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# The Structural Competence of Contractualism

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# The Structural Competence of Contractualism

## **Abstract**

The contractualist account of wrongness faces a family of objections that all aim to show that the account is explanatorily inadequate. These objections often level claims of circularity or redundancy, and interpreted as an internal challenge they present formal objections to the account of wrongness. If correct, they show that structurally contractualism fails to provide an independent account of wrongness because its determinations of wrongness necessarily rely on a non-contractual basis. Rather than respond to particular versions of these objections, I identify the elements of contractualism that may provide a basis for a charge of redundancy or circularity: the objections to a principle of action, the basis for assessing the objections and the reason-giving force of wrongness. Then, I show that accounting for the wrongness of an action at any of these stages either fails to capture the contractual account of wrongness or does not invoke a non-contractualist standard. Building on the ideal of justifiability, contractualists can provide an in principle response to these structural challenges.

## **Keywords**

contractualism, justification, redundancy objection, circularity

## **Disciplines**

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## **Comments**

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## The Structural Competence of Contractualism<sup>1</sup>

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Contractualists characterize morality as fundamentally concerning how people relate to one another. Insofar as someone treats others in a way that they can accept, her actions are permissible. If someone's actions cannot be justified to others, she acts wrongly. By relying on this idea of *justifiability to others*, contractualists can account for the wrongness of acts by appealing to a wide variety of reasons. For instance, contractualists can explain why murder is wrong by appealing to the death of innocents and explain the wrongness of plagiarism in terms of the importance of authenticity and originality. Someone can reasonably reject letting people act on principles that allow murder or plagiarism, at least in part, for those reasons. While this flexibility is a strength of contractualism, it also complicates explaining how the fact that an act is wrong itself provides a reason against doing it. Put differently, if the death of innocents explains the wrongness of murder, why take the extra contractualist step of determining whether a principle that allowed murder is justifiable? The contractualist step does not seem to add anything to the determination or understanding of wrongness. As a theory, it seems insufficient to account for the wrongness in each case.

Critics level this basic objection by invoking a number of examples: Judith Thomson asks us to think about torturing babies, Francis Kamm to consider brutal killings and Simon Blackburn gestures towards distributive principles that lead to "vast inequalities of wealth."<sup>1</sup> In each case, a bare moral consideration, like brutality or inequality, seems to determine the wrongness of an act or the injustice of a distribution. Insofar as someone can reasonably reject principles allowing those actions, the torture, brutality or inequality provides the basis for rejection. If these considerations sufficiently account for the wrongness of such acts, the broader contractualist understanding of wrongness seems unnecessary. Nicholas Southwood recently enumerated a family of objections that capture the way in which the intuitions behind how these examples put pressure on the contractualist account of wrongness.<sup>2</sup> As applied to Kantian contractualism, these objections press three basic worries. First, contractualism is redundant; determining whether acting on a principle is justifiable does not add anything to the explanation of wrongness beyond the underlying normative facts. Second, contractualism is circular; the account begs the question as to what is justifiable. Third, contractualism is explanatorily non-fundamental; as Southwood states, "it is, at best, explanatorily *non-fundamental* in virtue of presupposing explanatorily more fundamental considerations that are prior to, and independent of, the Kantian contractual situation."<sup>3</sup> Though these objections spin out differently, they all share the concern that non-contractual considerations in fact provide the basis for the moral significance of the idea of wrongness on a contractualist account. I will refer to this family of objections as insufficiency objections.

These challenges are formal. My project here is not to vindicate contractualism against alternative theories that also try to account for morality. At that stage, we can have a substantive

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philosophical debate between rival positions. Rather, I aim to establish that contractualism itself provides a complete, competent rival account of wrongness. Critics, if correct, show that contractualist determinations of wrongness *in principle* rely on a non-contractual basis. Interpreted as internal challenges, these charges must find purchase within the contractualist account. Systematically identifying the elements in contractualism that may serve as the basis for these challenges and showing how the view adds to and goes beyond them provides the sort of *in principle* response that the challenges merit.

