

The Non-Consequentialist Argument from Evil

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1. Introduction

Some philosophers contend that there are robust non-consequentialist constraints, or *side constraints*,¹ on permitting horrendous evils, and that these constraints pose a serious challenge to theism, or at least to certain ways of defending theism against arguments from evil.² I am going to formulate this challenge to theodicy in the form of a simple but potent argument that side constraints on permitting evil doom the project of theodicy to failure. Then I will argue that the challenge can be met. One way to meet it would be to demonstrate that God can create and sustain our world, despite all of its evils, without violating any relevant non-consequentialist constraints. But the more realistic and modest aim of showing that this thesis is plausible would also suffice. That more realistic and modest aim is my goal in this essay. Drawing in part on insights from

¹ The term “side constraint” is Nozick’s (1974: 28ff). Side constraints also go by the names “agent-relative restrictions” and “agent-centered restrictions.”

² Including Gellman (1992 & 2017), McNaughton (1995 & 2002), Dougherty (2008), Mooney (2017), and Sterba (2019a & 2019b).

David Lewis and Fiona Woollard, I will argue that, plausibly, God can create and sustain our world without violating any side constraints on evil because of the unique ways that God is related to the world.

I will formulate the non-consequentialist challenge to the project of theodicy in Section 2. Then I will distinguish two relevant types of side constraint that might play a role in generating a non-consequentialist problem of evil. In Section 3, I will consider whether God can create and sustain our world without violating side constraints on *doing* evil. And in section 4, I will consider whether God can create and sustain our world without violating any side constraints on *allowing* evil. In each case, I will argue that an affirmative answer is plausible, and therefore it is also plausible that, if greater-good theodicies are unsuccessful, it is not because of side constraints on doing or allowing evil.

2. The Argument

To best appreciate the force of the non-consequentialist challenge to theodicy, we should begin with a concrete example of the horrendous³ evils which generate it. So consider the following case from Dostoevsky's novel, *The Brothers Karamazov*:

There was a little girl of five who was hated by her father and mother, 'most worthy and respectable people, of good education and breeding'... This poor child of five was subjected to every possible torture by those cultivated parents. They beat her, thrashed her, kicked her for no reason till her body was one bruise. Then, they went to greater refinements of cruelty - shut her up in the cold and frost all night in a privy, and because she didn't ask to be taken up at night (as though a child of five sleeping its angelic, sound sleep could be trained to wake

³ I use "horrors" and "horrendous evils" in the technical sense introduced by Marilyn Adams (1999).

and ask), they smeared her face and filled her mouth with excrement, and it was her mother, her mother did this. And that mother could sleep, hearing the poor child's groans! Can you understand why a little creature, who can't even understand what's done to her, should beat her little aching heart with her tiny fist in the dark and the cold, and weep her meek unresentful tears to dear, kind God to protect her? (Dostoevsky 2009: 302-303).

This is a monstrously twisted evil that evokes moral horror.⁴ Some philosophers contend that there is no morally adequate reason for God to permit horrendous evils like this one, and it might seem not only futile but morally repugnant to disagree.

Let's call Dostoevsky's example The Dostoevsky Case. There are many morally bad elements woven together in The Dostoevsky Case: physical pain, emotional distress, malice, deep injustice, profound cruelty, grotesque distortion of the parent-child relationship, and so on - and I suspect that our emotional responses to the case track each of these grisly elements. But I want to focus as much as possible on just one morally bad element evident in the Dostoevsky Case, namely, its impermissibility. Not only are the parent's abusive actions impermissible; allowing those actions to be committed is impermissible too. An ordinary bystander in a position to save the child from her parents' cruelty ought to do so.

Some evils may strike us as impermissible simply (or at least primarily) because it seems as though there is no outweighing good that would be lost if the evil in question were prevented. But I believe that the most poignant evils, such as The Dostoevsky Case, are impermissible for a deeper reason: a side constraint. Side constraints are constraints on promoting value. If there are any side constraints, then not every action which promotes value is permissible. One might think there is a side constraint at work in The

⁴ I borrow the term "moral horror" from Robert Adams (1999, ch. 4).

Dostoevsky Case - that this evil should not be permitted even if it were necessary to bring about a good that is valuable enough to outweigh it.⁵

Side constraints on permitting horrendous evils make the project of theodicy much more difficult, and may even threaten to doom the project to failure. The threat comes in different forms, the most ambitious of which claims that some evils are unjustifiable no matter what. Philosophers such as Gellman (1992 & 2017) and Dougherty (2008) claim that some evils strike us this way. In Gellman's terminology, those evils seem "inherently irredeemable", where "An *irredeemable evil* is one that by its very nature is so deeply and utterly evil that there is no possible world in which its existence should be allowed" (2017: 84-85; italics in original). If any evil is unjustifiable in this way, then it is not possible that God is justified in permitting that evil, and so it is not possible that there is a successful theodicy. Dougherty (2008) dubbed this "the commonsense problem of evil", and that name has stuck.

