

## Objectionable Obligations\*

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*What's right ain't necessarily fair.<sup>1</sup>*

*In this, as elsewhere in these areas . . . theory has to be responsive to experience, and to what a reflective agent feels that he needs to say.<sup>2</sup>*

Can someone stand under a moral obligation and yet at the same time have a moral complaint about being bound by that same obligation? That is, there is something they morally ought to do. But they have a moral complaint about being bound to do it, because of certain institutional injustices or individual wrongs that generated the obligation –for instance, because of the many gendered practices that together result in women shouldering caregiving obligations in circumstances where many men do not have to, or because a concatenation of unjust institutional policies can leave members of subordinated social groups obliged to do things that others will never have to do and that we think should not be asked of anyone. In at least some of these cases, the agent's moral complaint appears not to negate their obligation but to coexist with it --shaping this obligation and the related obligations of other agents in subtle ways. When this occurs, the agent has what I shall call an “objectionable obligation.”

Do objectionable obligations really exist? Why should we think so? What would we do a better job of noticing or understanding, and what new questions might we be prompted to ask in

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<sup>1</sup>Adapted from Toni Morrison, who wrote: “What's fair ain't necessarily right.” Morrison (1987) p. 256.

<sup>2</sup> From Bernard Williams. See Williams (1981) p.75.

moral and political philosophy, if we took the existence of objectionable obligations seriously? These are the questions I shall address in this paper.

I shall try to show that in a number of common situations involving injustices or wrongdoing, it is natural to think of agents as standing under objectionable obligations. For instance, in many societies, social and political institutions distribute the burdens of caring for society's most vulnerable members unfairly across different social groups, with women, parents of disabled children, and those with frail elderly parents shouldering a disproportionately large caregiving burden. Importantly, we do not usually think that this unfairness negates their caregiving obligations. Women who have been saddled with an unfair share of caregiving responsibilities cannot simply walk out on the vulnerable children or elderly relatives who are dependent on them. Rather, it seems more plausible to suppose that, although real caregiving obligations are generated by these relations of dependence, these women also have a moral complaint about being bound by these obligations.

The complaint I am pointing to is not reducible to an attitude of resentment towards those with fewer caregiving duties, though that attitude may in some cases be appropriate. Nor is it primarily a complaint about the prior institutional injustices or individual acts of wrongdoing that resulted in these agents now having these obligations (though of course such agents will often also have a complaint about these injustices or wrongs). The complaint involved in an objectionable obligation is a complaint about *being bound by that obligation*. And although the complaint does not negate the obligation, the complaint may in certain ways make a moral difference to the obligation itself and to the surrounding moral territory --for instance, by affecting what means the agent can permissibly use to fulfil that obligation and whether they can claim compensation for the efforts and resources expended in fulfilling it; by affecting when and whether moral criticism of the agent is warranted, and by whom; by making a difference to the

kind of state enforcement of that obligation that is justified, if any is; and by generating certain new obligations on the part of others. For instance, it seems plausible to suggest that the only people who have moral standing to criticize the women who fail to meet these caregiving obligations are the vulnerable people who depend on them, and not those who are benefitting from the offloading of these responsibilities onto women; and that the government may be justified in allowing those who depend on these women to enforce the obligation through tort law, but could not as easily justify using the criminal law to punish those who fail to fulfil these obligations, given the state's own failure to allocate caregiving burdens fairly. Moreover, the women who do meet their obligations may have a claim on the state or others for compensation of some kind, because of their complaint. And their complaint may generate in all of us a corresponding moral obligation to take some steps to change the circumstances that give rise to these obligations –to become what Barbara Herman has called “an agent of moral change” not just in the sense of altering people's beliefs about what they ought to do, but in the further sense of taking steps to change the obligations people actually stand under.<sup>3</sup> Or so I shall argue.

This is an area that has been underexplored within value theory. We tend to assume that, if a person stands under a genuine moral obligation, it must be true that they cannot have a moral complaint about standing under that same moral obligation. Of course, we recognize that they could have some other kind of complaint, perhaps a complaint based upon a conflicting religious obligation. (Consider the Amish's complaint about laws requiring them to have their photograph taken to obtain a driver's license or passport: even if these laws are just and the Amish have a moral obligation to obey them, we can recognize that the Amish may nevertheless have a religious complaint about them, for their religion forbids making any image of themselves).

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<sup>3</sup> Herman (2021) also uses the term “agent of moral change” in this further sense. See in particular Chapter 11, “Incompleteness and Moral Change.”

Moreover, at least some moral theorists acknowledge that there can sometimes be conflicts between different moral obligations --or what moral theorists call “moral dilemmas,” where an agent is unable to fulfil one of her obligations without violating another.<sup>4</sup> For example, one may be unable to be both a patriotic citizen who enlists and defends their country and someone who looks after their parents in their old age.<sup>5</sup> Neither of these is an instance of what I am calling an “objectionable obligation” because objectionable obligations involve a conflict or tension within a single moral obligation itself: the agent seems at once to be bound to do something and yet to have a moral complaint about being bound to do it, not because of some further, competing duty but because of an injustice or wrongdoing that has generated the obligation and that seems to taint the obligation itself. The idea that a single moral obligation might be tainted in this way can seem problematic. I shall argue, however, that we have no good reasons for rejecting the possibility that objectionable obligations exist and very good reasons for embracing it. Acknowledging it will enable us to see more clearly a dilemma that many members of oppressed social groups find themselves in and better appreciate the kind of exploitation they face. It will also open up a new way of thinking about each person’s duty to be an agent of moral change, and relatedly, about what constitutes moral progress.

In this paper, I shall focus on those objectionable obligations that arise from institutional injustices, because the existence of this type of objectionable obligations seems to me to have particularly important implications for political philosophy, enabling us better to understand phenomena such as systemic discrimination and exploitation. But the category of “objectionable obligations” is broader than those that derive from institutional injustices and encompasses also

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<sup>4</sup> For two examples of philosophers who recognize moral dilemmas, see Williams (1972) and Zimmerman (1996) Ch. 7. However, others have denied that such conflicts are possible, at least in the case of positive obligations: see Valentyne (1989).

<sup>5</sup>The example is from Sartre and is discussed in Williams (1972).

obligations generated by individual acts of wrongdoing that taint the obligation and give the agent a moral complaint about standing under it. Suppose, for instance, that a hostage-taker has taken ten civilians hostage. He sees you and tells you that if you shoot one of the ten, he will release the other nine, but that if you do not, he will shoot all ten.<sup>6</sup> You have every reason to believe he will do what he says and attempts at negotiation and other non-violent solutions have failed. Some have argued that you are obliged to shoot one hostage. If this is an obligation, it is certainly an “objectionable obligation”: you have a moral complaint about having to do this, about being *obliged* to shoot an innocent human being because someone else has wrongly placed you in the situation where this is the only thing you can do to save nine lives. Your obligation is tainted by the hostage-taker’s individual act of wrongdoing.

So objectionable obligations can arise even in situations where they are not generated by an institutional injustice.<sup>7</sup> What characterizes them is that they are generated by *some form of wrongdoing*, whether institutional or individual. And in such cases, what gives rise to the agent’s moral complaint about standing under the obligation is not the mere size of the burden placed upon them, but its *source* –that is, not the demandingness of the obligation, but the fact that it has arisen out of an injustice or wrongdoing. Many of us stand under very demanding or burdensome obligations, simply because of bad luck. My parent may be stricken with cancer. Even in a fully just society, where the state provides excellent medical care and caregiving help for me, this will still leave me under demanding obligations that those whose parents do not have cancer will never have to bear. But they will not be objectionable obligations. Likewise, my home might be

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<sup>6</sup> I have tried here to give a more racially sensitive version of Bernard Williams’ example of “Jim and the Indians” from Williams (1988).

