**Objectionable Obligations – Draft paper (do not cite)**

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Can someone be bound by a moral obligation and yet at the same time have a moral complaint about being so bound? That is, there is something they ought to do. And yet they have a moral complaint about being the one who is bound to do it: it is unfair that they, and not others, should bear the burden of having to do and think about whatever this obligation requires them to do. This is what I shall call an “objectionable obligation.” Do such obligations exist? Is this idea even coherent? And if it is, what follows from this fact? These are the questions I shall address in this paper.

I shall argue that there are many quite commonplace situations in which our intuitive reaction is that someone both has a genuine moral obligation and yet also has a moral complaint about standing under that very obligation. As I shall explain in Section 2 of the paper, we can see this particularly clearly when we attend to the institutional contexts that help to structure our obligations. Quite often, social and political institutions distribute certain kinds of burdens unequally across different social groups, so that they fall disproportionately on the shoulders of certain groups. I shall try to show that this can sometimes give a person a complaint about an obligation, without thereby casting doubt on whether the obligation is a genuine obligation. Indeed, as I shall argue, groups that are unfairly subordinated across a variety of different social contexts quite often find themselves standing under objectionable obligations –obligations that unfairly burden them relative to others, but that are nevertheless quite genuine obligations. And the fact that these obligations, though unfair, are *genuine obligations* is partly what makes it difficult for members of such groups to alter their situation: they cannot just walk away from real obligations. If you are the parent of a child with a severe disability, you cannot hop off to the movies and leave them alone at home, even if –as I think many would agree—your government is culpably negligent in leaving you without proper support, and your fellow citizens ought to be doing much more to assist you. If this is correct, the idea of an objectionable obligation seems to be not just coherent but one that we need to invoke, if we are to make sense of our moral intuitions about these quite ordinary cases.

However, as I shall argue in Section 3, there are powerful currents in normative ethics that push us to deny that the idea of an objectionable obligation could be coherent. It is unclear that moral theories such as consequentialism or contractualism leave any conceptual space for such obligations. So if objectionable obligations exist, this poses a problem for such theories. This problem is a particularly serious one because, as I shall argue, the failure of both theories to accommodate objectionable obligations is due to a deep structural feature of these theories rather than to an incidental factor that could be worked around. Both theories aspire to a certain kind of completeness, presenting us with a single procedure for figuring out what our moral obligations are that purports to take into account all morally relevant considerations, including complaints. And of course much of their attractiveness comes precisely from their promise to provide such a procedure. If I am right that objectionable obligations exist, this may cast doubt both on the viability of such theories and on the appropriateness of looking for such a single procedure.

1. ***What objectionable obligations are not***

It will be helpful to begin by distinguishing objectionable obligations from other kinds of phenomena, phenomena that might look similar to them but do not ultimately seem to be paradoxical or to pose any special philosophical problem.

Firstly, objectionable obligations are *not merely* *apparent* *obligations,* obligations that it would be so objectionable to imagine someone being bound by that we must conclude that there really is no such obligation. Sometimes, for instance, holding someone to be under a certain obligation would amount to placing a set of unreasonably strong demands upon them. Most of us doubt that, in ordinary circumstances, anyone has an obligation to lay down their life in order to save the life of a total stranger. Although self-sacrifice may be reasonable and even virtuous, it is not obligatory, at least in relation to a stranger.[[1]](#footnote-1) By contrast, the objectionable obligations that are the topic of this paper are genuine obligations --no less obliging simply because they seem objectionable.

Second, the objectionable obligations that I want to focus on are not obligatory *in a purely legal sense only.* That is, I do not have in mind a conflict that is only apparent, between something that positive law requires members of one group to do –for instance, occupy a second-class position at the back of the bus—and the demands of morality, which would deem such treatment demeaning and inappropriate. Rather, I am interested in cases that involve a genuine moral tension, a tension between a moral obligation to do some thing and a moral complaint about that same moral obligation.[[2]](#footnote-2)

Finally, objectionable obligations, as I understand them here, are *not social conventions* of a kind whose normativity stems only from what Mill called “the moral coercion of public opinion.”[[3]](#footnote-3) Consider, for instance, the pressures on women in certain societies to breastfeed somewhere “discreet” rather than in a public place, because some people find breastfeeding disgusting or offensive. Such social pressures are no doubt very real and generate strong instrumental reasons for women in these societies not to breastfeed in public. But it is difficult to see these social pressures as reflecting, or generating, any genuine moral obligation not to breastfeed in public. So once again, there is no paradox: in such cases, there is no moral obligation, but only a moral complaint about having to do something for which there are purely instrumental reasons.