These claims may resonate with us because evils like the Dostoevsky Case are so horrible. It might seem fitting that an evil so detestable and twisted is impermissible in an absolutely unqualified way. Nevertheless, the claim is probably too strong. Elsewhere I observe that every horrendous evil is at least possibly permissible on the grounds that, for any horrendous evil, E, it is possible for some agent to be in a position to prevent E only by allowing some other horrendous evil that is at least as bad. Arguably, if the agent were to allow E because she instead chose to prevent the other evil, she would be acting permissibly.⁶

Even so, our intuitions about horrendous evils may be tracking side constraints that are less than absolute but still robust enough to pose a serious challenge to theodicy, or at least certain approaches to theodicy. McNaughton (1995 & 2002) and I (Mooney 2017) maintain that there are

⁵ This thought seems to be at the heart of the dialogue in which Dostoevsky's character Ivan recounts The Dostoevsky Case and a series of similar evils (Dostoevsky 2009: 308).

⁶ Mooney (2017). For a narrativial defense of this view, see Howard-Snyder (2019).

such constraints.⁷ One of the most demanding forms that this view can take claims that certain evils are so horrible that they are only permissible when the alternative is permitting another evil that is at least as bad; they are never permissible simply because they are necessary for some outweighing good, no matter how good the outweighing good might be.⁸ This would not bode well for theodicy. For one thing, most theodicies in the literature focus on the necessity of permitting evil for attaining or preserving outweighing goods (like soul-making or certain kinds of freedom) rather than warding off worse evils. But this might be a symptom of a more fundamental problem.

There are reasons to doubt that God could face a dilemma where God must choose between horrendous evils. First, it is not necessary that God is in a situation of this sort, since God could have chosen not to create anything at all, in which case there would be no horrendous evils.⁹ And one might think that, if one can easily avoid a course of action that one foresees would lead to a dilemma between permitting one horrendous evil or another, then one should not enter that situation.¹⁰ Moreover, even if it is permissible to take such a course of action, it is hard to imagine any course of action that would land an omnipotent and omniscient being in that situation. God seems to lack the limitations that sometimes force mere human beings into these tragic moral dilemmas.¹¹

⁷ And some philosophers endorse side constraints on permitting evil without claiming that these constraints threaten theism or familiar theodicies, e.g., Stump (2010: 378ff & 392ff). Adams (1999) argues that giving each of us a life that is good on the whole and defeating any horrendous evils within it is a constraint on divine goodness. One might think (though Adams does not) that this constraint also limits what it is *permissible* for God to do. In that case, it would be a side constraint on permitting horrendous evils.

⁸ Thanks to Zach McCarty for this suggestion.

⁹ A referee made this point in comments on another paper (Mooney 2017: n. 6).

¹⁰ Reitan (2014) makes a somewhat more general version of this point.

¹¹ A point made by Sterba (2019a & 2019b). However, Stump's (2010) theodicy claims that suffering is sometimes the best way for God to ward off what Stump takes to be the worst condition for a human being, namely, "willed loneliness" - roughly, the condition of being voluntarily alienated from all other people. And Bergmann (2009 & 2012), drawing on his

Finally, even if side constraints on permitting horrendous evils allow that there are some cases where a horrendous evil can be permitted for the sake of an outweighing good, they may drastically limit the situations in which this is true. The standard theodist's project of identifying greater goods that an omnipotent and omniscient being can bring about only at the cost of horrendous evil was already difficult. It will be even more difficult to do this *and also* successfully circumnavigate stringent side constraints on bringing about greater goods at the cost of horrendous evils. One could be forgiven for suspecting that it simply can't be done.

We can formulate the non-consequentialist challenge to the project of theodicy as a simple argument that runs as follows:

- (P1) There are robust side constraints on permitting horrendous evils.
- (P2) If there are robust side constraints on permitting horrendous evils, then God must respect those side constraints.
- (P3) If God must respect those side constraints, then no theodicy can succeed. So,
- (C1) No theodicy can succeed.

Call this The Non-Consequentialist Argument from Evil. How might the theodist respond to this argument? There are at least three broad strategies she could pursue.

One strategy is to defend consequentialism or something near enough to it to entail that P1 is false. But since I think P1 is true, I will not pursue this strategy. A second strategy denies that God has moral obligations.¹² Then, even if we are bound by various side constraints, God is not, and so P2 is false. In some moods I am very sympathetic to this view, but I will set

preferred brand of skeptical theism, seems to think that God's preventing any given horrendous evil that has occurred might, for all we know, entail an unknown worse evil.