Despite its prevalence, this overall line of criticism mischaracterizes the nature of contractualist justification. In defense of contractualism, I argue that the ideal of justifiability to others plays a central role in establishing what considerations serve as wrong-making reasons. Doing so demonstrates how contractualism does not fall to the insufficiency objections. I begin by laying out the structure of contractualist justification in order to identify the potential sources of these challenges (1). Both the objections to a principle for action (2) and the standard for assessment of those objections (3) serve as potential sources within the contractualist account for these objections. However, a clearer understanding of the ideal of justifiability to others shows how contractualism provides an independent and sufficient account of wrongness.

## **1. Contractualist Justification and the Potential Sources of Inadequacy**

In order for a contractualist account of wrongness to be inadequate, independent moral considerations, like the brutality of a killing, or some other moral principle, like the principle of utility, must establish the wrongness of an act. That is, some non-contractualist normative consideration sufficient to establish the wrongness of the act must justify or be presupposed by the contractualist account. Otherwise, contractualism stands on its own and provides an independent account of wrongness. Clarifying the different elements involved in contractualist justification exposes where the account may admit of challenges like redundancy. In this section, I clarify the contractualist account of wrongness. Then, I go on to consider whether any of these elements provides a basis for the insufficiency objections.

Contractualists try to account for the part of morality that involves “second personal address”<sup>4</sup> or, more simply, “what we owe to each other.”<sup>5</sup> The second personal standpoint contrasts with the first and third personal standpoints. In brief, the first person standpoint is self-directed, and the third person standpoint is world-directed. The second person standpoint, which Darwall traces back to Strawson, concerns an agential standpoint with mutually recognizable social rules that give rise to things like Strawson’s reactive attitudes.<sup>6</sup> If I help you *because your pain causes me discomfort*, I act first personally. If I help you *because I think you need it regardless of your goals or wants*, I treat you clinically or like a child - as something to be cared for rather than a person with which to be engaged. I treat you third personally. If I help *because you ask me*, I treat you as an agent who can make and be subject to demands. Contractualists tend to describe and characterize this second personal aspect of morality. Admittedly Scanlon does not make this distinction sharply as Darwall’s helpful corrective in *The Second Person Standpoint*.<sup>7</sup> Distinguishing the second personal from the first or third personal, however,

illuminates how, frequently, the objections to contractualism involve a tacit assumption that second personal considerations ultimately reduce to first or third personal ones; for example, some objections assume that reasons to act must be first personal or that the basis of weighing various reasons requires some third personal metric, like utility.

In order to capture the second personal aspect of morality, contractualists invoke the ideal that each person should be able to justify her actions to others. What it means to act justifiably is spelled out in terms of acting in ways that reasonable people can accept. T.M. Scanlon states his contractualist principle this way: “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>8</sup> Like other contractualists, Scanlon’s principle idealizes the notion of justifiability to others. In his contractualist principle, Scanlon distinguishes the ideal of justifiability from actual justification. Doing so rules out the cases where individuals may accept someone’s attempt to justify his act for bad reasons. For instance, someone who abuses his wife may justify the beatings to her on the grounds that, being a woman, she needs to be kept in line. If she has a low level of self-respect and acts in a servile manner, she may accept the reason as an acceptable justification for the beatings.<sup>9</sup> However, the fact that the husband succeeds in actually justifying his action to his wife does not mean that he acted justifiably. A reasonable person could reject the husband’s justification. This situation arises because people are able to accept reasons as justification that can be reasonably rejected.