Objectionable obligations, then, are distinguishable from claims on us that do not represent genuine moral obligations because they are too demanding; from purely legal obligations that are unjust; and from social conventions of a kind that do not generate moral obligations at all. None of these phenomena is really paradoxical; none poses a special philosophical puzzle --beyond, of course, the important but more general puzzle of how laws or social conventions can acquire any kind of normative force over us and how we are to understand that normative force. But objectionable obligations pose a *further* puzzle. And they pose this puzzle precisely because they seem genuinely paradoxical. They seem to be real moral obligations, claims upon us that reflect certain moral reasons that we have to do certain things. And yet they seem objectionable, and objectionable from a moral standpoint. How could this be?

1. ***Why there are objectionable obligations***

That we must acknowledge the existence of some genuine “objectionable obligations” becomes apparent in several quite different but ordinary kinds of cases, and in particular, when we consider the institutional contexts in which our moral obligations arise. Sometimes:

1. *Natural human vulnerabilities call for a certain institutional response, and the institutions in question respond by distributing caregiving burdens unequally over different social groups.*

Natural human vulnerabilities –the vulnerabilities of children, of the sick, of the elderly-- require that time and energy be devoted to caring for the vulnerable. But often, the burden of caring for the vulnerable is unfairly and unequally distributed across different social groups, so that some end up with a hugely disproportionate caregiving burden, relative to others. This can happen in either of two ways. Sometimes, it occurs because there is no institutional response or far too little an institutional response, and so the burden largely lies where it falls, and this disproportionately disadvantages certain social groups and seems unfair. Other times, it occurs because, although there is an institutional response, the institutional response is to shift the burden almost entirely onto a particular social group’s shoulders, so that some social groups are freed entirely from the relevant caregiving burdens, while others must bear them all. Importantly, as I shall argue, our intuitive response in both types of case is not to deny that these social groups stand under the relevant caregiving obligations. It is to acknowledge the presence of the obligations and yet at the same time to consider the obligations unjustly distributed, and to affirm that the bearers of these obligations have some kind of moral complaint for precisely this reason.

Consider first:

1. *Cases in which there is an insufficient institutional response*

Within many societies, there is insufficient social and institutional support for severely disabled children or for older adults who are in need of care, whether because of dementia or because of physical impairments. In societies where no or few institutional supports are in place, the burden of caring for the vulnerable generally falls on those who are biologically related to them –the parents of children with severe disabilities, for instance, or the grown children of elderly people with various physical or mental ailments. Although it is common for us to acknowledge that the state ought to do more for such families that it currently does, we nevertheless seem intuitively to accept that, given that there are vulnerable people in need of care, and given that their families are often the only people who are in a position to provide care for them, the members of these families do have a genuine moral obligation to provide that care. The parents of a child who needs 24 hour a day monitoring and who cannot afford to hire a caregiver cannot just hop out to the movies for a break without violating what we take to be a genuine moral obligation to care for their children. Similarly, the adults whose elderly father wanders and must always be accompanied cannot justify (or even excuse) walking out on their father one day simply because he exhausts them –even though it seems unfair that they should be the ones who have to monitor his movements, day after day. Our intuitive response to such cases, I think, is both that these are genuine moral obligations, and yet also that their bearers have some kind of moral complaint about having to stand under them. (What kind of complaint this is, I will investigate further in the next section of the paper).

One might be tempted to try to dissolve the paradox by responding that surely the parent of the disabled child became a parent willingly. Even if they did not choose to have a child with a severe disability, they did choose to become a parent; and when they made this choice, they either knew or should have known that there was a risk that their child might be borne with a severe disability and that, living a society without adequate institutional supports, they would then be responsible for much or all of its care. One might think that therefore, such parents can have no moral complaint about standing under this obligation of care.

But there are at least two problems with this response. First, it is not clear that the parents’ choice to have a child can play the role that this response accords it –that is, that it can block a complaint on the part of the parents, in a context where the relevant social institutions have so wholly failed to fulfil the duties that they seem to have to people with disabilities.[[4]](#footnote-4) It is not clear, that is, that choice can play the role that this response accords to it, when the choice is made in the context of deeply unjust social circumstances. But second, and perhaps even more decisively, this is hardly an answer to the grown child who has been left to care for their elderly parent. Nobody *chooses* to be the child of their parents. So choice cannot help us dissolve the paradox in this second case, the case of the adult caregiver for a vulnerable elderly parent. Here, there is no choice that might have removed any right to complain on the part of the caregiver.

