

Act Consequentialism's Compelling Idea and Deontology's Paradoxical Idea

I. Some Terminological Notes

Very broadly and nontraditionally construed, *act consequentialism* is the view that an act has the moral status that it does solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives.

A moral theory is *deontological* if and only if it is nonconsequentialist and includes at least one agent-centered constraint.

An *agent-centered constraint* is a constraint on maximizing the good that it would be wrong to violate even in some circumstances where doing so would serve to minimize comparable violations of that constraint. [Note, though, that constraints don't have to be absolute. It may be permissible to violate a constraint if enough good is at stake or if doing so would prevent a sufficient number of comparable violations of that constraint.]

Agent-centered constraints include both agent-centered restrictions and special obligations.

Scheffler uses the phrase 'agent-centered restriction' as I use the phrase 'agent-centered constraint'. Thus, for Scheffler, agent-centered restrictions include not only prohibitions against, say, violating someone's autonomy, but also prohibitions against failing to fulfill one's special obligations. Below, I will deviate from standard usage and follow Scheffler's usage.

As Scheffler states it, "[a]n agent-centred restriction is, roughly, a restriction which it is at least sometimes impermissible to violate in circumstances where a violation would serve to minimize total overall violations of the very same restriction, and would have no other morally relevant consequences" (1985, 409).

II. Utilitarianism's Compelling Idea (UCI)

Foot says, "I want to argue that what is most radically wrong with utilitarianism is its consequentialism, but I also want to suggest that its consequentialist element is one of the main reasons why utilitarianism seems so compelling" (1985, 196). Thus, according to Foot, act utilitarianism's compelling idea is:

UCI (Traditional) Act Consequentialism.

UCI should explain: “(1) why act-utilitarianism has persevered despite its implications being so wildly at odds with our most firmly held moral convictions; (2) why it tends ‘to haunt even those of us who will not believe in it’ (Foot, 1985, p. 196), and (3) why ‘the move to rule utilitarianism seems to be an unsatisfactory answer to the problem of reconciling utilitarianism with common moral opinion’ (Foot, 1985, p. 198)” (Portmore 2007, 47). Moreover, (4) it should entail \sim DPI, where ‘DPI’ stands for ‘Deontology’s Paradoxical Idea’—see below. And it is clear that if $UCI=AC$, then UCI does explain all of (1)-(4).

III. Act Consequentialism’s Compelling Idea (CCI)

A. What Foot Takes CCI to Be

Foot says, “What is it...that is so compelling about consequentialism? It is, I think, the rather simple thought that it can never be right to prefer a worse state of affairs to a better. It is this thought that haunts us and, incidentally, this thought that makes the move to rule utilitarianism an unsatisfactory answer to the problem of reconciling utilitarianism with common moral opinion.... This thought does indeed seem compelling. And yet it leads to an apparently unacceptable conclusion about what it is right to do” (1985, 198).

So, initially, it would seem that Foot takes CCI to be the following simple thought:

ST “[I]t can never be right to prefer a worse state of affairs to a better” (1985, 198).¹

And she claims that ST is (i) that which explains why act utilitarianism haunts even those who will not accept it, (ii) that which explains why “the move to rule utilitarianism seems to be an unsatisfactory answer to the problem of reconciling utilitarianism with common moral opinion,” and (iii) that which “leads to an apparently unacceptable conclusion about what it is right to do”—specifically, to the conclusion that it is morally permissible to commit an unjust act, such as murder, for the sake of bringing about a better state of affairs, such as the one in which there are fewer unjust acts overall.

¹ This suggests that what’s ultimately compelling is the idea that it must always be right for S to perform an act that would produce a state of affairs that S ought to prefer to any other state of affairs that S might otherwise produce.

Note also that ST seems highly contentious. Intuitively speaking, there are a number of instances in which an agent ought to prefer a worse state of affairs to a better state of affairs. For instance, it seems that I ought to prefer the state of affairs in which my child is saved to the state of affairs where some stranger’s child is saved even if the latter is slightly better than the former.