<sup>7</sup> I am assuming in the above example that there is no underlying institutional injustice that gave rise to the hostage-taker abducting the civilians. Of course, in many such cases there would be an underlying institutional injustice. But this doesn’t count against the idea that in some cases, objectionable obligations can be generated by individual acts of wrongdoing; it only shows that some objectionable obligations stem from *both* individual acts of wrongdoing and underlying institutional injustices.

destroyed by an earthquake; and even if my government does all that it ought to do to support me and other victims, this will still upend my life and place demands on me that others, whose homes were not destroyed, will not bear. This does not make my ensuing obligations “objectionable” in the sense I am concerned with. Objectionable obligations carry with them moral complaints, complaints against others, precisely because they stem from these other people’s injustices or wrongdoing. So although I hope to convince you through the course of this paper that objectionable obligations are not a narrow, esoteric class of obligations but are actually a pervasive feature of our moral lives, not every obligation is objectionable, and no obligation is objectionable simply because it is very burdensome or very demanding. Objectionable obligations are those that have been generated by an injustice or act of wrongdoing and that remain tainted by this injustice or wrongdoing, creating a moral complaint on the part of the agent.

The argument of the paper is in four sections. Section 1 presents several common situations involving injustices and tries to show that our intuitive reaction to these situations is that someone stands under an objectionable obligation. Section 2 tries to show that we cannot explain away objectionable obligations –for instance, by suggesting that the agents in these cases really have no complaint, or that it is a complaint about something other than having to stand under the obligation, or that what is being asked of them is so unfair or so demanding that it ought not to be thought of as an obligation at all. Section 3 argues that we should not *want* to explain away objectionable obligations, because there are significant advantages to recognizing them. I argue that we need to acknowledge their existence if we are ever really to understand the situation of social groups that face subordination and exploitation, or to do moral theorizing in a way that makes visible the moral world they inhabit. I also explore some different ways in which the complaints in these cases seem to make a moral difference without negating the obligation,

and I point to a number of new questions that open up once we acknowledge the existence of objectionable obligations. Section 4 turns to a more speculative exercise. Here, I ask why, if they are so important, objectionable obligations have not been discussed as such within moral philosophy. I suggest that it is partly because certain dominant moral theories, like consequentialism and contractualism, seem to leave no conceptual space for them. I argue that we should reject the shared assumption underlying these theories that leaves them with no such conceptual space, rather than rejecting the possibility of objectionable obligations.

### ***1. Objectionable obligations arising from institutional injustices***

I noted earlier that although objectionable obligations can arise because of either individual wrongdoing or institutional injustices, the focus of this paper will be on objectionable obligations that arise from institutional injustices. In this section of the paper, I shall try to motivate the idea that there can be objectionable obligations in situations of injustice. My aim here is not to cover the field or offer a taxonomy of all types of objectionable obligations arising from injustice. There are likely many other situations of injustice in which objectionable obligations arise. But I want to focus here on two types of situation in which I think our intuitions are quite strong. In both, the agent appears to stand under a genuine moral obligation and yet clearly has a moral complaint about doing so.

#### ***A. Where the complaint stems from an unfair distribution of burdens***

##### ***(i) Caregivers for the Vulnerable***

Within many societies, there is insufficient social and institutional support for severely disabled children and for older adults who are in need of care, whether because of dementia or because of physical impairments. In these societies, 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 with severe disabilities who needs care for 24 hours a day 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.

Sometimes, rather than letting the burden of caring for the vulnerable rest on those who are related to them, society shifts the burdens onto the shoulders of one social group. 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 largely 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.<sup>8</sup> Through a complex array of workplace policies, laws, educational practices and social expectations, women 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. Most agree that it is not fair that women should be left to shoulder such a disproportionate amount of the caregiving burden. But, given that women are so often placed 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 Aunt Jada needs a phonecall to check up on her tonight-- others become 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, given that their family and community members are 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. 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.

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<sup>8</sup> Cite relevant feminist literature here.

Leaving women under this social pressure to accept their obligations without complaint may constitute a distinctive sort of exploitation.<sup>9</sup> 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. I shall return to this point later, in Section 3, for it will be relevant when we consider what we might do a better job of seeing if we acknowledged the existence of objectionable obligations.

**(ii) *Overburdened Rescuers***

Sometimes, there is an unfair distribution of burdens not in relation to natural human vulnerabilities, but because an institution has negligently created a peril and the burden of rescuing others from the peril seems to fall repeatedly and unfairly on one social group. For example, in certain (often impoverished) 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. This burden seems unfairly distributed, and the rescue workers seem intuitively to have a complaint about this: they shoulder a disproportionately large burden, not because of a natural peril such as an earthquake, but because of several institutions' negligence (the railroad companies that negligently laid the tracks, and the many public authorities that have done nothing to fix the situation or locate new rescue workers). But yet nobody denies that these rescue workers have a genuine moral obligation to rescue the victims when accidents materialize.

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<sup>9</sup> Cite theories of exploitation here; also Fredman (2023).

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.<sup>10</sup> 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, one might think it irrelevant what sorts of institutional failings or injustices led to the five being imperilled in the first place or led to the rather limited rescue options available in this case.<sup>11</sup> Similarly, one might think it 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 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.

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<sup>10</sup> Foot (1978), Thomson (1985), and Thomson (1976).

<sup>11</sup> However, if the argument of this paper is correct, and the complaints attached to objectionable obligations can affect the obligation itself and the means that can be used to fulfil it, then perhaps these details are relevant even to the question that Thomson and Foot are asking (ie of what the rescuer’s obligation now is).

Note that the kind of rescue case that involves an objectionable obligation is 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, she ended 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 and there was no runaway trolley on that day. But in such one-off cases, the person bearing the disproportionately large burden might have been any of us. And more importantly, I think we are intended to suppose that the cause of the runaway trolley in these one-off cases is an innocent malfunction rather than an injustice. So the rescuer in such one-off cases does not seem to have a moral complaint about standing under the obligation to rescue. The complaint that makes a rescue case into a case of an “objectionable obligation” arises when there is a background injustice that results in certain members of one social group being *unfairly* burdened.

I think that many of the obligations of subordinated social groups in situations of oppression can helpfully be thought of as objectionable obligations borne by “rescuers” in situations where the rescuers are unfairly burdened. 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).<sup>12</sup>

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<sup>12</sup>See Dominioni (2018); Goodman (2017); Yuracko & Avraham (2018).

Those who live in impoverished, racialized neighbourhoods polluted by such toxic chemicals are therefore 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 standing under these obligations. Yet we do not deny that these rescuers have obligations to do what they can to protect their family and their friends’ health and mitigate their collective losses. 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.

In the two types of cases I have described so far, the agent’s complaint appears to stem from an unfairness in the underlying distribution of burdens, either of caring for the vulnerable or of rescuing others from negligently created perils. But there are also other cases in which objectionable obligations arise, cases in which the agent’s complaint stems instead from a set of injustices that leaves members of a subordinated group in the position of having to do something that no member of the dominant group would ever have to do, and that nobody should have to do. I shall turn to these cases now.