Importantly, the contractualist principle of wrongness provides a way to assess general principles for action rather than the reasons to act in a particular case. In part because of the focus on generality, assessing a principle requires adopting the standpoints of those who would be most affected by its adoption and those who would be most affected by its rejection. The weighing of objections brings out “the comparative nature of the question of reasonable rejection.”<sup>10</sup> In each case, the reasons to object to a principle from their standpoint are generic; they are the reasons “people have in virtue of their situation ... aims and capabilities.”<sup>11</sup> To determine whether a general principle for action is acceptable, two cases must be evaluated. First, what objections can be raised against permitting people to act on a principle (objections to permission), and, second, what objections can be raised against prohibiting acting on that principle (objections to prohibition)? If the objections to permission outweigh the objections to prohibition, the principle is reasonably rejectable.<sup>12</sup> Put differently, if acting on a principle faces serious objections and refraining from acting on that principle does not, people should not act on the principle. Acting on that principle would be unjustifiable and therefore, according to contractualists, wrong.

Critics attack this picture by calling into question the relevance of reasonable rejection. Examples like brutal killings and torturing babies intuitively show that the objections to a principle - and not the subsequent step of reasonable rejection - fully explain the wrongness of the action.<sup>13</sup> An example helps to clarify the conflict. Imagine a case where a single person, Cheater, sleeps with the fiancé of his best friend, Betrayed. Determining whether this action is

wrong involves assessing the principles that would disallow the action. According to contractualists, if a principle that cannot be reasonably rejected prohibits the action, then the action is wrong. One potential principle is *be loyal to your friends*.<sup>14</sup> To determine whether the principle can be reasonably rejected, the strongest objections to allowing it must be assessed against the strongest objections to rejecting it.

The relevant standpoints in each case are those of each friend. From Cheater's standpoint, accepting the loyalty principle limits his ability to pursue what he wants. On the other hand, Betrayed has reasons to object to a situation where Cheater can decide whether or not to be loyal. That is, from his standpoint Betrayed has reason to object to a principle that makes his friend's loyalty discretionary. If nothing else, rejecting the loyalty principle makes it more difficult to cultivate close relationships by undermining the likelihood of trust in such relationships. Moreover, part of what makes friendship unique and valuable is the fact that we can rely on and trust friends. The loyalty principle cannot be reasonably rejected since the reasons to accept it - preserving the possibility and value of close relationships - are more important, particularly in the context of friendship, than the reasons against accepting it - preserving an unrestricted freedom to do what you want. It should be noted that while this example seems to use particular persons, all the objections to the principle are generic. Neither Cheater nor Betrayed appeal to something peculiar to him. According to proponents of the redundancy objection, the disloyalty and pain caused by the infidelity fully explain the wrongness of the action. The subsequent determination that violating the loyalty principle is unjustifiable is redundant or superfluous. After all, the reasons why violating the loyalty principle is unjustifiable seem to be the problems that occur when people are disloyal. Importantly, this discussion assumes a set of circumstances where the strongest objection to prohibiting disloyalty is preserving unrestricted freedom. Disloyalty may be permissible in another set of circumstances where the strongest objections that can be raised from the generic standpoints are different.

While brief, the example illustrates two aspects of a contractualist account of wrongness that may serve as the basis for the insufficiency objections: the objections to a principle and the assessment of these objections. Non-contractual moral considerations may be introduced at either of the two levels in the account. If the contractualist account of wrongness derives from non-contractual moral considerations at either level, contractualism structurally fails to provide an independent account of wrongness.

## **2. The Objections to a Principle as the Source of Inadequacy**

As the case of infidelity brings out, contractualists seem to face a dilemma. Either disloyalty and pain are prior moral considerations that count against performing the act or they do not seem to have moral content. If they are not moral considerations, they do not seem to bear on the morality of infidelity and do not provide a basis for reasonable rejection. If they are morally relevant, the contractualist account of wrongness relies on non-contractual moral considerations and fails to provide an independent account of wrongness.<sup>15</sup> Moreover insofar as the loyalty principle can be reasonably rejected, these moral considerations serve as the objections to the