¹² Versions of this view are defended by, e.g., Adams (1999) and McCann (2012). Cf. Murphy (2021: ch. 5).

it aside too. I prefer to meet the non-consequentialist challenge on its own terms. Even granting that there are side constraints on permitting horrendous evils and that God must respect these constraints, it is plausible that God can create and sustain our world, despite all its horrendous evils, without violating these constraints, and therefore the non-consequentialist case for P3 dissolves. If P3 is true at all, it is not because of side constraints on permitting evil.¹³

Because I am focusing my attention on The Non-Consequentialist Argument from evil, my concern will be exclusively with side constraints. I will not attempt to show that it is plausible that God can create and sustain our world without violating moral constraints which are not side-constraints, e.g., the main constraint at work in Rowe (1979).

I will organize the remainder of my discussion around two types of side constraint. Drawing on Foot's (1967) distinction between negative and positive duties, I will distinguish between negative and positive side constraints. *Negative side constraints* are side constraints on doing evil. For example, I believe there is a side constraint against abuse that the girl's parents violate in The Dostoevsky Case. *Positive side constraints* are side constraints on allowing evil. For example, I believe there is a side constraint against allowing abuse that a bystander to The Dostoevsky Case violates if she does not intervene. I will assume that the distinction is exhaustive in the sense that any agent who has control over whether an evil occurs either does or allows that evil.

Even if the distinction is exhaustive, there may be side constraints which entail that certain evils should be neither done nor allowed, or maybe even that some evils should not be done and others should not be allowed. These constraints are impure in the sense that they are neither purely positive nor purely negative. But if an agent violates neither the positive nor the

¹³ Other attempts to show that the theodist can respect side constraints on permitting evil include McKenzie (1984), Swinburne (1995 & 1998: ch. 12), and Vitale (2020).

negative entailments of an impure side constraint, then the agent does not violate that impure side constraint. So, insofar as it is plausible that God does not violate any purely negative or purely positive side constraints on permitting evil, it is thereby also plausible that God does not violate any impure side constraints on permitting evil. Therefore, we can safely focus our attention on purely negative and purely positive side constraints in what follows. I will start with (purely) negative side constraints.

3. Negative Side Constraints

Commonsense morality features a variety of duties not to do evil: duties not to kill, assault, torture, abuse, and so forth. And many if not all of these duties seem to be side constraints. For example, it is wrong to kill one person as a means to prevent the deaths of five others. Constraints like these seem like an important hazard for the theodist. McNaughton (1995 & 2002) argues that Swinburne's theodicy in particular runs aground on them. But I will argue that, plausibly, God can create and sustain the universe without violating any negative side constraints such as these. I will start with God's creation of our universe, and then consider God's conservation of our universe.

3.1 Creation and Negative Side Constraints

Let's begin with a thought experiment. Suppose you possess a "creation button." Pressing the button will cause a big bang that unfolds over time into a universe much like ours, where organisms and ultimately creatures like us eventually evolve on some suitable planet where they experience approximately the same kinds, amounts, and distributions of good and evil that we do on Earth. So, causally downstream of pressing the button, there will be earthquakes, diseases, and predation, but also stars, coral reefs, rainforests, and communities of people. There will be many wars, kidnappings, and murders, but also a lot of love, virtue, and music. Call this The Creation Button Case.

Is it permissible to press the creation button? My intuition is: yes, it is permissible to press the button. If you don't share my intuition, try supposing that every sentient creature that comes to exist in the resulting universe is, at some point after its death, resurrected to a heavenly afterlife. Then it is clear that the universe is good on the whole, and so is each individual sentient life within it. Maybe you will have the intuition that pressing the button is permissible in this variant of the case. I certainly do.

But pressing the button causes (albeit indirectly and perhaps indeterministically) all of the evils in the universe that it generates, and so it seems to do a great deal of harm. So why is it not a violation of negative side constraints? One possible explanation appeals to the value of the universe generated by pressing the button. Perhaps negative side constraints are Rossian *prima facie* duties¹⁴: even though they are side constraints, they are defeasible, and perhaps they are defeated when a very high degree of value can be achieved by transgressing them. Then, if a universe like ours is valuable enough, it is permissible to create even though this involves doing a great deal of evil as well.

I do not think this is the right explanation of why it is permissible to press the button. To see why, consider Thomson's (1985) so-called Fat Man Case - a variant of Foot's (1967) famous Trolley Case. In The Fat Man Case, a runaway trolley is headed toward five people stuck on the track ahead. You can stop the trolley and save the five people only by pushing a large man in front of the trolley. The trolley will strike him and kill him, but this will bring it to a halt before it can run over the five would-be victims on the track. Most of us have the intuition that it is not permissible to push the large man in front of the trolley, even though this is the only way to save five lives. This intuition suggests that there is a side constraint against killing the fat man.

Compare this to the following variant of The Fat Man Case, which we can call The Cosmic Fat Man Case. You have two universe-generating

¹⁴ See Ross (1930).

buttons, button A and button B, each of which would produce a universe much like ours, except for this: at some point in the history of the universe that results from pressing either button, a runaway trolley threatens five people stuck on the track ahead of it. In the world generated by pressing button A, a large man falls in front of the trolley and dies, but the five are thereby spared. In the world generated by pressing button B, the large man does not fall in front of the trolley, and the trolley kills the five people on the track.