***B. Where the complaint stems from having to do something nobody should have to do***

***(i) Parents of Left-behind Children***

In China, many parents from rural areas can only find work in cities, and so their only hope of being able to feed and clothe their children is to migrate to the cities and seek a menial job there. Because China’s highly restrictive *hokou* (household registration) system leaves rural-born children with virtually no chance of accessing social services in cities, these parents must

leave their children behind. This not a small or parochial problem: there are currently estimated to be 69 million “left-behind children” in China.<sup>13</sup> Many of their parents have concluded that they have a moral obligation to go to the city for work, for the sake of the same children they have to leave behind, who would otherwise not be fed and would not survive. At the same time, it seems plausible to think these parents have a moral complaint about standing under this obligation. This obligation asks them to do something that no member of a higher class in China would have to do, and that nobody should ever have to do --namely, leave their children for years, rupturing their bond with their child for the sake of being able to feed them. This is, arguably, another sort of objectionable obligation.

One might object to my description of this scenario on the grounds that, if this is the kind of thing that nobody should have to do, then surely it is implausible to suppose that these parents really do have an *obligation* to leave their children. But these parents do seem to feel under an obligation to go and work in the city for the sake of their children: they consider it morally necessary. And given that their children would otherwise starve and that, as parents, they are responsible for doing what they can to ensure their children’s survival, this seems not an unreasonable conclusion. At the same time, what they are being asked to do is beyond the pale: they are being asked to rupture one of the most important and sacred bonds in their child’s and their own life. It does seem a sacrifice of a kind that nobody should have to make; and certainly no member of a higher class in this society would have to make it. And yet, given the background institutional injustices and the undeniable needs of these rural children, their parents must make it.

**(ii) *Indigenous Parents “Covering”***

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<sup>13</sup> As reported in Gao, X., Liang W., Mobarak A.M. & Song, R. (2023).

Consider a second example of this type. The Canadian government operated “residential schools” for Indigenous children for over a hundred years, from the 1880’s to 1997, with the goal of eradicating their cultures. Here, the children had their long hair cut, their traditional clothing thrown away, and their names removed (they were renamed with English or French names). They were denied the ability to speak their own languages, practice their cultures, and see their families; and they were subjected to sexual, emotional and physical abuses, including starvation (up to 40% of the children at these schools perished from neglect and malnourishment).<sup>14</sup> In order to avoid having their children taken away, many families lied about their origins. My partner’s family, who were Métis but could “pass” as white, did what Kenji Yoshino has called “covering”<sup>15</sup> and passed their children off as francophone Catholics, never telling their children about their Indigenous heritage, never sharing their traditional stories, and sending them to the local Catholic school so that they would learn to behave like “ordinary” Canadians. Their family –like most such families-- felt under an obligation to live a lie and to make their children live a lie, because it was the only way to save their children from being taken away and never returned. If this was indeed an obligation, it was surely an objectionable one –one about which the family had a moral complaint. Nobody should have to live a lie and make their children live a lie. But sometimes, given the background social and political injustices, living a lie is the only way to ensure that one’s children survive. And one does it for the sake of one’s child, because one believes it is what one must do in order to fulfil one’s obligations to one’s child.

What these cases seem to have in common is a background of unjust institutions that threaten the livelihoods or cultures of members of a subordinate class, with the result that their

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<sup>14</sup> Truth and Reconciliation Commission of Canada (2015).

<sup>15</sup> Yoshino (2006).

only way to fulfil their obligations to their children is to do something to them or with them that nobody should have to do.

There are, I believe, also other types of case in which injustices generate objectionable obligations. For instance, this may be a helpful way of understanding our obligation to resist injustice or to engage in civil disobedience: when faced with a significant injustice, we may be obliged to speak out and risk imprisonment, but we would not be obliged to do so were it not for the injustice that we are protesting, and this gives us a moral complaint about having to speak out and risk imprisonment.<sup>16</sup> It may also be a helpful way of understanding third parties' obligations to try to mitigate the effects of certain injustices or save others from them –for instance, by hiding members of persecuted ethnic minorities in their homes, or by helping to forge false identity papers for them so that they can escape the country that is persecuting them.

As I said earlier, my aim here is not to be comprehensive or cover the field. I hope that I have said enough, though, to convince you that our intuitions in at least some cases are that agents stand under an objectionable obligation.

## **2. Why we cannot explain away objectionable obligations**

However, one might claim, in response to some or all of the above scenarios, that these are not actually cases in which agents have a moral complaint about having to stand under a genuine moral obligation. Either there really is no moral complaint; or it is a complaint about something else, something other than standing under that obligation; or the agent is being asked to do something that is so burdensome that the correct conclusion is that these acts are not

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<sup>16</sup> I owe this example to Sam Scheffler.



obligatory but supererogatory. Some of these strategies might seem to work best for some scenarios; others, for other scenarios. I shall argue, however, that all of them fail.

First, consider the objection that there really is no moral complaint in these cases. One might suggest, for instance, that the parents in *Caregivers for the Vulnerable*, *Parents of Left-behind Children* and *Indigenous Parents Covering*, as well as the rescuers in *Overburdened Rescuers*, all chose to become parents or rescuers, knowing the conditions of injustice in which they were living. Even though they did not choose to have a child with a disability or choose to be so poor that they would need to leave their child and move to a city, nevertheless, they had knowledge of the background injustices and their possible consequences for them, and they chose to go ahead and become a parent or a rescuer. So they cannot now complain about standing under such an obligation.

But there are at least two problems with this response. First, it is not clear that the parents' or the rescuers' choices can play the role that this response accords it—that is, that it can block a moral complaint on the part of the agent, in a context where the relevant institutions (the government, the railroad companies, etc) have so deeply failed the people whose interests they ought to have considered.<sup>17</sup> We do not normally think that choice eliminates the possibility of a moral complaint, particularly when the choice is made in the context of deeply unjust social circumstances. Second, this way out of the apparent paradox in an objectionable obligation is not available in the case of adult children who have been left to care for their elderly parents, or of the women who have been raised to be in the position of the only person who can attend to their family members' emotional needs. Nobody chooses to be the child of their parents; and many of the relationships of dependence that women find themselves in are not chosen by them.

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<sup>17</sup> See Scanlon (1986).

A more promising way to dissolve the apparent paradox of objectionable obligations might be to argue, not that there is no moral complaint in these cases, but that my descriptions misconstrue what it is a complaint *about*. One might argue that in none of these cases is it really a complaint about standing under the obligation. One might suggest: when we acknowledge that we have a certain moral obligation, part of what we are claiming is that it is *fair* for others to demand this of us. So the agent's complaint in these cases cannot be about standing under the obligation. It must really be a complaint against the relevant social and political institutions about the underlying unfairness or injustice that gave rise to the obligation in the first place, not a complaint about being bound by the obligation itself. It is unfair of governments and employers not to take concrete steps to address such underlying problems as the gender wage gap, the devaluation of women's work, and the persisting public-private divide, all of which together result in women being disproportionately responsible for domestic work and caring for others. This is what the women in *Caregivers for the Vulnerable* have a complaint about. It is unfair of the Chinese government to prioritize economic growth over the plight of internal migrants and their children, and to privilege the education of wealthy city children over the much more urgent needs of rural children; this what *Parents of Left-behind Children* have a moral complaint about, not their parental obligations. And the injustices involved in the kind of cultural genocide that the Canadian residential schools perpetuated hardly need rehearsing; these are what the complaint is really about in *Indigenous Parents Covering*. To suggest that the agents' complaint in such cases is about standing under these particular obligations to their children is to make a category mistake. They simply couldn't have a complaint about those, if they are genuine moral obligations.