But, clearly, ST can't do this work by itself. Take (iii), for instance. How can ST, by itself, be that which leads to the apparently unacceptable conclusion that it is permissible to commit one murder to prevent five others from each committing some comparable murder, for ST says nothing about what it is right to *do*, but only something about what it is right to *prefer*? The idea, then, must be that ST plus something else is (iii). More specifically, it seems that Foot has in mind the following additional thought (AT):

AT It is always morally permissible to bring about the state of affairs that one ought to prefer above all other available alternatives.

So Foot takes CCI to be ST plus AT, which entails:

CCI_F It is always morally permissible to bring about the best available state of affairs.

Let '*W_x*' stand for 'the possible world that will be actualized if S does *x*'—in other words, it stands for '*x*'s total outcome'. Now, more specifically, let S be me, and let *W_r* be the possible world that will be actualized if I *refrain* from committing murder, thereby allowing five others to each commit murder, and let *W_m* be the possible world that will be actualized if I commit *murder* so as to prevent five others from doing the same. If we assume that it would be worse for there to be more rather than fewer murders—that is, if we assume that *W_r*'s obtaining is a worse state of affairs than *W_m*'s obtaining—and we accept CCI_F, then we get the unacceptable conclusion that I ought to perform *m*—that is, that I ought to commit murder. (By the way, Foot is going to extricate herself from utilitarianism's spell by arguing that she and other nonconsequentialists should deny that *W_r* is a worse state of affairs than *W_m*.)

B. What Scheffler Takes CCI to Be

Scheffler claims that CCI is the conception of rationality that lies at its heart, viz., maximizing rationality. Scheffler says,

The kind of rationality that consequentialism seems so clearly to embody, and which makes so much trouble for views that incorporate agent-centered restrictions, is what we may call *maximizing* rationality. The core of this conception of rationality is the idea that if one accepts the desirability of a certain goal being achieved, and if one has a choice between two options, one of which is certain to accomplish the goal better than the other, then it is, *ceteris paribus*, rational to choose the former over the latter. Consequentialism seems to embody this kind of rationality because it starts from a conception of what is desirable (the overall good) and then tells us always to promote as much of it as we can. Views that incorporate agent-centred restrictions, by contrast, seem troubling,

relative to this notion of rationality. For they appear to identify certain kinds of actions as morally objectionable or undesirable, in the sense that it is morally preferable that no such actions should occur than that any should, but then tell us that there are situations in which we must act in such a way that a greater rather than a lesser number of these actions are actually performed. (1985, 414)

I think that this is close to being right, but that talk of rationality here is a bit misleading (if not mistaken) for, at least, two reasons. First, what it is rational for an agent to do, it would seem, depends on what her beliefs are, whereas what an agent morally ought to do does not. It seems, for instance, perfectly rational to choose the option that will worse accomplish one's goal if one believes that it will better accomplish one's goal.² So, for instance, the act utilitarian can certainly hold that it is rational (i.e., not irrational) for an agent to choose to do *x* when she believes that doing *x* will maximize utility, but whether it is morally permissible to do *x* depends not on whether she believes that doing *x* will maximize utility, but on whether her doing *x* will in fact maximize utility. Second, act consequentialism says nothing about what it is rational to do, so it is odd to say that act consequentialism embodies a certain conception of rationality. Act consequentialism does, however, embody a certain conception of reasons—at least, it does if we assume that moral rationalism is true, where moral rationalism is the view that moral requirements are grounded in reasons for action, such that there is always some, sufficient, or decisive reason to act as one is moral required to act. So I think that we should interpret Scheffler to be talking about what there is reason to do (i.e., what philosopher's call *objective rationality*) as opposed to what it is rational to do (i.e., what philosopher's call *subjective rationality*). Moreover, we should acknowledge that Scheffler is presupposing moral rationalism.

Also, I think that Scheffler should be talking about whether an agent ought to have a certain goal as opposed to talking about whether that goal is desirable, as he does. Ethical egoism, as Scheffler admits, embodies a maximizing conception of (objective) rationality, but, on ethical egoism, the goal that each of us ought to have (viz., the goal of maximizing our own utility) is not necessarily a desirable one. Consider, for instance, that, on ethical egoism, I should desire (have as my goal) that all the money that goes to pay the TAs' salaries be reallocated to pay me a much larger salary, but that doesn't mean that it would be desirable for the money to be reallocated in this way. The end that I ought to desire and the end that is desirable need not be the same end.