These cases seem, at least intuitively, to be cases of objectionable obligations. The caregivers stand under genuine moral obligations of caregiving. And yet the burdens of caregiving fall so unequally on one group of people –the families of those who are especially vulnerable— that it does seem that this obligation is something they can have a moral complaint about standing under. It is unfair that they should have to do all of these things while others should not.

There are also:

1. *Cases in which there is an institutional response, but it is an unfair one*

Sometimes, the problem does not derive from a poor or nonexistent institutional response to the bad luck of certain families, who are left to care for the vulnerable by themselves. The problem is rather that, although there has been a robust institutional response to a certain set of vulnerabilities, that response involves shifting the burden onto the shoulders of members of one social group, in a way that seems unjust. Within many societies, our response to the need of young children for special care, and indeed to everyone’s need for emotional nurturing, has been to offload the responsibility for meeting such needs onto women. Feminists have documented the many ways in which women are socialized to become the primary caregivers of children within the family, and indeed are expected to carry the “emotional load” for everyone in the family, whether child or adult. Relatedly, they have written about the ways in which the standard picture of the “normal” employee, which underlies many employment laws and policies, presumes that he does not have time for such things and that he has a wife at home who does.[[5]](#footnote-5) Women therefore end up disproportionately in the position of having to care for young children and to do the invisible work of nurturing everyone’s emotional lives within the family (remembering the birthdays of extended family members and friends; arranging social engagements; performing hundreds of tiny, everyday gestures of love and caring, both for their own sake and for others in the family to emulate). Most agree that it is not fair that women should be left to shoulder so much of the burden of caring for vulnerable young children and for managing everyone’s emotional vulnerabilities. But given that women are so often in this position –the position of being only person in the family whose job leaves them time to drive their young child to school, or the only person who has been socialized to see that it would make a difference to someone’s day to stick that little “I love you” note on the kitchen table—others then become genuinely dependent on them. And it seems quite plausible to think that this dependence generates genuine obligations. So although women seem to have a legitimate moral complaint that it is unfair that they, and not men, have been disproportionately allocated these burdens, we do not deny that, once their children or other adults become dependent on them in these ways, they stand under at least some genuine caregiving obligations.

There is also a further interesting problem in such cases, one that is familiar to us from studies of discrimination. Precisely because these are genuine obligations –and perhaps also because the relationships that they make possible are often of value as ends in themselves-- we tend to think that those who stand under these obligations should not complain. Indeed, many women feel guilty about complaining about shouldering a disproportionate share of the childcare burdens or the family’s emotional well-being. It can seem as though, if they were only virtuous enough, they would just overlook the unfairness. (When I mentioned the sticking of the “I love you” note on the kitchen table, you may have thought for a moment that there was something less than fully virtuous about my raising this, or less than fully loving about anyone *objecting* to being the one who does this). And so, even though women are unfairly burdened with caregiving in the first place, they also face considerable social pressure not to complain about the burden, not to voice the complaint that they seem to have. Perhaps this is why it may not always be obvious that these caregiving obligations of theirs *are* objectionable. Some scholars working on social subordination have argued that leaving women under this social pressure to accept their obligations without complaint constitutes a distinctive sort of exploitation*.* In other words, even though in our clear-eyed moments we acknowledge that women have a legitimate moral complaint, our society at the same time relies on women not to complain because so many other people benefit from not having to do the caregiving work that women do.[[6]](#footnote-6)

So far, I have been considering cases in which natural human vulnerabilities call for a certain institutional response and the institutions in question respond by distributing caregiving burdens unequally over different social groups. But there are also cases in which the problem stems not from a natural human vulnerability, but from *an* *institution that negligently creates a peril.* In these cases:

1. *An institution negligently creates a peril, and the burden of rescuing others from the peril seems to fall repeatedly and unfairly on one social group.*

Some rescue cases are like this. In certain locations, train tracks have been negligently laid or highways negligently constructed or maintained, with the result that there are many more accidents than usual along these stretches. It then falls to local rescue workers to do much more by way of constant, dangerous rescue work than those who live in other areas are required to do.[[7]](#footnote-7) This burden seems unfairly distributed, and the rescue workers seem intuitively to have a complaint about this: they face a disproportionate disadvantage, not because of a natural peril (such as living in an earthquake zone) but because of an institution’s negligence. But yet nobody denies that they have a genuine moral obligation to rescue the victims when accidents materialize.