My intuition about this case is that pressing either button A or button B is permissible (even if you don't have to press any button at all). This suggests that the negative side constraint that forbids pushing the fat man in front of the trolley in The Fat Man Case does not forbid pressing button A in The Cosmic Fat Man Case. But this cannot be because the negative side constraint is defeated by the positive value of creating a universe like ours, for one could also produce a universe like ours by pressing button B and sparing the fat man.

Rather than being defeated, I think negative side constraints that apply in ordinary circumstances simply aren't relevant to the unusual situation of The Creation Button Case. And the reason why lies in a phenomenon discussed by Lewis (1986: 184-188) and Bennett (1988: 224-226; 1998: 4-6). I've said that various types of evil-doing actions are forbidden by negative side constraints, such as killing, assault, torture, abuse, and so forth. These actions cause different types of evil. Killing causes death, abuse causes injury, emotional distress, and mental health problems, and so on. But not every action which causes one of these types of evil is a type of action forbidden by a side constraint.

For example, suppose I introduce two of my friends to each other, they end up falling in love, getting married, and having a child named Sally. Sally lives a good life and eventually dies of natural causes. Call this The Sally Case. My action in The Sally Case - the action of introducing two of my friends - is causally upstream of everything that happens in Sally's life. But if Sally breaks her leg at some point, I have not injured her. And though she eventually dies, I do not kill her. Other examples of this phenomenon

are easy to generate. One of Lewis's examples is particularly apropos: "[C]onsider the Big Bang. This event, I take it, is a cause of *every* later event without exception. Then it is a cause of every death. But the Big Bang did not kill anyone" (1986: 184-185).

In these cases, the causal connection between the cause and the evil effect is not the right sort of causal connection to qualify as a case of killing, injuring, and so forth. Let's say that causal connections like this are *improperly mediated*. What exactly is it for a causal connection to be improperly mediated? This is a difficult question, and I'm not convinced that anyone has yet answered it correctly. But for the sake of illustration, here is Lewis's proposal.

Lewis suggests that the culprit is causal insensitivity. The connection between a cause and an effect is *sensitive* to the extent that it counterfactually depends on circumstances. A cause which produces an effect via a long chain of causal intermediaries, many of which occur only because the surrounding circumstances are suitable, will be a highly sensitive causal chain because "there are many differences that would have deflected the chain of events" (ibid.: 186). Lewis suggests that familiar action-types like killing require a sufficiently insensitive causal connection between the action and the relevant effect. In The Sally Case, the causal connection is not sufficiently insensitive. Same with causal connections between the Big Bang and particular evils that befall the inhabitants of the resulting universe.

I have some worries about Lewis's account.¹⁵ But for my purposes, what matters most is that the causal connections between pressing the creation

¹⁵ For example, does it matter whether an agent can predict sensitive causal chains? By Lewis's lights, "If a [causal] chain is insensitive enough that you can predict it, then it is insensitive enough that you can kill by it" (ibid.: 187). This seems right in some cases, but suppose God gives me a detailed vision of what will happen if I introduce my two friends in The Sally Case: I see that they will go on to have a child named Sally, who will live for an ordinary span of time and then die of natural causes in her old age. Even with this knowledge, if I choose to introduce my friends, I do not thereby kill Sally. My intuitions

button and each of the evils in the resulting universe are improperly mediated, regardless of how exactly improper mediation is analyzed. My intuitions about The Creation Button Case are similar to my intuitions about other cases of improper mediation. An agent who presses the button does not thereby kill, injure, torture, abuse, and so forth. And if that is so, then the agent does not violate side constraints against killing, torturing, abusing, and so forth either. Hence why the side constraint against killing does not seem to apply in The Cosmic Fat Man Case.

Here, then, is what seems to me to be a plausible explanation of why pressing the creation button is permissible, despite the existence of various negative side constraints. Perhaps all negative side constraints are constraints on performing actions that are properly mediated - actions like killing, torturing, abusing, and so on. Then, since the agent who presses the button does not thereby perform any of these actions, she does not violate any such constraints. Note that this hypothesis does not entail that there are no moral restrictions at all on causing evils via improperly mediated causal chains; it's just that none of those moral restrictions are (negative) side constraints.

Now consider God creating the world. Like pressing the creation button, God's act of creation initiates the evolution of our universe, and every event in our universe is causally downstream of God's act. But given the close analogy between The Creation Button Case and divine creation, it is plausible that the causal connections between God's creative act and the evils that befall creatures in the created world are improperly mediated, and therefore God does not qualify as killing, torturing, abusing, and so forth. If all relevant negative side constraints are constraints on performing actions of this sort, then God does not thereby violate any of these constraints.

about The Creation Button Case and the Cosmic Fat Man Case are similar. Lewis's account leaves us with no explanation of why predictability matters in some cases and not others.