principle and provide the basis for that rejection. According to the redundancy objection at the level of objections to a principle, the rejection of a principle simply follows from the moral considerations and, as such, the rejection does not add to the explanation as to why violating the loyalty principle is wrong. Alternatively, these considerations may be explanatory rock bottom without need to appeal to a contractualist test. If correct, the wrongness of an act – on a contractualist account – derives from the non-contractual considerations to a principle allowing the act. Importantly, there are two ways to understand which considerations may give purchase to the insufficiency objections: the strongest objection to a principle and as a set all objections to a principle. Taking each in turn clarifies the contractualist account of wrongness and how objections raised at this level fail to demonstrate contractualism is internally insufficient to provide an independent account of wrongness.

To begin, it is instructive to look at how a redundancy objection, leveled using the objections to a principle, characterizes and challenges contractualism. On this view, the underlying objections to a principle that can be raised from each standpoint capture the wrongness of an act. Contractualists seem to first gather the morally relevant considerations and then determine whether they provide a basis for reasonably rejecting a principle. The determination of wrongness occurs as the second step in the process. By drawing this sharp distinction between these two steps and identifying moral considerations as the grounds for wrongness, the subsequent step of reasonable rejection (and thus the contractualist account of wrongness) quickly becomes redundant. Moreover, on this way of understanding contractualism the wrongness of an act cannot provide an additional reason to not do it since the wrongness consists in the objections which already provide reasons against doing it.

Identifying redundancy at the level of objections mischaracterizes contractualism. As Stratton-Lake succinctly puts it, Scanlon's account of wrongness "is not supposed to tell us what makes certain actions morally wrong, but rather to tell us what it is for these actions to be morally wrong."<sup>16</sup> Put differently, Scanlon offers a contractualist characterization of wrongness rather than a test for determining wrongness. In order for a contractualist account of wrongness to be *redundant* in this way, the wrongness must be distinct from the objections to a principle, like the second step in an iterated process. This opens the conceptual space necessary for charges like redundancy. Without this space, the objections to a principle do not provide a basis upon which contractualism is insufficient since the objections at least partly constitute the wrongness.

Removing the conceptual space between the objections and wrongness potentially makes wrongness inert by identifying wrongness with the moral considerations that serve as the objections to prohibition (for example, the disloyalty and pain caused by betrayal). If the wrongness of acting on a principle just is the reasons that principle is not acceptable, the reasons seem to do all of normative work. These reasons alone, however, are not sufficient to establish the wrongness of an act on a contractualist account. Sometimes a justifiable act may be disloyal and cause pain. Returning to the earlier case, imagine an alternative principle: *betray friends when doing so prevents a terrorist attack*. Prima facie, the objections to forbidding acting on this principle from the standpoint of the terror victims will outweigh the objections to permitting such

acts from the standpoint of the betrayed friend. The disloyalty and pain caused by betrayal remains; nonetheless, their significance fails to make acting on the principle unjustifiable in light of the considerations that can be raised from the standpoint of the terror victim.

An objection to a principle cannot provide ground for redundancy since the significance of any particular objection will depend on what other objections pertain to the general principle and how to assess each of these objections. The critical examples, like brutal killing, obscure this point. After all, a principle that permits or requires brutal killings faces very strong objections. In nearly all cases, these objections will carry the day against any countervailing objections. Such examples tacitly appeal to a broader potential basis of redundancy: all the pertinent reasons. The disloyalty and pain alone do not make the infidelity wrong, they make it wrong in a context without stronger countervailing reasons. So, while one set of objections alone fails to provide a basis for redundancy, perhaps all of the pertinent objections can.