² I'm following Parfit here. He says, "While reasons are provided by the facts, the rationality of our desires and acts depends instead on our beliefs. When we know the relevant facts, these questions ['What do we have most reason to want, and do?' and 'What is it most rational for us to want, and do?'] have the same answers. But if we are ignorant, or have false beliefs, it can be rational to want, or do, what we have no reason to want, or do." (2001, 17)

C. What I Take CCI to Be

So I think that what Scheffler meant identify as being CCI is the following, which is what I take CCI to be:

CCI The Teleological Conception of Practical Reasons (TCPR): The reasons there are for and against performing a given act are what they are solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives.

Like Scheffler, I am presupposing the truth of moral rationalism here. Thus, as I see it, we are driven to accept act consequentialism given the following sort of argument:

1. An act has the moral status that it does solely in virtue of what reasons there are for and against performing it.³ (from Moral Rationalism)
2. The reasons there are for and against performing a given act are what they are solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives. (The Teleological Conception of Practical Reasons)
3. Therefore, an act has the moral status that it does solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives. (Act Consequentialism)

The idea is that we are, given our acceptance of moral rationalism, compelled to accept act consequentialism, both because TCPR is the conception of reasons that we are intuitively drawn to “accept and operate with in a very wide and varied range of contexts” (Scheffler 1985, 414) and because TCPR + Moral Rationalism → Act Consequentialism.

Alternatively, if it is maximizing act consequentialism in particular and not act consequentialism in general that we find compelling, then we might think that it is the following sort of argument that compels us to accept maximizing act consequentialism in particular.

1. An act has the moral status that it does solely in virtue of what reasons there are for and against performing it, such that, if S is morally required to perform x , then S has most reason to perform x . (from Strong Moral Rationalism)

³ There is nowadays “a widely held framework according to which reasons for action are the fundamental normative units whose interactions determine...all other normative properties of actions” (Berker 2007, 112). This framework seems to be endorsed by everyone from particularists such as Dancy to generalists such as Josh Gert.

2. The reasons there are for and against performing a given act are what they are solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives, such that, if S has most reason to perform x , then, of all the outcomes that S could bring about, S has most reason to want Wx to obtain. (from the Teleological Conception of Practical Reasons)
3. Therefore, an act has the moral status that it does solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives, such that, if S is morally required to perform x , then, of all the outcomes that S could bring about, S has most reason to want Wx to obtain. (Maximizing Act Consequentialism)

D. Four requirements for an adequate view about what CCI is:

1. CCI should be an idea that entails act consequentialism—or, at least, it should be an idea that entails act consequentialism given certain other plausible assumptions. Otherwise, CCI couldn't compel us to accept act consequentialism. So CCI should be an idea that all act consequentialists, including ethical egoists, accept.
2. CCI should be an idea that no *non-act-consequentialist* moral theory (including rule consequentialism) is compatible with—at least, not given certain other plausible assumptions. Otherwise, CCI couldn't compel us to accept act consequentialism as opposed to *non-act-consequentialism*.
3. CCI should not presuppose act consequentialism. If CCI did presuppose act consequentialism, then it couldn't compel us to accept act consequentialism, for we would have to accept act consequentialism in order to accept CCI. Also, if CCI did presuppose act consequentialism, then it could not pose a non-question-begging challenge to those *non-act-consequentialist* rivals that endorse agent-centered restrictions.
4. CCI should be an idea that both act consequentialist and *non-act-consequentialists* might find compelling—at least, initially.

E. Assessing Candidates for CCI given these Four Requirements:

- a. “[T]he idea that if one accepts the desirability of a certain goal being achieved, and if one has a choice between two options, one of which is certain to accomplish the goal better than the other, then it is, *ceteris paribus*, rational to choose the former over the latter” (Scheffler 1985, 414).
- b. The idea that “it is always permissible to bring about the best available state of affairs” (Portmore 2005). This would also appear to be Foot's view.