More often than not, when philosophers discuss what we call “rescue cases,” we do so without imagining the institutional background that created the peril. There are good reasons why we do this, but it is instructive to consider why, and to consider when the institutional background *does* matter. When Philippa Foot, Judith Jarvis Thomson, and others analyze the famous “Trolley Problem,” for instance --in which a bystander must decide whether to prevent a runaway trolley from hitting and killing five people by diverting that trolley onto a track on which there is only one— they do not discuss the institutional failings that might have led to the runaway trolley or to the absence of any mechanism for simply shutting down power to the track.[[8]](#footnote-8) Nor do they discuss why you, the hypothetical rescuer, are in the position of being a rescuer, or how often you have in the past been thrust into such a position, relative to others. They do not discuss such details because, of course, these details do not matter for the purposes for which Foot and Thomson are using the example. Foot and Thomson are concerned with *what the rescuer has an obligation to do now,* given that the trolley has run away and is imperilling five people. From this standpoint, it is irrelevant what sorts of institutional failings led to the five being imperilled in the first place or led to the rather limited rescue options available in this case.[[9]](#footnote-9) Similarly, it is irrelevant for these purposes how the rescuer came to be in the position of a rescuer and what sorts of rescues other rescuers standardly need to perform. But these details can matter very much when our question is the different question of *whether the rescuer has a moral complaint* about having to perform such rescues on repeated occasions. And this is the kind of question we need to ask if we are to notice that some of these obligations may be objectionable obligations.

Note that the kind of rescue case that I am envisioning in *(ii)* is quite different from a one-off rescue case like the Trolley Problem. In a one-off rescue case, it might certainly be true that the rescuer has a disproportionately large burden to bear, relative to others. Unfortunately, sheended up walking beside the trolley track on Wednesday when the trolley ran away and might have killed the five, and so she had to make the agonizing decision of whether to save them by sacrificing the one; whereas her many friends walked by the track on Monday or Tuesday and there was no runaway trolley on those days. In such one-off cases, the person bearing the disproportionately large burden *might have been any of us.* So it is not obvious that the rescuer has a moral complaint about standing under the obligation to rescue. The complaint that makes this a case of an “objectionable obligation” arises when members of one social group are repeatedly and disproportionatelyburdened. And that is because there is then an apparent problem of justice or fairness. In the one-off case, any of us might have been the one bystander who suddenly had to decide whether to rescue the five or divert the trolley towards the one. But in the repeat cases, it is these rescuers who consistently need to rescue people from perils that are negligently created, while others do not.

There are other, quite common cases that share the form of scenario *(ii).* It is well documented, for instance, that hazardous waste disposal facilities and factories that use toxic chemicals are far more often located in impoverished, racialized neighbourhoods, in part because when negligent accidents occur, the companies in question will have to pay considerably less by way of damages for lost wages and lost life expectancies (because damages, at least in the US, are calculated using race-based tables, and the average wage and the average life expectancy for racial minorities in such neighbourhoods are lower than they are for the inhabitants of wealthier, white neighbourhoods).[[10]](#footnote-10) Those who live in impoverished, racialized neighbourhoods polluted by such toxic chemicals are repeatedly thrust into the position of being “rescuers” for their families and friends, far more often than are the inhabitants of wealthier, white neighbourhoods. They clearly have a complaint about the fairness of this situation. Yet we do not deny that they have obligations to do what they can to save their family and their friends’ health. Similarly, we know that the effects of global warming –due in large part to the collective negligence of developed countries—are falling disproportionately on developing countries, among them countries that have contributed the least to the causes of global warming. These developing countries face a disproportionately great burden. And yet they still have an obligation to do as much as they reasonably can, both to “rescue” their citizens from the effects of global warming and to prevent further global warming.

I have now tried to argue, with reference to a number of common scenarios, that we intuitively accept that there can be objectionable obligations. There can be, and often are, cases where a person has a genuine moral obligation to do something, and yet at the same time, a moral complaint about standing under that obligation. That person has the obligation at least in part because they are in the best position to care for people with certain vulnerabilities or to rescue people from negligently created perils. But they also have a complaint about standing under that obligation, because the burdens of attending to those vulnerabilities or rescuing people from these perils have been unfairly distributed.

1. ***Why consequentialism and contractualism have trouble acknowledging objectionable obligations***

However, there are powerful currents in normative ethics that push us to deny that the idea of an objectionable obligation could even be coherent. In this section of the paper, I shall explain why it seems that moral theories such as consequentialism or contractualism leave little conceptual space for such obligations, pushing us either to deny in these cases that the agent has a real moral complaint or to deny that the alleged obligation is a genuine moral obligation. I shall then consider several responses from the “sophisticated contractualist,” but shall argue that these responses fail: they dissolve the paradox, but only by locating the complaint in the wrong place and thereby misrepresenting what the complaint is a complaint about.