But this response seems to me to make a mistake analogous to the mistake Bernard Williams accused many moral theorists of making, when they ignored the possibility that even

the agent who does what she ought to do can nevertheless regret so doing it.<sup>18</sup> Williams had in mind an agent who feels they ought to do *a* and they feel they ought to do *b*, but cannot do both. The agent ultimately decides to do *a*. Yet, Williams argued, such an agent could still sensibly regret not having chosen to do *b*. He noted that:

It seems to me a fundamental criticism of many ethical theories that their accounts of moral conflict and its resolution do not do justice to the facts of regret and related considerations: basically because *they eliminate from the scene the ought that is not acted upon* (my italics).

The “ought that is not acted upon,” Williams later notes, can “persist as regret, which may (though it does not always) receive some constructive expression.”<sup>19</sup> My point here is not quite the same as Williams, of course: in the examples I am discussing, the agents does not face two “oughts” but rather faces one ought and one moral complaint about that same ought. But an analogous point can be made. My hypothetical objector wants to eliminate from the scene the agent’s purported complaint about their obligation, because it seems to conflict with the obligation itself, just as the ethical theorists whom Williams criticized wanted to eliminate from the scene all moral traces of oughts other than the ought that the agent ends up deciding to act upon. Just as Williams suggested that the resulting picture of our moral reasoning is not phenomenologically accurate because it leaves out a lingering source of regret that we can all understand, so I am suggesting that to deny that these agents can have a complaint about their acknowledged moral obligation is to misrepresent the agents’ moral reasoning. My partner’s

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<sup>18</sup> Williams (1972), s.6, p.175.

<sup>19</sup> Ibid.

grandparents were not just upset at the government for instituting the residential schools in the first place. That was, of course, part of their complaint. But they were also outraged that they had been put in the position of having to lie for the sake of their children. They felt they had a moral complaint *about being bound to do this to their children*, even as they acknowledged that it was indeed their moral obligation. Women with gendered caregiving obligations in patriarchal societies, similarly, recognize that they are obliged to care for the vulnerable people who are dependent upon them –after all, that is why they so often quit their jobs to look after those at home or remain on Indigenous reserves in precarious and sometimes abusive situations. Yet they feel they have an objection, a complaint, about having to stand under these very obligations.

Indeed, to fail to grasp that the complaint in these cases is not just a complaint about an institutional failing but is also a complaint about the agent's own obligation is, I worry, not just to misrepresent these agents' moral reasoning, but to do a political disservice to the subordinated groups that experience this kind of objectionable obligation. It is arguably to make not merely an epistemic mistake but a political one, one that in its own way contributes to the exploitation of women and other subordinated social groups. For as long as we continue as moral theorists to overlook the possibility that such groups can have moral complaints about standing under these very moral obligations, we risk not only invalidating their experiences but perpetuating a social order in which they are expected simply to grin and bear it, silently fulfilling the obligations that we all acknowledge they have. So we risk contributing to their ongoing exploitation –in ways that I shall explore further in the next section of the paper.

We are currently exploring whether it is possible to explain away objectionable obligations. I have now argued that we cannot do so by explaining away the *complaint*. But one might try to do so by explaining away the *obligation*. This might seem a particularly appropriate strategy with respect to the obligations in *Parents of Left-behind Children* and *Indigenous*

*Parents Covering*, which stem from background injustices that leave agents in a position where they apparently must do something that members of the superior class will never have to do and that we think no one should have to do. One might argue that in these cases, the obligation is merely apparent. One might claim: the kinds of sacrifices that these agents are being asked to make—to rupture their bond with their child, or to live a lie with that child—are so demanding, and the background injustices so great, that these acts cannot be obligatory. They must be *supererogatory*.<sup>20</sup> Those who do this for their children are demonstrating a kind of moral heroism, or are at least doing something that they could never be morally criticized for refraining from doing.

Once again, I worry that this redescription is unfaithful to these agents' own perceptions of the situation. My partner's family did not see themselves as heroes, partly because what they were obliged to do to their children would, they knew, *harm* those children even though it would save their lives. Of course, not all accounts of the supererogatory conceive of supererogatory acts as heroic. On some accounts, supererogatory actions are simply actions that one cannot be morally criticized for *not* performing and that are in a *certain* respect meritorious, because they are undertaken for another's good even when this is not required and even when it demands a considerable sacrifice.<sup>21</sup> But these parents felt precisely that, if they did not take such drastic steps to save their children's lives, they would have failed as parents. They did not see themselves standing outside the realm of what morality required of them, free to choose whether to make an additional sacrifice; they saw themselves as grimly caught, caught by an obligation to their children that itself required them to do something horrible to themselves and those children.

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<sup>20</sup> For discussions of the supererogatory and its relation to the obligatory, see Feinberg (1968), Heyd (1982), Kamm (1985), Zimmerman (1996) Ch. 8, and Wessels (2015).

<sup>21</sup> See, for instance, Heyd (1982).

Indeed this is arguably part of the reason why their situation was so tragic and the injustices perpetrated against them, so great. It is uncomfortable, but not tragic, to find oneself beyond the reach of moral obligations, having to decide whether to perform some supererogatory action. It is tragic when one's government acts in such a way that one is under an *obligation* to perform an otherwise unthinkable action, one that no one should ever be asked to perform. Seen in this light, the attempt to redescribe these actions as supererogatory is a convenient avoidance tactic, a way of trying to minimize the tragedy that the government brought about.

Moreover, this redescription of objectionable obligations as belonging to the realm of the supererogatory will clearly not work in cases like *Caregivers for the Vulnerable* –where the objectionable obligation stems from an unfair distribution of burdens, particularly those cases involving caregiving obligations towards vulnerable members of our society. Nobody thinks of caregivers as performing supererogatory actions when they nurture their own children or family. Nobody denies that these caregiving obligations, even when very burdensome, are genuine moral obligations. Moreover, if we were to deny this, we would risk being unable to understand many such agents' motivations and would risk fueling stereotypes about them and their situation. Women have often been criticized for not doing enough to get out of unfair or burdensome situations (for instance, in Canada, Indigenous women have often been blamed for staying on reserves in abusive situations, or for resorting to prostitution in order to make enough money to stay where they are and look after those who need them).<sup>22</sup> The reason they often stay, however, is precisely that they view themselves as standing under certain *obligations*. They know there are young people and older people who are dependent on them, and they know they cannot simply walk away from these obligations. To deny that these are all genuine obligations fuels the

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<sup>22</sup> Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (2019).

stereotype that, if these women stay and are then harmed, they have only themselves to blame. They must just be too lazy to leave if there is no real obligation tying them down. Or perhaps they don't really have that much to complain about: if there are no real obligations binding them, why would they stay if their situation were really so bad?

But perhaps there is a different way in which one could argue that there is no real obligation in these cases. One might draw an analogy between these cases and cases involving what Zofia Stemplowska has called the “duty to take up slack.”<sup>23</sup> Taking up slack involves doing more than one's fair share in circumstances where one would not have had to do so if others had not failed to comply with their duties. Moral philosophers have debated whether we really do have a duty to take up slack in contexts such as one-off rescue cases and global crises such as accommodating refugees or providing aid during humanitarian crises. Some, such as Liam Murphy, David Miller, and J.L. Cohen, have argued that we have no such duty: in these contexts, one only has a duty to do one's fair share, and no more than that.<sup>24</sup> Could one not use one of their arguments to show that there is, analogously, no obligation in these cases of objectionable obligations?