- c. The idea that it is always morally permissible for an agent to act so to bring about the outcome that, of all those available to her, is the one that she has most moral reason to want to obtain (Portmore 2007).
 - d. TCPR: The idea that the reasons there are for and against performing a given act are what they are solely in virtue of what reasons there are for and against preferring its outcome to those of its available alternatives.
- Candidate (a) would violate requirement (1) unless we interpret Scheffler to be talking about what there is sufficient reason to do (objective rationality) as opposed to what it is rational to do (subjective rationality), for no view about rationality compels us to accept any view about morality. But even if we interpret Scheffler to be using the word ‘rational’ to refer to what there is sufficient reason to do as opposed to what it is rational to do, (a) would still violate requirement (1) unless we reinterpret Scheffler to be talking about what goals the agent ought to desire as opposed to what goals are desirable, for talk about desirability seems to exclude ethical egoism from the mix.
 - Candidate (b) violates requirement (1). Candidate (b) may compel us to accept agent-neutral act consequentialism, but it does not compel us to accept act consequentialism *tout court*. Ethical egoism and other versions of agent-relative consequentialism deny that it is always permissible to bring about the best available state of affairs.
 - Candidate (c) violates requirement (2). A *non-act-consequentialist* could accept (c) by adopting Foot’s Thesis—see the previous lecture.
 - Candidate (d) meets all four requirements. Let’s take each in turn:
 - Candidate (d) meets requirement (1), for it does, given certain plausible assumptions (i.e., moral rationalism), entail act consequentialism.
 - Candidate (d) meets requirement (2). No *non-act-consequentialist* can accept (d), for (d) does, given certain plausible assumptions (i.e., moral rationalism), entail act consequentialism.
 - Candidate (d) meets requirement (3). Taking (d) to be CCI is not question-begging. To see this, consider what Scheffler says about the maximizing conception of rationality, which, if I’m right, should be reinterpreted as TCPR:

The reason that it is nevertheless not question-begging to say that the restrictions seem paradoxical is that although the conception of rationality that generates the appearance of paradox lies at the heart of consequentialism, it is not peculiar to consequentialism. On the contrary, it is a fundamental and familiar conception of rationality that we accept and operate with in a very wide and varied range of contexts. The fact that this powerful conception of rationality seems both to lie at the heart

of consequentialism and to generate the sense that agent-centred restrictions are paradoxical does not show that the restrictions will only seem paradoxical to us if we have already, wittingly or unwittingly, accepted consequentialism. It shows rather that the 'spellbinding force' of consequentialism, its capacity to haunt even those who do not accept it, derives from the fact that it appears to embody a notion of rationality which we recognize from myriad diverse contexts, and whose power we have good independent reason to respect. It also shows that the seeming paradox of agent-centred restrictions goes deep; no questions need be begged to find the apparent clash between the morality of common sense and the rationality of common sense troubling, haunting, difficult to ignore or dismiss. At the same time it suggests that a fully satisfying defence of agent-centred restrictions could take one of two forms. It might, first, consist in showing that the conflict between such restrictions and the kind of rationality they seem to defy is only apparent: that, appearances to the contrary notwithstanding, the restrictions can be reconciled with that familiar form of rationality. Or it might, alternatively, consist in showing that the restrictions embody a limitation on the scope of that form of rationality, and give expression to a different form of rationality which we also recognize and which also has its place in our lives. (1985, 414)

He then goes on to say,

There is, of course, nothing within maximizing rationality itself that requires us to accept the consequentialist's choice of goals, and so although consequentialism embodies that form of rationality, it is not the only normative theory of action that does so. For example egoism, construed here as the view that one ought always to pursue one's own greatest advantage, also embodies maximizing rationality. (1985, 414)

Like traditional act consequentialism, both ethical egoism and rational egoism embody TCPR. They both hold that we ought to prefer a world/outcome in which we are better off to a world/outcome in which we are worse off. And they both hold that we ought always to act so as to bring about the world/outcome that we ought to prefer above all other available alternatives. Thus the view that CCI=TCPR does not run afoul of requirement (3).