Act consequentialists, as Parfit notes, believe that “when some act would make things go best, the goodness of this act’s effects would make it impossible for this act to be wrong.”[[11]](#footnote-11) What an agent has a moral obligation to do, on this version of consequentialism, is just what would make things go best, once all of the relevant considerations about the goodness and badness of an act’s effects have been factored in. As Parfit notes, among the relevant considerations about the goodness and badness of an act that act consequentialists can factor into the calculus are considerations of “non-deontic badness”: for instance, the fact that it is intrinsically bad to treat people in certain ways, such as deceiving them or coercing them. (Non-deontic badness contrasts here with deontic badness, or badness that derives froma judgment about the wrongness of an act. Act consequentialists cannot of course include judgments about deontic badness in the calculation of whether we have a certain obligation, because this would be circular: deontic badness *presupposes* a judgment about the wrongness of an act). We might be tempted to treat the fact that a certain caregiving or rescuing burden is disproportionately placed on members of a certain social group as a fact about non-deontic badness and try to factor it into the consequentialist calculus in this way. But even assuming that this fact is plausibly interpreted as a fact about non-deontic badness, it is a fact about the badness *of standing under a certain obligation,* not the badness of *performing a certain* *action.* So it is not clear that it is a fact that is even visible from the act consequentialist’s moral horizon.

What about the rule consequentialist? Rule consequentialists maintain, very roughly, that what we ought to do is follow the rules that are optimific or would make things go best.[[12]](#footnote-12) (There is of course disagreement over what level of compliance with the rules is relevant, but since the answer to this question makes no difference to my arguments, we do not need to settle it here). Because the rule consequentialist is concerned with the goodness and badness, not just of particular acts, but of the rules that require us to perform these actions, they could acknowledge the kinds of unfairness that we have seen underlying objectionable obligations –the unfairness of burdening certain social groups, repeatedly, with caregiving responsibilities or responsibilities of rescue. They could note that this is a kind of non-deontic badness of certain *rules.* But the problem for rule consequentialists is that, once this non-deontic fact is factored into the rule consequentialist’s overall judgment about what rules we ought to follow, it is not clear that there is any residue left to form the basis of a moral complaint. If the outcome of the rule consequentialist’s deliberations about the relevant possible rules is that a rule obliging women to fulfill certain caregiving responsibilities *is* optimific, then it follows according to rule consequentialism that women do have this moral obligation. But since the unfairness of holding them to such an obligation has already been factored into this moral judgment, it is unclear how they could still have a moral complaint about it. By contrast, if the outcome of the rule consequentialist’s deliberations is that this rule is *not* optimific (perhaps in part because of the non-deontic badness of burdening women so disproportionately with caregiving), then the rule consequentialist can certainly acknowledge that women have a complaint about the rule. But they will have given up the claim that it is a genuine moral obligation.

A similar problem arises for a more complex version of rule consequentialism that builds a conception of each person’s fair burdens into the moral calculus of whether a person has a certain obligation. Both act- and rule- consequentialism have often been criticized as overly demanding –that is, as demanding of agents a level of self-sacrifice that is incompatible with our respecting them as moral agents who have valuable lives to live and who need space to be able to live out their own decisions, rather than always being coopted into the service of the optimific outcome.[[13]](#footnote-13) Murphy, for instance, has defended a nuanced “collective principle of beneficence,” according to which each agent is required to promote the well-being of others only up to the level of sacrifice that would be optimal under full compliance.[[14]](#footnote-14) But, although this principle has many virtues, it seems to make it true by definition that one can never have an objection to standing under a given moral obligation that is based on the unfairness of one’s standing under that obligation. Because on this theory, a person only has obligations up to the point at which their sacrifice would become unfair.

Contractualists seem to have equal difficulty accommodating objectionable obligations. According to T.M. Scanlon’s initial formulation, contractualism holds that “an act is wrong if its performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced general agreement.”[[15]](#footnote-15) When considering whether someone could reasonably reject a particular set of principles, contractualists attend to a variety of different reasons –including reasons generated by the fairness or unfairness of the distribution of caregiving burdens or burdens of rescue. However, as with consequentialism, these reasons are all put into the procedure for determining what one person owes to others. Moral complaints are *inputs* into this contractualist procedure. And the resulting judgment that someone stands under a genuine moral obligation reflects the fact that all such complaints –all of the complaints that any agent or victim might have, both about the effects of particular actions and about the burdens of standing under particular obligations—have already been taken into consideration, through the procedure. If someone does have a reasonable complaint about a certain obligation, in the sense that they could reasonably reject a set of principles that contained that obligation, then the set of principles will be rejected and will not, according to the contractualist, reflect what we morally ought to do. Once again, then, it seems that there is no conceptual space for a moral objection *to* a genuine moral obligation. And this is so because, like consequentialism, contractualism purports to be totalizing (at least about the morality of right and wrong). It purports to factor all moral complaints that might be relevant to right and wrong *into* the one procedure for determining whether we have any given obligation. So it could not be true, according to contractualism, that we both have a genuine moral obligation and yet could, as the agent who stands under it, have a moral complaint about it.