To be sure, there are certain points of similarity between the kinds of cases I have discussed and cases of taking up the slack. In *Caregivers for the Vulnerable and Overburdened Rescuers*, there is an unfair distribution of the burdens of caregiving and of repeated rescue duties, and it does seem plausible to suggest that part of the reason the agents stand under these obligations is that others are not doing their fair share (of the caregiving or the rescuing). Cases like *Parents of Left-behind Children* and *Indigenous Parents Covering* are less easy to conceptualize as cases in which people are being asked to do more than their fair share. For here

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<sup>23</sup> Stemplowska (2016) at 592.

<sup>24</sup> Murphy (2000); Miller (2016). See also Cohen (1981).

the problem is not fairness in the distribution of some burden but simply the imposition of an unreasonable sort of demand. But perhaps there is something of an analogy, given that part of what seems to make this demand unreasonable is that it would never be asked of those who are members of superior social classes and they are able to enjoy the dominance they do in their societies partly because of the unjust policies that leave subordinate class members in this kind of dilemma.

Nevertheless, I think the arguments given by Murphy and Miller for not recognizing a duty to take up slack will not carry over into the context of objectionable obligations. Murphy's arguments apply only to *collective* duties. He conceives of our duty of impartial beneficence as a collective duty, owed by anyone in a position to help. He argues that such a collective duty must be fairly divided, so that the burdens of taking steps to fulfil that duty do not advantage some at the expense of others. Therefore, each person's responsibility is only to do their fair share. But I doubt that the obligations I have discussed are plausibly construed as *collective* duties. Certainly the caregiving obligations in *Caregivers for the Vulnerable* and the parental obligations in *Parents of Left-Behind Children* and *Indigenous Parents Covering* are not collective duties: they are individual obligations, owed by parents to children and family members to each other. And because they are not collective duties that can be divided into fair shares, I think it is misleading to describe the problem in these cases as a problem of "being asked to do more than one's fair share." I am not doing more than my fair share when I fulfil my obligations to my children, because nobody else *has* a share in these obligations. They are mine alone. Of course, that does not mean that there is no issue of fairness here: if society does not provide me with adequate support, and if it places my children too often in a position where they are dependent on me only and not also on others, then it is nevertheless treating me unfairly. I can have a real moral



complaint stemming from this unfairness, even if it is true that these dependence relations have created a moral obligation that is mine alone to fulfil.

The obligations of rescue in *Overburdened Rescuers* might seem more plausible candidates for collective duties, of which we could argue that the rescuers ought only to do their fair share. But I think there is an important difference between these cases and the cases of beneficence Murphy has in mind. Murphy's collective duty of beneficence applies to all those *who are in a position to help*. In *Overburdened Rescuers*, however, the complaint of the overburdened rescuers in impoverished, racialized neighbourhoods is that they are always the ones in the position to help whereas others are not. In other words, their complaint is not against others in their position who also stand under the collective duty but are not doing their fair share of the work involved in fulfilling it. It is that their society has been structured so that their social group *is the only one* ever to stand under this particular collective duty. So we cannot successfully explain away either their objectionable obligation or their complaint by showing that each individual member of this group only has an obligation to do their fair share of this collective duty. The problem is precisely that social injustices and the negligence of the actors who created the peril have resulted in a situation where this group of rescuers, and not others, stand under such a collective duty to begin with.

There is one final argument by Miller that may be worth considering.<sup>25</sup> Miller suggests that in cases of non-compliance, holding others to be under an obligation to take up the slack would, in effect, be failing to treat the non-compliers as responsible agents.<sup>26</sup> But, as Stemplowska points out, this seems to conflate two senses of responsibility.<sup>27</sup> I will call them

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<sup>25</sup> Miller (2011) 241.

<sup>26</sup> In the same way, perhaps, that failing to recognize an intervening agent as a *novus actus interveniens* in a torts case would in effect treat them as a force of nature rather than an independent agent with an independent mind.

<sup>27</sup> Stemplowska (2016) 601-2.

“responsibility as the capacity to respond to moral reasons” and “responsibility as reliably acting in accordance with those reasons.” The only kind of responsibility that we are denying to non-compliers when we hold others to be under a duty to pick up slack is responsibility in the sense of reliably acting in accordance with their reasons. But this seems a perfectly reasonable thing to deny, if they are indeed non-compliers. By contrast, one can hold that people have obligations that derive from other people’s non-compliance (or, in the cases I am envisioning, their wrongdoing or injustice) without presupposing that the wrongdoers lack responsibility in the first sense --a capacity to respond to moral reasons. So I do not think that considerations of responsibility militate against recognizing obligations, either in cases of picking up slack or in cases of objectionable obligations.

### **3. Why we should not *want* to explain away objectionable obligations**

I have argued that we cannot successfully dissolve the paradox of objectionable obligations either by explaining away the complaint or by explaining away the obligation. But, as I hope has become evident through the examples presented in Section 1 and my discussion of them in Section 2, we should not want to explain them away. Recognizing objectionable obligations as a real moral phenomenon opens certain possibilities.

For one thing, it opens a new set of questions within moral and legal philosophy about the difference a moral complaint can make to an objectionable obligation and to the surrounding moral and legal territory –that is, to that obligation and the means that the agent can permissibly use to fulfil it; to whether the agent is entitled to compensation for fulfilling it, and from whom; to who can morally criticize or blame them when they fail to fulfil it; to what legal mechanisms can justifiably be used to enforce that obligation, given the presence of the complaint; and to what obligations other agents might acquire because of that complaint, and in particular which

obligations they might acquire to bring about moral change. It is too great a task for this paper to set about answering all of these questions in all of the cases I discussed in Section 1; nor should we expect a single answer to all of them, one that would hold across different cases. So in this section of the paper, I shall simply try to identify some of the important questions and give a few examples of interesting possible answers. After I do this, I shall turn to two further advantages of recognizing objectionable obligations. I shall argue that they have significant implications in political philosophy, because they can help us understand a dilemma in which many members of oppressed social groups find themselves, and can give us a richer appreciation of the kind of exploitation they face. Finally, I shall try to show that by recognizing objectionable obligations, we may be spurred on in moral philosophy to think in a new and more liberating way about each person's duty to be an agent of moral change and about what moral progress itself involves.

#### **A. Investigating the difference a complaint makes to the obligation**

If there are objectionable obligations, then it is a mistake to think that once we determine that an agent stands under a certain obligation, there is nothing more to say about that obligation from a moral standpoint. We need to think about whether the agent has a complaint about it and about the particular kind of moral force that the complaint might have in that case. Of course, by definition, such complaints do not silence or outweigh the obligation. But that does not mean they have no other effects on that obligation or on other, related obligations. What sort of difference might an agent's complaint make, in such cases?