3.2 *Conservation and Negative Side Constraints*

Traditionally, God does not merely create the world, but also actively sustains or conserves it, and so the question arises whether divine acts of conservation are permissible. Much of this divine activity will be more intimately related to the world's evils than God's initial act of creation was.¹⁶ At the time when each evil occurs, God will be directly sustaining or supporting that event in some sense or other. So the causal connection between God's sustaining activity and the world's evils is probably not improperly mediated. So does God thereby kill, torture, abuse, and so forth?

I will imagine that God conserves the world by willing at each time that the laws of nature continue to operate. This might simply be a matter of God willing that certain general propositions continue to be true - general propositions about which sorts of events cause (or have a propensity to cause) which other sorts of events. And I will assume that God could intervene miraculously in the world while still sustaining the laws of nature, either because those laws have relevant *ceteris paribus* clauses, or because of a relevant quantum mechanical loophole.

One way to ensure that divine conservation does not violate any negative side constraints is to build God's sustaining activity into God's creating activity. Suppose that the decree by which God brings the universe into existence also specifies that the laws of nature will continue to operate for the duration of history. This is analogous to an implicit feature of The Creation Button Case: one of the effects of pressing the button is that the laws of nature in the resulting universe continue to operate throughout history. Since it is permissible to press the creation button, it is plausible

¹⁶ Thanks to Dustin Crummett for this point.

that it's also permissible for God to decree at creation that the laws of nature will continue to operate throughout history.

But even if God's sustaining activity is not built into the creative decree, it's not clear that God violates any negative side constraints. Suppose that, after pressing the creation button, you must then hold down a "conservation button" in order to sustain the operation of the laws of nature in the resulting universe. As long as you hold down this button, events will continue to have their normal causal consequences, but if you let up on it, the universe will come to an abrupt end. Gifted with an unusually long life, you hold the button down for billions of years as the universe develops, life evolves, and human history unfolds. Eventually, *The Dostoevsky Case* occurs. You have an opportunity to intervene to save the girl from her abusive parents because you are standing nearby, and you can intervene without letting up on the conservation button, because intervening is compatible with the past and the laws of nature. Call this *The Conservation Button Case*.

In this case, it seems to me that you should intervene. But it also seems to me that, if you do not intervene, you are not abusing the girl - you are not a co-abuser alongside her parents. Maybe that is because there is something similar to improper mediation at work here: although I may be doing evil in some sense, perhaps doing evil by sustaining the laws of nature is not the right sort of causal contribution to qualify as an ordinary evil-doing action like abusing. Given my hypothesis that negative side constraints are limited to actions like these, this is enough to ensure that God violates no negative side constraints while sustaining the world.

But in fact, I am tempted to say that you are not even doing evil in *The Conservation Button Case*; you are merely allowing evil. And there is at least one way to make sense of this intuition. By my lights, one of the most promising approaches to analyzing the doing/allowing distinction is the sequence approach first suggested by Foot (1985) and later developed by Woollard (2015). On this account, an agent does (rather than allows) evil if and only if her action results in evil via a *sequence*. A sequence is an unbroken explanatory chain of substantial facts, where substantial facts are

facts which “roughly speaking... tell us about some change or addition to the world” (Woollard 2015: 29). Spelling this out more precisely turns out to be a difficult task; Woollard’s own attempt spans multiple chapters. But positive facts (i.e., facts about how things are, rather than how they are not) normally make the cut, as do positive scalar facts. When an evil or other consequence depends on a non-substantial fact, that fact is “a mere condition” on the occurrence of that consequence (ibid.: 38).

One way to make sense of the intuition that you merely allow evil in The Conservation Button Case is to add the continuing operation of the laws of nature to Woollard’s catalog of non-substantial facts. This is arguably in the spirit of her proposal, since there is a sense in which the continuing operation of the laws of nature is not a “change or addition to the world”; quite the contrary, it is the cosmic status quo. In that case, the continuing operation of the laws of nature is a “mere condition” on the suffering in The Dostoevsky Case, and so holding down the conservation button is not a case of doing evil.¹⁷

And if divine conservation is a matter of sustaining the laws of nature, then the same goes for every divine act of conservation. For every causal chain that links a divine act of conservation to an evil in the world will have somewhere in it a fact about the continuing operation of the laws of nature, which is a non-substantial fact. So God can sustain the world without doing the evils that occur in it, and therefore without violating any negative side constraints. Of course, it is possible for God to intervene in the world to prevent the girl’s suffering, and *prima facie*, it seems that God should. But my point at the moment is just that, if God does not intervene, God is merely allowing evil, and therefore not violating any negative side constraints.

¹⁷ A referee suggests that the reason the continuing operation of the laws is a non-substantial fact is that we have no control over them, and if that is so, then they are substantial for God, who does have control over them. But this suggestion does not explain why it seems (to me, anyway) that I am merely allowing rather than doing evil in the Conservation Button Case, for in that case I *do* have control over whether the laws of nature continue to operate, since I could stop holding down the conservation button.

