons without deontic weight. As a result, I often use the less elegant term “deontic weight” in what follows. [↑](#footnote-ref-2)
3. A reviewer noted that I sometimes use “ought” as the dual for “permissible”. However, this is a disputed point. Snedegar (2016), for example, takes “must” or “required” as the dual for permissible instead of “ought”. To accommodate this point, simply replace all uses of “ought” with “obligatory, “required” or “must”. [↑](#footnote-ref-3)
4. In chapter 6 of Kagan (1989) considers and rejects what he calls the “self-constraint argument” on which agents can waive deontically weighty constraints against harming themselves. Dancy (1993, 214) considers justifying personal sacrifices by ignoring or discounting certain values. Finally, Worsnip (2018) argues against the claim that there are prudential reasons but nonetheless thinks there are aim-based reasons that are generated by our commitments and projects. Though my strategy is more general and tries to apply to a variety of cases, my strategy for accommodating My Armactually resembles Kagan and Dancy’s proposals for justifying supererogation. [↑](#footnote-ref-4)
5. For these strategies, see Gert (2004) and Dancy (1993). Also refer to Little and McNamara’s working paper “When Reasons Run Out” and Tucker’s “Weighing Reason Against” which were both represented at the 15th Madison Metaethics Workshop. [↑](#footnote-ref-5)
6. This is only meant as a gloss on Kant’s transcendental idealism. For careful discussion on the matter see Allais (2015). [↑](#footnote-ref-6)
7. Granted, Kant did not develop his practical philosophy this way. Nonetheless, I think the general historical motivation stands. Chang (2013, 179) makes a similar point by comparing “given reasons” as walls that limit our ability to create will-based reasons. [↑](#footnote-ref-7)
8. Of course, Kant develops his own practical parallel by emphasizing that agents are noumenally free and capable of autonomy rather than merely passive. Contemporary work on Kant’s “Incorporation Thesis” reflects the idea that action involves the endorsement of inclinations under a maxim. See Shapiro (2011). [↑](#footnote-ref-8)
9. A reviewer has pointed out that Mũnoz (forthcoming in *Noûs*) thinks of his view, which I think is a version of the Deontic Weight Strategy, as a way of explaining the distinction between the justifying and requiring strength of reasons and that a forthcoming co-authored paper of his endorses the distinction. [↑](#footnote-ref-9)
10. Granted, you might think that we have to posit further distinctions to capture common sense morality. For example, you might think that we have distinguish reasons weight *for* an action and reasons weight *against* an action. I discus in the next section. [↑](#footnote-ref-10)
11. I suspect that our intuitions about the justifying/requiring strength of reasons distinction breaks down once we start considering different choice contexts. One and the same reason for an option may have justifying or requiring strength depending on what other options are considered. [↑](#footnote-ref-11)
12. If you do not like this particular case, feel free to make up a prudence case where agents are permitted to choose either option even if the options are on a par or one option is even quite a bit better. [↑](#footnote-ref-12)
13. As we shall see, there are generally restrictions on how much deontic weight we can shift in any given situation. [↑](#footnote-ref-13)
14. This is akin to the self-constraint argument discussed by chapter 6 of Kagan (1989) and the discounting strategy discussed by Dancy (1993, 214). [↑](#footnote-ref-14)
15. Granted, there are many motivations other motivations for common sense morality. Here, I streamline the discussion and follow chapters 8 and 9 of Kagan’s (1989) discussion of the positive and the negative argument for common sense morality. [↑](#footnote-ref-15)
16. See chapter 9 of Kagan (1989) in which he discusses the positive argument (i.e., that there are agent-relative reasons grounded in the value of the subjective viewpoint that justifies constraints and options). [↑](#footnote-ref-16)
17. If it does, then that will depend on subsidiary premises about the value of keeping one’s promises or commitments to oneself in a particular case. For a similar approach, see Worsnip’s (2018) defense of aim-based reasons. [↑](#footnote-ref-17)
18. For an example of a normative powers view, see Owens (2012). [↑](#footnote-ref-18)
19. This is not to deny that commitments to important life-long projects can have significant deontic weight. [↑](#footnote-ref-19)
20. In fairness, **Exercise or Couch** is potentially a parity case. However, we can construct other cases involving prudence that are not parity cases that nonetheless involve permissions. [↑](#footnote-ref-20)
21. See Chang (2013, 182) for a specific example of creating will-based reasons and p. 179 for a discussion of given reasons. [↑](#footnote-ref-21)
22. Markovits (2014) does defend a theory of reasons on which reasons are grounded in what we value. However, on her view, we are all required, on pain of irrationality, to accept each other as sources of value which requires us to act in ways that respect each other’s humanity. It is unclear what the upshot of this view is for the cases we are considering. [↑](#footnote-ref-22)
23. For example, you might think that desires are perceptions of reasons or the good that are not subject to our control. [↑](#footnote-ref-23)
24. Perhaps it does on Finlay’s (2014) means-ends theory of normative language and pragmatic account of moral categoricity. [↑](#footnote-ref-24)
25. Though see Manne’s (2016) democratized Humeanism on which the desires of others can also generate reasons for us to act. [↑](#footnote-ref-25)
26. This parallels Kagan’s (1989) response to the Self-Constraint Argument in chapter 6. [↑](#footnote-ref-26)
27. A related concern is whether agents must be aware that they have rights in order to use them according to the deontic weight strategy. If so (since you seemingly cannot appeal to something you do not know about), then an unfortunate result is that those patients who are ignorant of their rights and are perhaps most vulnerable to exploitation in the first place will lack the one normative tool that they need to defend themselves. [↑](#footnote-ref-27)
28. Though Mũnoz (forthcoming in *Philosophy and Phenomenological Research,* 19) does think that rights can outweigh reasons when he claims that “rights against oneself can override the demand to be optimal, since they carry weight in moral defense.” [↑](#footnote-ref-28)
29. Some may doubt this intuition but here is a low stakes case to motivate it. Even if I can reasonably suspect that my friend wouldn’t mind if I took her power tool for my project, it still seems wrong for me to just take it without asking her permission to use it (i.e., an explicit transference or waiving of her property right). [↑](#footnote-ref-29)
30. I grant that perhaps it is precisely because Your Arm is such a high stakes situation that I would almost always suspect that you would assert your right to bodily integrity. That is why the restriction could be grounded in the *expected* assertion of rights. [↑](#footnote-ref-30)
31. It is worth noting that appealing to any strategy in which I can immediately add deontic weight to an option will face the problem of rationalization. [↑](#footnote-ref-31)
32. See the section of Mũnoz (forthcoming) entitled “Required to Waive” for this meta-rights response. [↑](#footnote-ref-32)
33. See Mill (1859, 20) and Dworkin (1984) for discussion of rights as trumps. [↑](#footnote-ref-33)
34. For a response to the worries posed against an instrumental approach to rights, see Pettit (1988). [↑](#footnote-ref-34)
35. See Sen (1982) for an attempt at providing a hybrid approach (both status-based and instrumentalist) and Scanlon (2003) for a contractualist account of rights. [↑](#footnote-ref-35)
36. See Irwin’s (2011) historical overview of Western moral philosophy for an account of these alternatives. [↑](#footnote-ref-36)