##### **It might make a difference:**

###### **(i) To the means through which the obligation can be fulfilled**

Although the agent's moral complaint in such cases does not outweigh or silence their obligation, it can sometimes make a moral difference to the means the agent is permitted to take in fulfilment of that obligation. It seems plausible to suggest, for instance, that because the

person who stands under an objectionable obligation has a complaint about so standing, she may and should cut certain corners, choosing whatever path will be least objectionable and most faithful to whatever values were compromised by the injustice that led to her complaint in the first place. Many subordinated social groups have realized this; and a beautiful example is provided by the Métis families in my *Indigenous Parents Covering* example. These families realized that although they had to take great care to deceive the authorities about their family's culture when their activities were visible, and could not describe these activities as "Métis culture" to their children in case the children inadvertently revealed what was going on, they could nevertheless creatively preserve some traditions behind closed doors –or even, as it happened, behind open windows. The tradition of Metis jigging was preserved because when one jigs, one only moves one's legs and not one's upper body; and families quickly realized they could be jigging while police officers were patrolling up and down outside their homes, and all that the officers would be able to see through the open windows as they walked by were the *upper* parts of their bodies, which of course appeared to be stationary. So they were able to continue and pass on this important tradition, even while outwardly pretending they were francophone Catholics. Because these families had a moral complaint about having to live a lie, they were under no obligation to live that lie completely. They found ways to live that lie while at the same time salvaging and passing along whatever aspects of their culture they could.

Importantly, it may not always be possible to compromise the means by which one fulfils one's objectionable obligations. One reason why caregiving obligations are so demanding and their offloading onto women seems so unfair (and has been so paralyzing for so many women) is that, at least when performed by one member of a family towards another, caregiving duties are not just a set of duties to take the material steps necessary to keep another person alive and safe. Many of them are also duties of love, and these ones have a crucial expressive dimension that can

take up a great deal of a person's attention. It is important that I not only connect the feeding and breathing tubes properly to make sure my child gets what they need to stay alive, but that I do so in ways that express, to them and others, my deep love for my child and my awareness of her unconditional value. So it won't do to hurriedly slam equipment down on the table, or absent-mindedly set something up while watching the news, or do it all with a look of complete lack of interest on my face. Or at least, while there is some latitude for some of this some of the time (as I shall explain shortly, we would certainly not blame an overburdened caregiver who occasionally behaved this way), it cannot be these sorts of behaviours that predominately characterize one's fulfilment of one's caregiving obligations, for the obligations themselves require that they express my love and that they be performed with my full attention. So, while the presence of a moral complaint can make some difference to the means that can permissibly be used to fulfil an objectionable obligation and can sometimes allow for corners to be cut, the nature of the obligation will sometimes rule out the cutting of certain corners.

**(ii) To whether the agent can claim compensation for fulfilling their obligation**

Another kind of moral difference that a complaint about an objectionable obligation might make is to entitle the agent who fulfils their obligation to some form of compensation for the efforts and resources involved in fulfilling it. We might think, for instance, that parents of severely disabled children and women who do far more caregiving than their male counterparts are entitled to compensation both from the government and from other members of their society who benefit from not having to do this work. The fact that it is not realistic to imagine our governments or our fellow citizens ever agreeing to provide such compensation does not count against the claim that these people's complaints entitled them to it; it just shows how deep the initial injustice runs in such cases, and how many other people's interests are served by off-loading this work onto these women and these families. But perhaps it is worth noting that the

choice here is not between demanding full compensation or accepting that nothing is owed. Moral agents in this position could advocate for small forms of compensation, or small benefits that reflect some acknowledgment that compensation is owed. Perhaps, for instance, local Chinese authorities in cities should pay the parents of left-behind children for the cost of a trip home every year, to enable them at least to see their children once a year. Perhaps parents of children with severe disabilities whose incomes are below a certain level should be given a special government allowance –something that, even if not nearly enough to cover the costs of their care, would help to compensate them in a small way. And it seems that all of these groups should at the minimum be given an *apology*, both from the state and from those who benefit from their standing under these objectionable obligations.

To be clear, both this kind of an apology and any demand for compensation that is owed to agents who stand under objectionable obligation need to be correctly construed. They are not apologies or compensation for the initial injustice. These are also owed, of course. The Canadian government has now issued a formal apology for the residential schools, and it has set up a compensation fund for survivors of the schools. But these do not address the moral complaints of my family and the families in *Indigenous Parents Covering*. These families too deserve compensation, even though their children never attended the residential schools. They deserve compensation for having fulfilled their objectionable obligations, and they deserve an apology from the government for putting them in a position where they stood under this obligation.

**(iii) To who can criticize or blame the agent who fails to fulfil their obligation**

It also seems plausible to suppose that our moral complaints in cases of objectionable obligations can make a difference to who can criticize or blame those agents who fail to fulfil these obligations. In particular, those against whom the complaint is directed would not seem to

have the moral standing to criticize or blame the agent for failing to fulfill that obligation. So, for instance, in cases like *Caregivers for the Vulnerable* and *Overburdened Rescuers*, we might argue that governments who are responsible for offloading so many caregiving responsibilities onto women and onto certain communities that face repeated needs for rescue, and governments who are responsible for not providing proper support for families of children with disabilities and vulnerable older adults, do not have the moral standing to blame those agents who fail to fulfil their obligations.

We might think this for either of two reasons. First, there seems to be a kind of estoppel argument available: those who have failed to fulfil their own responsibilities to these vulnerable groups cannot now complain when others (that is, the agents standing under objectionable obligations) fail to do so as well. Through their own morally flawed behaviour towards the victims in these cases, others have forfeited the right to criticize or blame the agents who do not fulfil their objectionable obligations. Second, there may be an argument from shared blame that one could make in such cases.<sup>28</sup> Given that the state and other agents are themselves to blame for the underlying injustices that have given rise to these obligations, one might think that less blame accrues to the moral agent who fails to fulfil her objectionable obligation: in these cases, the blame should really be conceptualized as *shared* between the agents of the underlying injustice and the agents who have failed to fulfil their objectionable obligation.

Mill famously spoke of “the moral coercion of public opinion,”<sup>29</sup> and recognized that public opinion is often a more coercive factor in our lives than the law is. Most caregivers are acutely aware of the public pressure they stand under –pressure to be always available, always cheery, always self-sacrificing, and never complaining. But if it is true that many of their

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<sup>28</sup> I owe this suggestion to Liam Murphy.

<sup>29</sup> Mill (1859), Ch1, para 9.

caregiving obligations are objectionable, then some of this public pressure is misplaced. The obligations are still genuine; but the moral criticism with which we constantly threaten those who might fail to fulfil these obligations is inappropriate.

**(iv) To whether and how the obligation can be legally enforced, and on behalf of whom**

Finally, the presence of a moral complaint may make a difference to whether the government can legally enforce performance of these obligations, and how, and whom they envision themselves acting on behalf of, when they do. In cases like *Caregivers for the Vulnerable*, the complete dependence of the vulnerable children and adults on their caregivers may lead us to think that even a state that has unjustifiably distributed these caregiving responsibilities could nevertheless justifiably allow victims to sue negligent caregivers in tort law, provided that it is only victims (and those acting on behalf of them) who are allowed to sue. But we might pause before thinking that the state could justifiably enforce such objectionable obligations through the criminal law. Unlike tort law, the criminal law purports to speak not primarily for victims in a private dispute but for society as a whole, and it purports to vindicate society's mores. But in these cases, as I noted in the last section, society as a whole has let down the agents who stand under objectionable obligations and has not done its own part to prevent or rectify the initial injustice. So we might think, on the basis of the same estoppel-like reasoning I examined in the last section, that the state cannot legitimately use the criminal law to enforce such caregiving obligations.

I have now listed a variety of ways in which the agent's moral complaint about an objectionable obligation can make a difference to the obligation itself. Indeed, one would expect it to, because it is a complaint about *that obligation*. Such complaints, of course, also make a difference to the obligations that other people have to those who stand under objectionable



obligations. I shall shortly explore one of these obligations, when I discuss the obligation to be an agent of moral change. But first, I want to note some important implications of objectionable obligations within political philosophy, in helping us make sense of systemic discrimination and exploitation.