To see why TCPR is so compelling, it might be helpful to consider what an egoistic theory that didn't accept TCPR might look like. Consider, then, two non-teleological versions of egoism: deontological egoism and rule egoism—these could be versions of ethical or rational egoism. Both accept, let's suppose, that an agent ought always to prefer an outcome in which she has more utility to one in which she has less utility, and yet both hold that sometimes an agent ought not to act so as to bring about

the outcome in which she has maximal utility. For instance, on deontological egoism, there are certain types of acts, say, self-sacrificing acts, that are intrinsically immoral such that it would be wrong for an agent to commit one self-sacrificing act now even to prevent herself from committing more numerous and equally self-sacrificing acts in the future. This view seems paradoxical, for if the sole goal is to maximize one's utility and thus, derivatively, also to minimize one's self-sacrifices, then why insist that it would be wrong to maximize one's advantage by performing a single self-sacrificing act now, thereby minimizing the total number of equally self-sacrificing acts that one will perform overall?

On rule egoism, an agent ought always to follow the set of rules that, if internalized by her, would lead her to produce more utility for herself than any other alternative set of rules would (Kagan 1992, 238). This view also seems paradoxical. To illustrate, suppose that the ideal set of rules includes a rule that prohibits donating one's money to charity. On this view, then, an agent ought not to donate her money to charity even if she knows that, in this instance, doing so will maximize her utility. But if the sole goal is to maximize one's utility, if it is always fitting for an agent to prefer more to less utility for herself, then it just seems paradoxical for such a theory to insist that it is wrong for her to donate her money to charity when doing so will clearly maximize her utility.⁴

- TCPR (candidate (d)) meets requirement (4). TCPR is something that many act-consequentialists and non-act-consequentialists are drawn to. Scanlon says that the teleological conception of reasons "sounds plausible"—see Scanlon (1998, 84). Nagel also seems to find the idea that reasons for action are grounded in value to be compelling—see Scanlon (1998, 81-82). And, then, there is Scheffler, who finds TCPR attractive but professes to deny act consequentialism (although it's not clear whether or not he denies act consequentialism, broadly construed). And it seems that most philosophers find TCPR compelling in non-moral contexts.

IV. Deontology's Paradoxical Idea (DPI)

⁴ Note, though, that Brad Hooker has argued that rule consequentialism is not guilty of this sort of puzzling rule worship, for, according to Hooker, the rule consequentialist is *not* committed to the maximization of the good as an overarching goal. He says that the best argument for rule consequentialism is not that it derives from an overarching commitment to maximize the good, but that "it does a better job than its rivals of matching and tying together our moral convictions" (2000, 101) But rule egoism cannot make the same claim; it is not nearly as successful as its rivals at matching and tying together our moral convictions. Thus the best argument for rule egoism would have to be that it derives from an overarching commitment to maximize what's good for the agent. Consequently, rule egoism is guilty of rule worship.

DPI In some instances, S is permitted to do x but prohibited from doing y even though the state of affairs where Wy obtains is a better state of affairs than the one where Wx obtains. The idea, in other words, is that sometimes S is morally required to act so as to bring about a worse state of affairs as opposed to a better one.

All deontological theories entail DPI. Those nonconsequentialist theories that accept Foot's Thesis (see below) are not deontological on my definition.

FT Wx is better than any available alternative world only if S is morally required to perform x , where Wx is the possible world that would be actualized were S to perform x .⁵

As I've defined it, a deontological theory must include an agent-centered constraint (a constraint on maximizing the good), but any nonconsequentialist theory that accepts Foot's Thesis holds that it is always permissible to maximize the good and, thus, that there are no constraints on maximizing the good.

Although all deontological theories entail DPI, not all theories that entail DPI are deontological—for instance, ethical egoism entails DPI but is not deontological. And this is an odd result, for most philosophers (see, for instance, Scheffler) don't think that ethical egoism is paradoxical in the way that deontology is. So I think that we should deny that DPI is in fact paradoxical. DPI is a misnomer.

Instead, we should think that what's paradoxical about deontology is what's paradoxical about almost all non-act-consequentialist theories. We can call this non-act-consequentialism's paradoxical idea:

NPI In some instances, S is permitted to do x but prohibited from doing y even though S morally ought to prefer Wy (the world in which S acts wrongly by performing y) to Wx (the world in which S acts permissible by perform x). The idea, in other words, is that sometimes S is morally required to perform an act that S morally ought to prefer that S doesn't perform.⁶

⁵ The following stronger view is incoherent: Wx is better than any available alternative world *if and only if* S would be morally required to perform x . To see this, suppose that I have the choice of pushing or not pushing button A, and assume that my pushing button A will prevent you from pushing button B, where your pushing button B would kill one but prevent five other killings. If I'm morally required to perform $\sim A$, then this stronger view would imply that the world in which I perform $\sim A$ and you perform B is better than the world in which I perform A and you perform $\sim B$. But if you're morally required to perform $\sim B$, then this stronger view would also imply that the world in which I perform A and you perform $\sim B$ is better than the world in which I perform $\sim A$ and you perform B. Thus this stronger view implies a contradiction.