One might at this point object that I am overlooking several complexities. The sophisticated contractualist might appeal, first, to what Scanlon calls “the plurality of the moral.”[[16]](#footnote-16) Contractualism, both for Scanlon and for many contractualists, is not a theory of the entire moral domain, but a theory of “only that part of the moral sphere that is marked out by certain specific ideas of right and wrong, or ‘what we owe to others.’”[[17]](#footnote-17) Contractualists might therefore object that they *can* in fact recognize the complaints that are at issue in cases of objectionable obligations, and moreover, can recognize them in a way that dissolves the apparent paradox. They can maintain that the moral obligations in these cases pertain to that part of morality that concerns what we owe to each other, whereas the agent’s complaint about standing under such moral obligations belongs to *a different domain of morality.*

Unfortunately, however, this does not seem a plausible analysis of the agents’ complaints in the kinds of cases we have discussed. We have seen that these agents are unfairly burdened by the distribution of caregiving or rescue responsibilities. Such considerations of fairness as between persons and social groups are precisely the kinds of moral considerations that affect our obligations *to other human beings*. So they are surely part and parcel of “what we owe to each other.” They are not a set of considerations belonging to some completely different moral domains –for instance, the different domains that Scanlon discusses, such as our duties towards animals or our treatment of the environment.

A different reply on behalf of the contractualist would be to try to recharacterize the

complaint in cases of objectionable obligations as a complaint about something other than standing under this particular moral obligation, in our current nonideal circumstances. The contractualist might claim: when women object to being disproportionately burdened with caregiving responsibilities, and when rescuers in situations of persistent negligent peril object to facing disproportionately grave risks, their objection is not actually *to standing under this obligation*, here and now. It is an objection to the *institutions* that are being negligent –to the workplaces that are structured in such a way as to presume that everyone has a wife at home, to the government that does not do enough to ensure that caregiving is split evenly across the genders, or to the companies that negligently construct railways or negligently leave highways in certain dangerous states, with the result that rescuers are now placed in more serious danger than they would otherwise have been. Contractualists might continue: nobody could reasonably reject a general principle requiring institutions to do their part, for instance, in ensuring gender equality or in preventing negligent perils.[[18]](#footnote-18) But that is not an objection to each of these agents (that is, the women, and the rescuers) *now* standing under an obligation, given that the institution did *not* do its part.

One way to understand this reply on behalf of the “sophisticated contractualist” is as drawing a distinction between the kinds of complaints that are relevant to ideal theory and those relevant to nonideal theory. When we are asking about what obligations people have, here and now, we are asking about non-ideal theory. And the contractualist would likely hold that, under nonideal theory, these agents do have these moral obligations. But their complaints, the contractualist might argue, concern what institutions ought to do, as a matter of ideal theory. Consequently, the contractualist might conclude that it is not a problem that their theory leaves no conceptual space for objectionable obligations. Perhaps *there should be no such space,* since the relevant obligation here is an obligation within nonideal theory, whereas the complaint is relevant to figuring out what principles for the regulation of social institutions could reasonably be rejected as a matter of ideal theory.

But I think this mischaracterizes the kind of complaint that is at issue in objectionable obligations. The parent who objects that they have been unfairly burdened with the task of caring for their severely disabled child, and the grown adult who objects that it is unfair that she has been left with the task of minding her wandering parent all day are, it is true, upset in part at what their social institutions have left undone. But they are also objecting to *having to bear these responsibilities themselves* *right now,* given that these institutions have left this undone. And this part of their objection does not belong in ideal theory. This part of their objection is straightforwardly a matter of nonideal theory. They are complaining that they should not be bound by this obligation, right now, because others, too, are not. It is unfair, as between them and others, that the burden now falls on *them.*