4. Positive Side Constraints

In addition to negative duties not to do evil, commonsense morality features positive duties not to allow evil: duties to aid, rescue, care, give, and so forth. Some of these duties are side constraints. Maybe it would be permissible for a bystander to allow the girl in The Dostoevsky Case to suffer if her suffering is necessary to prevent an even worse evil, but I do not think it is permissible for a bystander to allow the girl to suffer for the sake of producing a greater good, especially not a greater good that primarily benefits someone else. So, by allowing horrendous evils like The Dostoevsky Case, isn't God violating positive side constraints? Prima facie, it certainly seems so. But on closer examination I think that a negative answer becomes plausible. Once again, I will first consider God's creation of the world, and then God's conservation of the world.

4.1 *Creation and Positive Side Constraints*

We can start by returning to The Creation Button Case. If pressing the creation button is permissible, then it does not violate any positive side constraints. (Or, if positive side constraints on allowing evil are defeasible, like Ross's prima facie duties, then pressing the creation button does not violate any *undefeated* positive side constraints.) But why not? If there are positive side constraints against allowing evils like The Dostoevsky Case, wouldn't an agent who could prevent evils of that sort by simply not pressing the creation button be violating those constraints?

Actually, I am inclined to say that positive side constraints aren't relevant to pressing the creation button. Although the causal connection between pressing the creation button and the evils that eventually result is improperly mediated, pressing the button is "relevant to harm in a doing way rather than an allowing way" (Woollard 2015: 17, who is echoing Bennett 1998: 4-6). In that case, only negative side constraints could be

relevant here; not positive side constraints.¹⁸ And I have already discussed negative side constraints.

Moreover, positive side constraints require us to perform certain familiar types of actions such as aiding, rescuing, caring, and giving. Not every case where an agent prevents evil is a case where that agent performs an action of one of these types. Consider again the Cosmic Fat Man Case. Suppose I press button A, which results in the fat man dying but the five on the track surviving, rather than button B, which generates a universe where the fat man is spared but the five are run over. Pressing button A rather than button B is beneficial to the five on the track. But if I press that button I do not think I qualify as rescuing the five on the track any more than I qualify as killing the fat man.

So here is another way to explain why pressing the creation button does not violate any positive side constraints on allowing evil. Perhaps all such constraints are requirements to perform familiar actions like aiding, rescuing, caring, giving, and so on. And perhaps these actions require properly mediated causal chains, and so they are not the sorts of actions one can perform by pressing universe-generating buttons. Then pressing the creation button does not violate any positive side constraints on allowing evil. And given the close analogy between The Creation Button Case and divine creation, it is plausible that God does not violate any of those constraints either when God creates our universe.

These remarks about positive side constraints, when combined with the hypothesis that I floated in the previous section about negative side constraints, entail that no side constraints on doing and allowing evil apply to God's initial creation of the world. As far as doing and allowing evil goes, it is as though consequentialism is true when God is poised to create. But once again we have to take account of the fact that God does not merely

¹⁸ However, after laying out some examples of agents causing evil via an improperly mediated causal connection, Woollard also observes that "Many people would ... hesitate to say that I have done harm" in those cases (Woollard 2015: 17).

create the world; God also sustains or conserves it. So let's consider divine conservation next.

4.2 Conservation and Positive Side Constraints

Is God violating any positive side constraints when God sustains the world through events like The Dostoevsky Case? It might seem like I have backed myself into a corner here. I've already claimed that you ought to intervene in The Conservation Button Case - indeed, you ought to intervene even if the girl's suffering will for some reason bring about a greater good (though perhaps not if it is necessary to prevent a worse evil). And I have claimed that if you do not intervene you are allowing evil rather than doing evil. Together, these claims entail that there is a positive side constraint requiring you to come to the girl's aid. It's tempting to think that the same is true for God.

To get out of this corner, I will offer a speculative but (I think) plausible suggestion about God's positive duties, including but not limited to positive side constraints. That suggestion begins with a point about our own positive duties. Woollard (2015) argues that we have two duties to aid strangers: a duty to give aid in one-off emergencies, even at great personal cost, and a duty to give aid on a regular basis through charitable giving and the like, but not at great personal cost. As for our duties to aid friends and family, these may require higher-cost aid more frequently, but they are limited in scope to the needs of a small subset of the total population of people who we are in a position to aid. This combination of duties significantly limits morality's demandingness.¹⁹

¹⁹ Some philosophers, such as Singer (1972), Kagan (1989), and Unger (1996), think that our positive duties are much more demanding than Woollard and others contend. Although these arguments should be taken seriously, in this essay I am simply going to set them aside. After all, I am only aiming here to sketch a plausible hypothesis, not to show that the hypothesis in question is true.