⁶ \sim DPI is what I called PMV in my "Consequentializing Moral Theories." I now think that it is not PMV, but TCPR, that is CCI.

However, not all non-act-consequentialist theories will entail NPI. Those that endorse the following thesis will not.

FT* S morally ought to prefer Wx to all other available alternative worlds if and only if S morally required to perform x .

But I think that this is the right result. Not all non-act-consequentialist theories are paradoxical. In particular, those non-act-consequentialist theories that accept FT* don't seem to be paradoxical at all.

V. Giving a Satisfying Defense of Agent-Centered Restrictions

A. Two Possibilities:

As Scheffler point out:

[A] fully satisfying defence of agent-centred restrictions could take one of two forms. It might, first, consist in showing that the conflict between such restrictions and the kind of rationality they seem to defy is only apparent: that, appearances to the contrary notwithstanding, the restrictions can be reconciled with that familiar form of rationality. Or it might, alternatively, consist in showing that the restrictions embody a limitation on the scope of that form of rationality, and give expression to a different form of rationality which we also recognize and which also has its place in our lives. (1985, 414)

B. Regarding the First Possibility

Scheffler says,

I said a moment ago that a satisfying defence of agent-centred restrictions could take one of two forms. The first would be to show that, appearances to the contrary notwithstanding, there really is no conflict between such restrictions and maximizing rationality. Thus it might be denied, to start with, that views incorporating agent-centred restrictions actually do present as desirable any goal whose maximum accomplishment they then prohibit. They assign each person the agent-relative goal of not violating any restrictions himself, it might be said, but they do not present the overall non-occurrence of such violations as desirable. Thus in forbidding the minimization of overall violations, they are not in fact thwarting the achievement of any goal whose desirability they recognize. Now I do not believe that defenders of standard deontological views are really in a position to make these claims. (1985, 415)

In thinking that deontological theories and rule consequentialist theories entail DPI, I'm assuming a buck-passing account of value. That is, I'm assuming that if Wx is better than Wy , then it follows that the relevant reasons require us to prefer Wx to Wy .

According to Scheffler, deontologists are not only committed to each agent's having the agent-relative goal of ensuring that she not violate a restriction, but are also committed to each agent's having the agent-neutral goal of minimizing violations of the restrictions. Given this agent-neutral goal, theories that are committed to agent-centered restrictions can seem paradoxical in that they sometimes prohibit an agent from violating a restriction even when doing so will better achieve this goal, even when doing so will minimize the number of violations of that restriction overall.

Of course, as Scheffler admits,

someone who wanted to show that there was no conflict between agent-centred restrictions and maximizing rationality might point out that, if the *ceteris paribus* clause in the formulation of maximizing rationality were fully cashed out, one of its main features would be a provision to the effect that it can sometimes be rational to act in such a way as to worse achieve one goal if that will make it possible to better achieve another. Since that is so, it might be said, views that include agent-centred restrictions need not come into conflict with maximizing rationality when they tell us to further the agent-relative goal of not violating the restrictions ourselves at the expense of the non-relative goal of minimizing violations of the restrictions. (1985, 417)

But Scheffler argues that this last claim is not persuasive, for, as he contentiously assumes, the agent-relative goal of not violating the restrictions ourselves is "derivative from, and given life by," the non-relative goal of minimizing violations of the restrictions (1985, 417).

And Nozick would object to this move on the grounds that it is gimmicky—see Nozick (1988 [1974], 137n). But see Vallentyne's "Gimmicky Representations of Moral Theories" (1988) for a reply.