Perhaps, however, the sophisticated contractualist might push back. He might say: look, we can really give no sense to the claim that someone has such a complaint within nonideal theory. For what is the moral significance of A’s allegedly having a complaint about principle *p*, if A still has an obligation to follow *p*? What moral difference could A’s having this complaint possibly make? And who could A’s complaint possibly be against, if it isn’t exclusively against the institution for negligently doing whatever it did? If we cannot figure out who else A’s complaint could be against or what moral difference it could really make, then it seems likely that the only coherent thing that it could be is a claim about what the institutions ought to do, as a matter of ideal theory.[[19]](#footnote-19)

It seems to me that in these cases, the agent has a twofold complaint. Part of it, it is true, is a complaint about the negligence of institutions, which depends on a claim in ideal theory about the obligations of such social institutions in distributing or redistributing the burdens that stem from our human vulnerabilities or from the negligence of those who create perils. But the other part of the complaint is a complaint against *other individuals* who are, *here and now,* not placed under such burdensome obligations and benefit from not having to deal with them. So the complaint is not only against the negligent institution. It is also a complaint against those who are currently benefitting from these institutions’ unfair patterns of distributing burdens. As for what the actual moral significance is of having a complaint about a genuine moral obligation, it is quite coherent to hold that even when someone stands under a moral obligation, they can nevertheless have a complaint against others who do not shoulder that burden, a complaint *that carries with it a kind of moral residue or remainder.[[20]](#footnote-20)* That moral residue can take many forms. It might be that others are obliged to provide certain forms of support to these agents, whether monetary or in the form of other kinds of caregiving. It may be that others are obliged to take on certain other kinds of duties, given that these agents have taken on a disproportionate share of caregiving or rescuing duties. We do not need to settle this question here. What is important is that there are quite tangible ways of recognizing that a moral residue exists, representing somebody’s real complaint about having to stand under a certain obligation: it need not be thought of as a chimerical complaint simply because we have concluded that the agent stands under a genuine moral obligation.

1. ***Implications***

I have argued that objectionable obligations –genuine moral obligations which the agent nevertheless has a moral complaint about standing under—are coherent, and that our intuitive response to a number of different kinds of cases involving unjustly distributed burdens of caregiving or rescuing actually presupposes that it is possible for there to be objectionable obligations. I have also tried to show that neither consequentialism nor contractualism leaves conceptual space to recognize such obligations. What broader lessons can we learn from this? In this concluding section of the paper, I want to focus on two sorts of lessons. One set is more narrowly applicable and has to do with some of cases that I used as examples, involving systemic discrimination against women and families of children with disabilities. Another set of lessons has to do with the implications of objectionable obligations for normative ethics. Let us consider each of these in turn.

First, systemic discrimination. We commonly think of it as involving a failure on the part of more privileged groups to fulfil their obligations towards more subordinated social groups; for instance, by denying them a fair share of political power or by failing to give them equal opportunities in important contexts such as housing and public education. But the tragedy of systemic discrimination isn’t just that the privileged fail to fulfil their obligations towards the underprivileged. It’s that we saddle the underprivilegedwith objectionable obligations, obligations that they have a moral complaint about. And part of the problem with such obligations is precisely that they are not chimerical: they are genuine moral obligations. As I noted earlier, because they are genuine obligations, those who stand under them often feel as though they ought not to complain, and the members of privileged groups often take advantage of this by relying on them not to complain so that they, the more privileged, do not have to bear their fair share of certain burdens, such as caregiving for the vulnerable. This is a helpful way of understanding some of the exploitation that occurs in cases of systemic discrimination. It also sheds light on why victims of systemic discrimination do not simply reject their burdens and cast off their chains. They do not do so because in many cases, they have been put in a position where others really do depend on them and they really do have these caregiving obligations even though it is unfair that they have them.[[21]](#footnote-21) If this is correct, then an adequate response to systemic discrimination can only be institutional, and it must involve redistributing burdens in such a way as to eliminate certain *actual* moral obligations, not only to eliminate certain *misconceptions* about what various agents’ moral obligations are.

Second, the implications for normative ethics. If my analysis is correct, then the reason that both consequentialism and contractualism fail to leave room for objectionable obligations is that both theories aspire to a kind of completeness – with all relevant kinds of reasons factored into the procedure of determining whether an agent has a certain moral obligation. But the examples I have discussed in this paper seem to suggest that our moral landscape is not so tidy. Many of our moral obligations depend on the unjust institutions through which we live our lives, which place different burdens upon members of different social groups and which often leave some in unfair positions, relative to others. Perhaps this means that we cannot have a viable moral theory that factors all of the relevant kinds of reasons into a single process for determining whether something is a moral obligation.