### **B. Understanding systemic discrimination and exploitation**

Acknowledging objectionable obligations not only opens up areas of research within moral philosophy; it can also assist us in understanding important topics within political philosophy, such as systemic discrimination and exploitation.

We commonly think of systemic discrimination as involving multiple, interconnected failures on the part of more privileged groups to fulfil their obligations towards subordinated social groups marked out by certain grounds of discrimination --for instance, by denying racial minorities a fair share of political power and by failing to give them equal opportunities in important contexts such as housing and public education, on the basis of their race. But I wonder whether the tragedy of systemic discrimination is not just that the privileged fail to fulfil their own (unproblematic) obligations towards members of such subordinated social groups, but also that it saddles the members of subordinated social groups with *objectionable obligations*. Think back to the rescue obligations in *Overburdened Rescuers*. These require members of racial minorities living in poor and polluted neighbourhoods continually to rescue members of their community from unsafe working conditions and hazardous living conditions, and that require communities in the global south to deal increasingly with flooding and heatwaves and other effects of global warming. Part of the problem with such rescue 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. Members of more privileged groups and countries often take advantage of this by relying on

these moral agents not to complain --so that they, the more privileged, do not have to worry about many of these burdens. I think this is a helpful way of understanding some of the exploitation that occurs in cases of subordinated social groups. The exploitation involves not only benefitting from their labour, but insisting on the reality of their moral *obligation* while denying the reality of the moral *complaint* that is in fact generated by the very same injustice as the initial obligation.

Seeing these obligations of subordinated social groups as genuine obligations, but obligations about which they have real moral complaints, can also help shed light on why victims of systemic discrimination or exploitation do not simply reject their burdens or 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 obligations* even though it is unfair that they have them.<sup>30</sup> Many Indigenous women, when asked why they have not fled reserves where they are at great risk of sexual violence, reply that they have caregiving obligations to their families and to the families of relatives who have left to find work elsewhere: there is a large group of elderly relatives and small children that depend upon them. If we insist, as moral and political theorists sometimes do, that no genuine moral obligation can carry with it a genuine moral complaint against others, then we will be forced either to deny that these women have real caregiving obligations in their situations or to deny that they have any real complaint about them. Neither is a very appealing stance. As I mentioned earlier, those who wish to blame such women for their predicament have standardly denied that they stand under real obligations. This is a convenient position for the state to take, for it means that women who stay in precarious situations have only themselves to blame, but it is hardly going to help us understand the women's own perspectives. Others have denied that these are real obligations; but of course this

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<sup>30</sup> See the Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (Volume 1a).

too is false to these women's experience and it seems belied by the fact that we rely upon them to undertake this work and we assume that the vulnerable people whom they care for have a right to receive that care from them.

If I am right, and subordinated social groups that face systemic discrimination and exploitation are standardly placed under objectionable obligations, then an adequate response to these particular injustices must involve not only eliminating misconceptions on the part of more privileged groups about what *their* obligations are, but also taking steps to change the objectionable obligations that subordinated groups stand under, so that they are not unfairly burdened in ways that others are not.

### **C. Expanding our duty to be an agent of moral change and our conception of moral progress**

I mentioned earlier that an agent's complaint under an objectionable obligation not only makes a difference to that agent's own moral obligations; it can also make a difference to the obligations of others. Some of the ways in which it can do so are obvious and unremarkable. For instance, if women have a complaint against others in their society for not bearing their share of the costs of childcare, then these others have, at the very least, some obligations to these women to help them fulfil their childcare obligations. But the recognition that these are *objectionable* obligations can also help us see, I think, that there are additional obligations that others acquire, obligations that stem from the agent's complaint about standing under the obligation. In particular, others have an obligation to be what Barbara Herman has called an "agent of moral change" and work to change *the obligations* that these people stand under.<sup>31</sup>

On a conventional picture of our moral obligations, one can understand people being agents of moral change only in the sense that they have a duty to take those steps that are within

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<sup>31</sup> See Herman (2021).

their power to eliminate injustices and, where appropriate, to help other people grow into more mature moral agents, changing what others believe is true from a moral standpoint. But I think that, once we allow that moral obligations may be *tainted* in the way that objectionable obligations are, then the obligation to be an agent of moral change appears in a somewhat different light. It appears to be, not just an obligation to eliminate the underlying injustices or to change people's beliefs about what they ought to do, but an obligation that is owed in part to the people who stand under objectionable obligations, to *change their obligations*. It is an obligation to take steps to eliminate others' objectionable obligations. Where an agent has a moral complaint about some obligation, those of us who can –and certainly, those of us against whom the complaint is directed—ought to work to change their obligation, so that they stand instead under an obligation about which they have no complaint.

When objectionable obligations are understood as part of a moral system that *also* contains an obligation to be an agent of moral change, I think they appear less troubling. What is troubling about the idea of a tainted moral obligation is that we might have to say to its agent: “Sorry, but that’s your duty! Go and do your duty!” And they will then be left standing under an obligation about which they have a moral complaint. But if it is correct that these agents’ moral complaints generate in many other people an obligation to be an agent of moral change and to work to eliminate the objectionable obligations, then we are not left in this situation at all. We can say to such agents: “Well, that’s your duty right now. But we acknowledge that you have a complaint about this being your duty. And many of us owe it to you to take steps to fix this, to ensure that you do not stand under this particular objectionable obligation in the future.”

In addition, and relatedly, objectionable obligations give us a helpful way of understanding moral progress. Moral progress, at least by this one measure, involves moving society closer to a state of affairs in which there are fewer objectionable obligations. Such

progress will of course be slow, and we will never be able to eliminate objectionable obligations completely. But we can take steps to change social and political institutions in such a way that the legitimate needs (for instance, the caregiving needs of the vulnerable) that are currently served by imposing objectionable obligations on certain social groups are instead served in ways that do not generate moral complaints for anyone; and we can try to ensure that nobody is subjected to the kind of injustice I described in Section **1.B** that leaves them with an obligation to do something no one should have to do.

#### *4. Why do we doubt the existence of objectionable obligations?*

I have now argued that the idea of an objectionable obligation is coherent and intuitively plausible, and that there are both theoretical and political advantages to recognizing that they exist. But if this is indeed a coherent and important idea, why has it not been discussed in this form? Why do we doubt the existence of objectionable obligations? In this section of the paper, I shall speculate that this is because certain dominant moral theories, in particular, consequentialism and contractualism, seem to leave no conceptual space for them. I shall explain why this is. I shall consider a number of responses that might be made by the “sophisticated contractualist” and shall argue that they fail. I shall then conclude by suggesting that the underlying assumption common to both theories that leaves them unable to recognize objectionable obligations must be rejected.

Let us look first at consequentialism. Most of my discussion will focus on rule consequentialism, since, of the two forms of consequentialism—act-consequentialism and rule-consequentialism—it is both the form that seems most plausible, and the only form that might conceivably accommodate objectionable obligations. But it is worth saying something briefly about act consequentialism. 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."<sup>32</sup> What an agent has a moral obligation to do, on this view, is whatever 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.<sup>33</sup> A consequentialist seeking to recognize an objectionable obligation might therefore try to do so by arguing that the fact that a certain caregiving or rescuing burden is disproportionately placed on members of a certain social group when they stand under an objectionable obligation is a fact about its *non-deontic badness*. They might then try to factor it into the consequentialist calculus in this way. But even if we accept 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. And the act consequentialist takes morality to be entirely focussed on the goodness and badness of the acts that we perform, not the goodness or badness of standing under certain obligations. So it is not clear that this fact is even visible from the act consequentialist's moral horizon.