C. The Second Possibility

Scheffler suggests that the deontologist could offer as a defense of agent-centered restrictions the following sort of argument:

But it is, after all, not obvious that maximizing rationality constitutes the whole of rationality. And if in fact there were no way to defend agent-centred restrictions while remaining within the framework of maximizing rationality, then the alternative for a defender of the restrictions would be to try to show that they embody a departure from maximization which is licensed by the more comprehensive tapestry of full human rationality. (1985, 418)

But Scheffler retorts:

Now it might be thought that this task could be easily dispatched. After all, if it really is true that, as I said earlier, agent-centred restrictions are congenial to the common-sense morality of our culture, and if the restrictions thus embody constraints on practical reasoning that seem to us natural and intuitively appealing, then that might be thought sufficient to show that they do in fact have their place within what we are prepared to recognize as human practical rationality, even if they represent a departure from maximization. This idea may not in fact be so very different from what Foot wishes to maintain. The difficulty with this quick solution is that the appearance that the restrictions are irrational is generated by an apparently appropriate application of a very powerful form of thought which itself occupies a central place within what we recognize as human practical rationality. The seeming paradox arises out of a process of reasoning that itself seems natural and intuitively compelling, and not through the introduction of some theoretically attractive but humanly unrecognizable model of rationality. Thus to dispel the paradox and give a satisfying account of the place of the restrictions within full human rationality, more must be done than simply to call attention to their naturalness and appeal. For to do no more than that is to leave in place all of those elements which combine to create the impression that, in so far as it is drawn to agent-centred restrictions, human practical reason may be at war with itself. (1985, 419)

VI. Foot's Attempt at Exorcism and Why It Fails

As we've seen Foot finds the following idea attractive: it is always morally permissible to bring about the best available state of affairs. However, she finds the following implication of act consequentialism unacceptable: it is morally permissible to commit one murder in order to prevent others from committing five comparable murders. She is going to attempt to reconcile these two by denying that the states of affairs in which one commits murder is better than the states of affairs in which one refrains from committing murder, thereby allowing five others to each commit a comparable murder. Actually, she's going to admit that there are some senses in which the state of affairs in which one commits one murder is better than the state of affairs in which five others each commit one comparable murder, but that none of these senses are suitable for the consequentialist's purposes.

A. The Exorcism

"That consequentialism should seem compelling, and that agent-centred restrictions should seem paradoxical, Foot believes, is inevitable once we grant the apparently innocent idea 'that there *are* better and worse states of affairs in the sense that consequentialism require'. But, she maintains, this idea is really not so innocent; it can be challenged, and it is through such a challenge that she hopes to break the spell of consequentialism and dissolve the air of paradox surrounding agent-centred restrictions" (Scheffler 1985, 410).

"[W]e go wrong in thinking that there are better and worse states of affairs in the way consequentialism requires" (Foot 1985, 227).

B. Possible Understandings of 'A Good State of Affairs' [From Neil Sinclair's "Lectures on Contemporary Moral Theory."]

a) "A good X is an X that performs its function. E.g. 'a good knife'.

=> Not suitable for consequentialism because the idea of a *function* of a state of affairs makes no sense.

b) A state of affairs is good to the extent that it involves agents fulfilling their duties.

=> Not suitable for consequentialism because the idea of a good state of affairs is supposed to ground our duties, not presuppose them.

c) A state of affairs is good to the extent that it either involves the satisfaction of an interest or is conducive to the satisfaction of an interest [interest-relative sense]. E.g. installation of a burglar alarm (Foot p.229).

=> Not suitable for consequentialism because moral norms are not relative to interests.

d) A state of affairs is good to the extent that it is good *for* those agents that exist in it, impartially considered (i.e. good to the extent that it maximises welfare from an impersonal point of view).

=> Foot rejects this as any help to consequentialism (232), but it is unclear why. Perhaps she thinks that we are owed an explanation of why results that are good *for the persons involved* also contribute to the goodness of *the state of affairs*. i.e. Why increasing welfare adds to the goodness of *outcomes* as opposed to adding to the good of *agents* existing within those outcomes....

e) A state of affairs is good to the extent that it is good *from the moral point of view*.

=> Not suitable for consequentialism because 'it cannot be assumed that the resulting expression has any sense' (233). Further, related phrases such as 'good from a legal point of view' are clearly interest-relative.

=> Consequentialists (e.g. Harsanyi, Hare) may argue that 'the moral point of view' is the point of view that aims to maximise preference satisfaction, considered impartially. But this begs the question against non-consequentialists." – Neil Sinclair's "Lectures on Contemporary Moral Theory."