The problem with identifying all the objections to a principle as the source of redundancy is that principles can face objections without being reasonably rejected.<sup>17</sup> The contractualist account of wrongness describes a way of assessing a principle for action once all of the objections to that principle are on the table. As seen in the examples using disloyalty and pain, an objection may provide grounds for reasonably rejecting one principle while being trumped when considering another principle. Determining the reasonable rejectability of a principle involves making a claim *about the objections*. That is, determining that a principle for action is reasonably rejectable involves judging that the objections against requiring people act in accordance with a principle are more significant than the objections to not requiring compliance. Since the standard for wrongness makes claims about the objections to a principle for action, the contractualist account of wrongness necessarily goes beyond the content of the objections themselves. While particular objections may be very compelling, neither particular objections to a principle nor the complete set of objections captures the contractualist understanding of wrongness. They may serve as compelling counterexamples, but they do not establish that the contractualist account of wrongness is insufficient. Of course the way contractualists assess the objections – by determining whether the objections provide a basis for reasonably rejecting a principle – may be inadequate, but this inadequacy would come in at a second level in the contractualists account.

### **3. Assessment as the Basis for Inadequacy**

The objections to a principle do not make the contractualist account of wrongness insufficient since determining whether acting on a principle is justifiable depends on assessing the merits of objections both for and against a principle. Contractualism allows us to make sense of the constellation of reasons and to explain which principle is justified, all reasons considered. Leaving aside this comparative element necessarily overlooks a distinctive element of contractualist justification – the second personal characterization of morality. However, the insufficiency objections may also be leveled against the way contractualists assess the reasons for and against a principle. The basis for determining that a principle can be reasonably rejected is either morally significant or it is not. If the manner of assessment is not morally significant,



determining that one set of objections outweighs the other is morally arbitrary. If the manner of assessment is not morally arbitrary, then the standard for assessing objections provides the true basis of morality in a contractualist account. The rest of the account just follows from that standard. Frei puts the objection this way, “if the decision regarding which of these [objections] is strongest is based on agent-neutral considerations, the charge of redundancy has been merely pushed back a level. All the explanatory work, the objector might argue, is done solely by the agent-neutral principle.”<sup>18</sup> In particular, *reasonableness* seems to serve as a fixed, substantive standard for determining whether a principle is *reasonably* rejectable. After all, reasonable principles cannot be reasonably rejected. While reasonableness is a morally significant consideration, contractualists avoid redundancy in the assessment of objections because the standard of reasonableness is not fixed across contexts.

Philip Pettit explicitly argues that the contractualist test provides a way of knowing that a principle meets some further universal moral standard. Pettit puts the problem this way: if some principle “passes through the justifiability filter because of having this sort of value profile, and that ... [principle] passes through because of having that other [value profile], then there is surely something independent which is common to both those value profiles.”<sup>19</sup> In a later piece, Pettit suggests that if the standard of wrongness is reasonable rejection, then “the complaint-proof principles and option-types would have in common the fact of ensuring a certain relative level of happiness for the worst off in the population: a level that would silence complaint even from those in that quarter.”<sup>20</sup> While Pettit allows that contractualism is “plausibly cast as a test for spelling out the demands of civility,”<sup>21</sup> contractualism cannot provide an independent account of wrongness because the basis for assessing objections to principles for action is some independent, non-contractualist standard. In order to avoid redundancy at this level, contractualists must assess objections without appealing to an independent, non-contractual standard.

In various replies to critics, Scanlon clarifies that he understands the assessment of objections to be a substantive practical judgment.<sup>22</sup> After analyzing Scanlon’s position in several replies, Frei contends, “once it is clear which generic personal reasons are in conflict [in objecting to a principle], the contractors must simply make an ‘intuitive judgment’ about which of the conflicting reasons carries the most weight.”<sup>23</sup> While this explanation may be frustrating since it does not provide a clear standard for assessing objections, the response forestalls the explanatory redundancy objection. Since these intuitive judgments need not share a common agent-neutral basis, determinations of reasonable rejectability need not share a common basis. Without a common basis for weighing the objections, the weighing itself does not introduce non-contractual considerations. Put differently, contractualists can avoid these charges at the level of weighing so long as “there are several, incommensurable grounds for reasons for rejecting possible moral norms in hypothetical agreement.”<sup>24</sup> However, given this shape of a response to the redundancy objection, a further question needs to be answered: why isn’t relying on a substantive practical judgment terribly ad-hoc? Either principles are rejected for some reason, or the rejection lacks moral significance. Invoking an intuitive judgment seems like the latter.