It may be that, with further modifications, consequentialism and contractualism could accommodate our intuitions that such objectionable obligations exist. But it seems to me that they could do so only by giving up on what we might call “the aspiration of moral completeness,” the aspiration to capture all morally relevant considerations (or at least, all those relevant to that part of morality pertaining to what we owe to others) through a single procedure, whether it is an assessment of the optimific outcome or an assessment of which principles could reasonably be rejected. And the aspiration of moral completeness is part of the attraction of these theories, to begin with. Consequentialism is, in many respects, not particularly plausible: as many have argued, it simplifies our moral landscape considerably, and it can seem unreasonably demanding. But it has what often seems like an enormous advantage, which is that it offers us a single coherent explanation of all moral wrongs. The existence of objectionable obligations, however, casts doubt on whether this is such an advantage. As for contractualism, it is possible that the contractualist could offer us plausible separate contractualist explanations of why we have the obligation, on the one hand, and why we have a legitimate objection to it, on the other. But such a version of contractualism would then need some *other* procedure for reconciling these different claims – so the idea of what we could reasonably reject would not then be able to play the morally unifying role that it is supposed to play.

So my conclusions may cast some doubt both on consequentialism and on contractualism. Our moral landscape is messy enough that perhaps no single procedure for determining what we ought to do will be able to capture all of the morally relevant considerations that determine the obligations we have and the complaints we might have about them.

1. Of course, if it were one’s own child, the situation might be different, because the balance of reasons would be different. [↑](#footnote-ref-1)
2. Note that on some views of legal authority and obligation, this type of case can be more complicated, since we may have a moral obligation to obey even certain unjust laws. [↑](#footnote-ref-2)
3. Mill, Introduction to *On Liberty.* [↑](#footnote-ref-3)
4. See Scanlon, *The Significance of Choice.* [↑](#footnote-ref-4)
5. Cite relevant feminist literature here. [↑](#footnote-ref-5)
6. Cite relevant theories of exploitation here. [↑](#footnote-ref-6)
7. See *Just v British Columbia.* [↑](#footnote-ref-7)
8. Foot, "The Problem of Abortion and the Doctrine of the Double Effect" in *Virtues and Vices* (Oxford: Basil Blackwell, 1978); Thomson, “Killing, Letting Die, and the Trolley Problem,” 59 The Monist 204-17 (1976);

   Thomson, "The Trolley Problem" (PDF). Yale Law Journal. 94 (6): 1395–1415 (1985). [↑](#footnote-ref-8)
9. Though not always irrelevant to this question, of course. Would it make a difference if the five were the people responsible for the runaway trolley, whereas the one was purely an innocent bystander? [↑](#footnote-ref-9)
10. Kimberly A. Yuracko & Ronen Avraham, “Valuing Black Lives: A Constitutional Challenge to the Use of Race-Based Tables in Calculating Tort Damages,” 106 Calif. Law Rev. (2018) 325; See also Goran Dominioni, “Biased Damages Awards: Gender and Race Discrimination in Tort Trials” (2018) 1:2 Int'l Comp., Policy & Ethics L. Rev. 269; Loren Goodman, “For What It’s Worth: The Role of Race- and Gender-Based Data in Civil Damages Awards” (2017) 70 Vand. L. Rev. 1353. [↑](#footnote-ref-10)
11. This is Principle C in Vol. 3 of Parfit’s *On What Matters.* [↑](#footnote-ref-11)
12. Parfit, “Optimific Motives and Rules,” Vol. 3 of *On What Matters.* [↑](#footnote-ref-12)
13. Cite demandingness literature here. [↑](#footnote-ref-13)
14. Murphy, *Moral Demands in Nonideal Theory* [↑](#footnote-ref-14)
15. Scanlon, *What We Owe to Each Other,* p.9 [↑](#footnote-ref-15)
16. See Scanlon, *What We Owe to Each Other,* p. 178 [↑](#footnote-ref-16)
17. Scanlon, ibid. [↑](#footnote-ref-17)
18. Indeed, Scanlon endorses such a principle explicitly – see *What We Owe to Each Other* (p.--) [↑](#footnote-ref-18)
19. Reference David Estlund’s critique of my claim in the HRLS Symposium. [↑](#footnote-ref-19)
20. See B. Herman and J. Oberdiek for discussion of a moral remainder or residue in the context of interpersonal obligations. [↑](#footnote-ref-20)
21. Many Indigenous women, when asked why they have not fled the reserves, where they are at much greater risk of sexual violence and exploitation, reply that they have caregiving obligations to their families and to the families of all those relatives who are in jail –a host of elderly relatives and small children. See the *Report of the National Inquiry on MMIWG.* [↑](#footnote-ref-21)