Drawing on Quinn (1989), Woollard contends that the moral rationale for the limits on the demandingness of our positive duties is that it makes space for our bodies and resources to belong to us, for it gives us a robust range of moral freedom in which to use our bodies and resources for our own projects, rather than leaving them at the mercy of public need.²⁰ One reason morality must make space for our bodies to belong to us is to respect us. The fact that our bodies are the locus of our agency, our pleasures and pains, etc., is a significant fact that must be treated as such. Otherwise morality disrespects us in a way that damages our conception of ourselves as particular individuals in relationship with others (Woollard 2015: chs. 6-9).

I take it that Woollard has in mind something analogous to Darwall's (1977) notion of recognition respect, where an agent respects an object by treating a certain fact about that object as significant, and she does this by limiting her behavior toward that object in relevant ways. For example, I might respect a person by treating the fact that she is a person as significant, and I do this by, e.g., not harming her. But in this case, it is morality that respects us by treating the fact that we are intimately related to our bodies as significant, and it does this by limiting the demands that it places on us. Less anthropomorphically, morality's requirements are limited in a way that is fitting, given the significance of our relationship to our bodies.

Moreover, drawing on Kamm (2007: 386-387), Woollard suggests that the exact shape of the limits on our duties to aid has a rationale in terms of our agent-centered perspective on the world. Morality reflects our agent-centered perspective insofar as our most demanding duties to aid are sensitive to spatial proximity and other factors that affect the salience of a need from the agent's point of view.

²⁰ For our bodies to belong to us is not for them to be owned by us. Woollard explains that belonging involves certain first-order entitlements over an object, while owning involves both the first-order entitlements and second-order entitlements to sell, give away, etc., the first-order entitlements. So an apartment only belongs to, and is not owned by, a renter, and a person's body only belongs to, and is not owned by, that person.

Although this rationale for the limits on our positive duties reflects our human limitations, I think that an analogous rationale can be offered for significant limits on the demandingness of divine positive duties.²¹ Woollard's theory centers on our bodies and the fact that each person's body belongs to her. Although my own theological tradition denies that God has a body, it also claims that the created world belongs to God.²² So whatever requirements morality might impose on God, they leave God enough moral freedom over the created world for that world to belong to God.

Following Woollard's example, I suggest that this is a kind of respect. The fact that creation radically depends on God is a significant fact that morality must treat as such, just like our intimate relationship to our bodies is a significant fact that morality must treat as such. Otherwise, morality disrespects God by treating God too much like just another agent in the world, rather than its metaphysical foundation. Less anthropomorphically, morality's requirements are limited in a way that is fitting, given the significance of the world's radical dependence on God.²³

But what exactly does it look like for creation to belong to God? What moral freedoms does this involve? Ambitiously, I want to suggest that God's positive duties, including positive side constraints, are limited in such a way as to allow God the moral freedom not to intervene miraculously in the world at all if God does not wish to. Above I endorsed the view that God can intervene in the world without ceasing to sustain the

²¹ My proposal is also indebted to, though distinct from, the main thrust of Rea (2018: ch. 5), and comments he made in the Q&A following the Gifford Lecture that chapter it is based on. In that same lecture, Rea noted the similarity of his view to Murphy (2017). My view is likewise similar in certain ways to Murphy's. But the specific rationale that I suggest for the limitations on God's positive duties, modeled on Woollard's view about our positive duties, is original.

²² In the words of the psalmist, "The earth is the Lord's, and the fulness thereof; the world, and they that dwell therein" (Psalm 24:1).

²³ Cf. Swinburne's (1995 & 1998: ch. 12) discussion of the rights of caregivers with application to the problem of evil.

ordinary operation of the laws of nature. Still, God's intervention would be a miracle in the sense that it would have effects that would not have occurred had God merely sustained the laws of nature without also acting in the world in a special or unusual way.²⁴ So my proposal that God is not required to intervene miraculously in the world should be understood as the proposal that God is not required to act in the world in any way other than merely sustaining the laws of nature. This might be a startling claim, given the enormous extent to which it limits God's positive duties. But there are at least two points in its favor.

First, if morality treats the world's dependence on God as significant by limiting God's positive duties, then we might expect those duties to be extremely limited, so as to treat the world's dependence on God as extremely significant.²⁵ After all, this dependence runs deep. It is not merely a matter of God being the *de facto* creator and sustainer of concrete material things. In addition to that, the dependence is modally robust: actual individuals like you and me could not possibly exist apart from God. In fact, no possible object could exist apart from God. And on top of that, even the backdrop of necessary truths that structure the content of the contingent, concrete world ultimately depends on God's nature.²⁶ This is a fact of ultimate, cosmic significance.

Second, my proposal draws the limits on God's duties to aid in a non-arbitrary and even quite fitting place. We've seen that Kamm and Woollard think the form of the limits on our own duties to aid reflects our agent-centered perspective. But this doesn't make as much sense in God's case, since God does not have a localized spatial location, and God is equally directly acquainted with all of the world's individuals and their needs. By contrast, the regular operations of the natural world, which are chosen and maintained by God, seem like a fitting place to draw a moral line in

²⁴ This rough characterization of a miracle is based on McGrew & McGrew (2009).