Contractualists seem to lack an explanation as to why one set of objections outweighs another. While basing the assessment of objections on an intuitive judgment may avoid the explanatory redundancy objection, it potentially leaves contractualists with an unappealing account of wrongness.

To address Pettit's worry, contractualists need to explain how these substantive judgments are not arbitrary while maintaining they do not use an agent-neutral (third personal), non-contractual standard. I argue that contractualists do not invoke such a standard because of what it means for the rejection of a principle to be reasonable. According to Scanlon:

When we say, in the course of an attempt to reach some collective decision, that a person is being unreasonable, what we often mean is that he or she is refusing to take other people's interests into account. What we are claiming is that there is reason to take their interests into account *given* the supposed aim of reaching agreement or finding a course of action that everyone is happy with. It is in this sense that I am using the term when I say that an action is wrong if it would be excluded by any principles that no one could reasonably reject.<sup>25</sup>

Rather than invoke a fixed standard or consideration that will always make a principle reasonably rejectable, reasonableness requires taking others' interests into account. Contractualism does this by assessing the objection that can be raised from the generic standpoints of those most affected by permitting or prohibiting acting on a principle. Reasonableness does not require that a consideration that motivates rejecting a principle in one set of circumstances always do so because taking others into account requires responding to different considerations in different circumstances. It may be reasonable to reject allowing a judge to act on partial principles, such as those prioritizing family over others, while on the bench. The same principles may not be reasonable to reject when the judge is at home. The common aims, interests and burdened standpoints in judicial and familial contexts are different. Embracing the significance of these differences provides contractualists with a consistent and coherent way to understand reasonableness and the subsequent implications for who has standing to object, the objections and assessment of objections. In all cases, the problematic principles are those that can be reasonably rejected.

So, the standard for assessing principles that Pettit identifies – that permissible principles ensure a level of happiness to the worst off – is correct in a sense. Rather than identify a universal agent-neutral standard as Pettit suggests, the notion of *the worst off* is defined in terms of reasonableness. When assessing any particular principle, contractualists consider the objections that can be raised for and against a principle from those most burdened by its adoption or rejection. These most burdened standpoints represent the worst off in the sense that persons occupying those standpoints will have the strongest objections to the principle. While those with the strongest objections may frequently be those with fewer resources, this need not be the case. For instance, when assessing the loyalty principle the question of which friend has more resources is irrelevant. As this brief discussion illustrates, identifying a standard – like *being*

*acceptable to the worst off* – that must be understood in terms of reasonable rejection does not introduce non-contractual considerations. If anything, doing so reinforces the strength and independence of contractualism.

Accounting for the lack of a universal standard in terms of reasonableness has several benefits. Doing so provides a principled contractualist reason that explains both why assessing objections to a principle takes the form of a substantive judgment and why that judgment need not follow from some independent, third personal moral standard. Since reasonableness in any set of circumstances depends on pertinent common aims, the standpoints of those most burdened and subsequent objections to a principle, a fixed standard for reasonableness cannot be provided. For similar reasons, invoking reasonableness further explains why the reasons to reject a principle may differ across contexts, which plausibly explains why contractualists may reject principles on disparate (and perhaps incommensurable) grounds. In short, no single standard of the kind Pettit wants can serve the role of stating what is reasonable. While Pettit intuitively rejects this textured way of understanding why acts are wrong, contractualists affirm it on a principled basis.

## Notes

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<sup>1</sup> Judith Thomson, *Realm of Rights* (Cambridge, Mass.: Harvard University Press, 1990), p. 30, n.19.; F. M Kamm, “Owing, Justifying, and Rejecting,” *Mind* 111 (2002): 323-354.; Simon Blackburn, “Am I Right?,” *New York Times*, February 21, 1999, sec. 1A.