What about the rule consequentialist? Rule consequentialists maintain that what we ought to do is follow the rules that are optimific or would make things go best.<sup>34</sup> Because the rule consequentialist is concerned with the goodness and badness, not just of particular acts, but of the

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<sup>32</sup> This is Principle C in Vol. 3 of Parfit (2017).

<sup>33</sup> Non-deontic badness contrasts here with deontic badness, or badness that derives from a 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.

<sup>34</sup> Parfit, "Optimific Motives and Rules," Vol. 3 of Parfit (2017). 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.

rules that require us to perform these actions, they could acknowledge the kinds of unfairness that we have seen underlying certain objectionable obligations –for instance, 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.

Why, however, couldn’t the consequentialist build 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.<sup>35</sup> This is of course one reason

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<sup>35</sup> Cite demandingness literature here.

why theorists such as Murphy have defended the kind of restrictions on a collective duty of beneficence that I examined in the previous section, 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.<sup>36</sup> However, as I noted earlier, this restriction is plausible only in the case of collective duties, not *all* duties. Even more importantly, this strategy *explains away* the objectionable obligation rather than allowing us to recognize it. It implies that a person only has obligations up to the point where their sacrifice would be unfair; and hence, that in the cases I am calling cases of “objectionable obligations,” there is no obligation. So it proves too much. The consequentialist cannot explain objectionable obligations; they can only explain them away.

Contractualists seem to have equal difficulty recognizing 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.”<sup>37</sup> 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

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<sup>36</sup> Murphy (2000).

<sup>37</sup> Scanlon (1998), p.9



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. So let us imagine a hypothetical interlocutor, whom I shall call “the sophisticated contractualist.” The sophisticated contractualist might start by appealing to what Scanlon calls “the plurality of the moral.”<sup>38</sup> Contractualism, both for Scanlon and for other contractualists, is not a theory of the entire moral domain, but a theory of “that part of the moral sphere that is marked out by certain specific ideas of right and wrong, or ‘what we owe to others.’”<sup>39</sup> Contractualists might therefore claim 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*.

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<sup>38</sup> Scanlon (1998) p. 178

<sup>39</sup> Scanlon, *ibid.*

Unfortunately, however, this does not seem a plausible analysis of the complaints in the kinds of cases we have discussed. We have seen that some of these agents are unfairly burdened by the distribution of caregiving or rescue responsibilities, while others are being asked to do something that no one in normal circumstances should be asked to do. These sorts of complaints do not seem to belong to some domain of morality other than what we owe to each other. On the contrary, considerations of fairness as between persons and considerations of what we can ask someone to bear for the sake of others are precisely the kinds of considerations that seem to be relevant to what we owe to each other.

The sophisticated contractualist might try a different tactic. She might try to recharacterize the agent's complaint about an objectionable obligation as a complaint about something other than standing under this particular moral obligation, in the agent's current nonideal circumstances. The sophisticated contractualist might propose: when women object to being disproportionately burdened with caregiving responsibilities, or when rescuers in situations of persistent negligent peril object to facing disproportionately grave risks, their objection is not really to standing under this obligation. It is really an objection to the institutions that have negligently not done what they ought to have done, such as governments and corporations. The sophisticated contractualist might continue: nobody could reasonably reject a general principle requiring such institutions to take certain steps to promote gender equality or prevent negligent perils. But that is not an objection to these agents now standing under certain moral obligations, given that these institutions did not do what they ought to have done.

One way to understand this reply on behalf of the sophisticated contractualist is as drawing a distinction between 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 sophisticated contractualist would likely hold that, under

nonideal theory, these agents do have these moral obligations. But their complaints, the sophisticated 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 a complaint that figures in ideal theory, when we work out what principles should govern our social and political institutions.

But I think this mischaracterizes the kind of complaint that is at issue in objectionable obligations. It makes a version of the same mistake that we saw in Section 2, when we imagined someone trying to explain away the complaint by arguing that it was a complaint not about the obligation but about something else, such as the underlying injustice perpetrated by the relevant social and political institutions. 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 and political 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, and because the government and their employers are not now doing what they should do to fix the problem. It is unfair, as between them and others, that the burden now falls on *them*. And it is unthinkable that the parents of left-behind children and children who would otherwise be sent to residential schools should have to make the sacrifice they are now being asked to make.

But the sophisticated contractualist might push back. She 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 relevant social and political institutions for the initial injustice? If we cannot figure out who else A's complaint could be against, and if we cannot figure out 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 institutions ought to do, as a matter of ideal theory.<sup>40</sup>

It seems to me that in these cases, the agent has a twofold complaint. Part of it is a complaint that derives from a claim in ideal theory about the obligations of such social institutions and governments 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 not placed under such burdensome obligations and benefit from not having to deal with them, and a related complaint against the state or other entities (like employers), who are now not doing what they ought to do to address the problem. So the complaint is not only against the institutions involved in the initial injustice, and it is not only a complaint in ideal theory. It is also a complaint against those who are currently benefitting from these institutions' unfair patterns of distributing burdens, and who are doing nothing in our current, non-ideal circumstances. As for what the actual moral significance is of having a complaint about a genuine moral obligation, this depends on how we answer the many questions I raised in Section 3. But, as I hope that section suggested, there are many

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<sup>40</sup> Reference David Estlund's critique of my claim in the JRLS Symposium.

possibilities. We are certainly not left with the answer that the complaint has no moral significance at all.

Must the sophisticated contractualist give up, at this point? It is possible that she could appeal to the standard contractualist procedure (of determining which principles no one could reasonably reject) to explain why an agent has a certain obligation, but then invoke some *other* procedure to explain why agents sometimes have lingering moral complaints about these obligations. But if the contractualist did this, then the idea of what we can reasonably reject would no longer be able to play the morally unifying role that it is supposed to play. So it seems to me that, if contractualism is to be able to explain objectionable obligations, it will have to give up on what we might call its “aspiration to moral completeness,” its aspiration to capture all considerations relevant to the morality of what we owe to others through a single procedure for settling on rules for the general regulation of behaviour.

This aspiration of moral completeness is a large part of what makes these theories attractive. They both purport to offer us a single coherent explanation of the morality of what we owe to others, and a single procedure for determining which acts are required and which, permissible. For consequentialism, that procedure involves determining which outcome is optimific. For contractualism, it involves locating principles that no one could reasonably reject. The existence of objectionable obligations, however, casts doubt on whether the aspiration to moral completeness is really desirable. Perhaps the fact that consequentialism and contractualism try to explain all of what we owe to others using a single procedure is not an advantage but a liability.

We live in societies with great institutional injustices and considerable individual wrongdoing. These injustices and wrongdoings form the background circumstances that shape our moral obligations. Why should we then suppose that the kinds of moral complaints that

agents might have about their obligations could only ever either be so strong as to negate the obligation or be so weak as to be outweighed or silenced by other considerations? The experience of members of subordinated groups suggests otherwise. It might seem paradoxical or illogical to recognize a moral complaint about a moral obligation one acknowledges one has. Yet, as Williams insisted in the quotation with which I began this paper, our theories need to be responsive to experience. Moral theory “ought to be responsive to what a reflective agent feels (s)he needs to say.”

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