²⁵ Cf. Darwall's comments (1977: 46) on degrees of significance or weight involved in recognition respect.

²⁶ A view defended, e.g., by Leftow (2012).

recognition of the world's radical dependence on God. So I think that my proposal, though ambitious, is not outlandish.²⁷

Nothing in this proposal forbids God to intervene miraculously in the world to prevent suffering; the claim is merely that God is not required to. And so one might wonder why God does not come to our aid anyway, in an act of supererogation. Just as it would be morally better for us to do more than morality demands to prevent suffering, it would be morally better for God to do more than morality demands to prevent suffering. And as a morally perfect being, God would do what it is morally better for God to do.²⁸

But having cleared away side constraints on doing and allowing evil, there is now space to pursue the traditional greater-good approach to theodicy. So one possible response to this objection is that all of our suffering serves some greater good or goods that God is aiming to bring about. On this hypothesis, if God were to prevent more of our suffering, God would be unable to bring about the greater good or goods that God is aiming to bring about through our suffering, or God would be unable to bring about as much of that good as God in fact brings about. More troublingly, this view also entails that any time we fail to give aid to others who are suffering, our failure ultimately serves whatever greater good or goods God is aiming to bring about. This is compatible with supposing that our failures to give aid to those who are suffering are often morally wrong, for the relevant positive duties might be positive side constraints. Nevertheless, Crummett (2017) argues (persuasively, in my view) that this position clashes with ordinary morality and prudential reasoning.

Crummett also recommends an alternative approach: not that all of our suffering serves some greater good or goods, but rather that God's omitting

²⁷ A referee wonders if our bodies, as part of the world, can belong to both us and God. It's plausible that they can. Many things belong to more than one individual. In fact, (keeping in mind that belonging to x is not the same as being owned by x), it might be the case that a child's body belongs both to the child and to her parents.

²⁸ Thanks to a reader for this way of framing the objection.

to prevent our suffering serves some greater good or goods. This view entails that, if God were to intervene to prevent our suffering more than God does, the greater good or goods that God is aiming to realize would not obtain, or would obtain to a lesser degree. But it does not entail that, any time we fail to give aid to others who are suffering, our failure ultimately serves whatever greater good or goods God is bringing about.

There is much to say about what greater goods God might be aiming at, and about alternatives to the greater good strategy.²⁹ But I will say no more about this issue here. The greater good approach to theodicy has been, and continues to be, discussed extensively elsewhere. And although the theist will either need to defend this approach or some suitable alternative, this project falls outside the scope of my discussion. My focus has been on the non-consequentialist facet of the problem of evil: the problem of whether God can create and sustain our world, despite all of its evils, without violating any side constraints on doing or allowing evil. I hope to have shown that it is plausible that God can.

5. Conclusion

Stringent non-consequentialist constraints, or side constraints, on permitting horrendous evils pose a formidable challenge to the project of theodicy, which I formulated as The Non-Consequentialist Argument from Evil in Section 2. I have considered two types of side constraint on

²⁹ Indeed, as a referee notes, divine supererogation remains an underexplored issue at present. The referee also raises a worry about the greater-good response: since proponents of the non-consequentialist argument from evil think it is sometimes impermissible to bring about greater goods, they might also deny that it is morally better to do so even in (some?) cases where it is permissible. Fair enough. But everyone, including proponents of the non-consequentialist argument from evil, should allow that there are cases where it is morally better to bring about a greater good at the cost of evil - e.g., Swinburne's (1995 & 1999: ch. 12) examples of caretakers who justifiably impose hardships on those in their care. So the strategy I have suggested here is not out of the question.

permitting evil: negative and positive; and I have argued that it's plausible that God can create and sustain our world, despite all of its evils, without violating side constraints of either kind. If I am right, this is sufficient to rebut the non-consequentialist case for P3 in *The Non-consequentialist Argument from Evil*.

I will close with a brief thought about how my remarks might illuminate disagreement about the problem of evil. Suppose I am right that God can create and sustain our world, despite all of its evils, without violating any of the side constraints that generate the non-consequentialist challenge to theodicy. My suggestions about why this is so have emphasized the unique ways in which God is related to the world and the evils in it. In that case, perhaps some arguments from evil - especially those which draw our attention to individual horrendous evils - tend to trigger our intuitions about the duties we humans would have in ordinary situations. Whereas perhaps thinking on a larger scale about God's relation to and providence over the world, as the theodist is wont to do, does not tend to trigger these same intuitions. This would fan the flames of disagreement about the plausibility of those theodicies. And if I am right, the theodists may have the upper hand in this disagreement.³⁰

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³⁰ My thanks to Dustin Crummett, Dan Dake, David Turon, participants in Kevin Vallier's workshop for younger scholars, and the audience at the 2021 Virginia Commonwealth University philosophy of religion workshop for comments on this paper or an ancestor of this paper.

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