<sup>2</sup> Nicholas Southwood, *Contractualism and the Foundations of Morality* (Oxford: Oxford University Press, 2010), p. 53.

<sup>3</sup> *Ibid.*, p53.

<sup>4</sup> Stephen Darwall, *The Second-Person Standpoint* (Cambridge, Mass.: Harvard University Press, 2006); Stephen Darwall, “Contractualism, Root and Branch: A Review Essay,” *Philosophy and Public Affairs* 34 (2006): 193-214.

<sup>5</sup> T.M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Harvard University Press, 1998).

<sup>6</sup> Stephen Darwall, *The Second-Person Standpoint*, p. 317.; P. F. Strawson, “Freedom and Resentment,” *Proceedings of the British Academy* 48 (1962): 1–25.

<sup>7</sup> For Scanlon’s discussion of the scope of morality see: Scanlon, *What We Owe to Each Other*, pp. 177–187.

<sup>8</sup> *Ibid.*, p. 153.

<sup>9</sup> For more on servility see: Thomas E. Hill Jr., “Servility and Self-Respect,” in *Autonomy and self-Respect* (Cambridge, Mass.: Cambridge University Press, 1991), pp. 4-18.

<sup>10</sup> Scanlon, *What we Owe to Each Other*, p. 195. The weighing metaphor may be misleading. Reasons can relate to one another in a very rich way. For example, reasons can be defeated or undermined.

<sup>11</sup> *Ibid.*, p. 204.

<sup>12</sup> *Ibid.*, p. 195.

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<sup>13</sup> Judith Thomson, *Realm of Rights* (Cambridge, Mass.: Harvard University Press, 1990), p. 188.

<sup>14</sup> Scanlon generally holds that principles are claims about the acceptability of certain reasons for action rather than as maxims for action. See: Scanlon, *What We Owe to Each Other*, pp. 199-202.

<sup>15</sup> Tamra Frei, "The Redundancy Objection, and Why Scanlon is not a Contractualist," *The Journal of Political Philosophy* 17 (2009): 47-65; Michael Ridge, "Contractualism and the New and Improved Redundancy Objection," *Analysis* 63 (2003), p. 337; Jussi Suikkanen, "Contractualist Replies to the Redundancy Objection," *Theoria* 71 (2005), p. 40.

<sup>16</sup> Philip Stratton-Lake, "Scanlon's Contractualism and the Redundancy Objection," *Analysis* 63 (2003), p. 71.

<sup>17</sup> For a similar point see: Frei, op. cit., p. 54.

<sup>18</sup> Ibid., p. 55.

<sup>19</sup> Philip Pettit, "Review: Two Construals of Scanlon's Contractualism," *The Journal of Philosophy* 97 (March 2000), p. 162.

<sup>20</sup> Philip Pettit, "Can Contract Theory Ground Morality," in James Drier ed., *Contemporary Debates in Moral Theory* (Malden, Mass., Blackwell Publishing, 2006), p. 93.

<sup>21</sup> Philip Pettit, "A Consequentialist Perspective on Contractualism," *Theoria* 66(2000), p. 231.

<sup>22</sup> Darwall makes a similar point in his discussion of slavery. See: Darwall, *The Second Person Standpoint*, p. 267.

<sup>23</sup> Frei, op. cit., p. 59. This is why Frei claims that Scanlon is not a contractualist. In particular, for Scanlon's replies see: T. M. Scanlon, "Replies," *Ratio* 16 (2003), p. 128.; T. M. Scanlon, "Reply to Gauthier and Gibbard," *Philosophy and Phenomenological Research* 66 (2003), p. 182.

<sup>24</sup> Suikkanen, op. cit., p. 56.

<sup>25</sup> Scanlon, *What we Owe to Each Other*, p. 33.