<http://www.st-andrews.ac.uk/~nss9/details/PY4635%20Lecture%206.ppt>

C. Foot's Understanding of 'A Good State of Affairs' [From Neil Sinclair's "Lectures on Contemporary Moral Theory."]

- "'Tracing it back in my own mind...' (235)
- The primary meaning of the phrase 'a good state of affairs' is *as the appropriate goal of the benevolent agent* (235).
- But benevolence is a virtue that is *constrained* by other virtues. I.e. benevolence only comes into play when the agent is choosing between two or more alternatives, *none of which violate any of the demands of the other virtues* (e.g. being just). E.g. benevolence *never* requires that we act unjustly – the goal of benevolence is in such cases *trumped* by the goals of other virtuous (e.g. avoiding unjust actions).
- This means that a state of affairs can only be good/bad/better/worse *so long as it is not ruled out by the practice of the non-benevolent virtues* such as justice. *Within* the remaining states of affairs, the one required by benevolence will be *better* than the one not required by benevolence. But it makes no sense to apply 'better than' to outcomes that can only be reached by violating the demands of the other virtues e.g. justice.
- So a state of affairs that is the result of acting unjustly can never be *better than* a state of affairs that is the result of acting justly.

[Thus we get Foot's Thesis:

FT Wx is better than any available alternative world only if S is morally required to perform x , where Wx is the possible world that would be actualized were S to perform x .]

- More formally, we can say: state of affairs A is better than B iff. A & B are both permissible choices of an otherwise virtuous agent, and A is the appropriate end of benevolence.

- Likewise, state of affairs B is worse than A iff. A & B are both permissible choices of an otherwise virtuous agent, and A is the appropriate end of benevolence.” – Neil Sinclair’s “Lectures on Contemporary Moral Theory.”

<http://www.st-andrews.ac.uk/~nss9/details/PY4635%20Lecture%206.ppt>

D. Scheffler’s Objections to Foot’s Attempt to Solve the Paradox of Deontology

First, I am sceptical of the idea that, in ordinary non-consequentialist moral discourse, evaluations of overall states of affairs are meaningful when benevolent action is called for, but meaningless when the outcome of an unjust action is in question....But do we really cease to understand what is meant by 'a better state of affairs' if the question is raised whether infringing a right or telling a lie or treating a particular individual unfairly might perhaps produce a better state of affairs than failing to do so? I do not think so. Many moral dilemmas take the form of conflicts between considerations of justice, rights, or fairness on the one hand, and considerations of aggregate well-being on the other. (Scheffler 1985, 412)

Second, in order for Foot's attempt to dissolve the apparent paradox surrounding agent-centred restrictions to be successful, it must be the case that the alleged paradox cannot be formulated without using the idea of one overall state of affairs being better than another. But, as my initial characterization of the paradox at the beginning of this paper was meant to suggest, it can in fact be formulated without using the notion of an 'overall state of affairs' at all. How, I asked, can it be rational to forbid the performance of a morally objectionable action that will have the effect of minimizing the total number of comparably objectionable actions that are performed and will have no other morally relevant consequences? How can the minimization of morally objectionable conduct itself be morally unacceptable? (Scheffler 1985, 413)

Alternatively, the paradox can be formulated as NPI, which is given above, for NPI does rely on the notion of 'a better state of affairs'.

Third, although Foot begins her paper by acknowledging that 'utilitarianism tends to haunt even those of us who will not believe in it', and although her paper is meant as an 'exorcism', an attempt to rid consequentialism of its 'spellbinding force', the way in which she ultimately tries to do this is such as to make it seem mysterious how consequentialism was ever taken seriously in the first place, let alone viewed as spellbinding. For if, in asking how it can ever be right 'to prefer a worse state of affairs to a better', the consequentialist is either talking nonsense or else using the language of his own theory instead of the language that the rest of us speak, how is it that we find his question troubling, haunting? After all, if Foot is right, it is not clear that we even understand the question. So wherein lies its power to haunt us? I do not believe that Foot's view

allows any adequate answer to this question, and for this reason if for no other her position seems to me worrisome. (Scheffler 1985, 413)

When we take CCI to be TCPR we avoid this problem.