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Feasibility as a constraint on ‘ought all-things-considered’, but not on ‘ought as a matter of justice’?

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I

Many appealing normative claims about the organisation of social and political life appear to make infeasible demands. Here are some examples: ‘Australia ought to eradicate all social hierarchies’. ‘France ought to ensure perfect equality of opportunity’. ‘The United States ought to implement and maintain open borders’. Is it possible for such claims to be correct[[1]](#footnote-1) even if they make infeasible demands?[[2]](#footnote-2)

A natural and appealing thought is that it depends. In particular, it depends on whether the ‘ought’ in question is the *all-things-considered ought* or the *ought of justice*.[[3]](#footnote-3) On the one hand, if we interpret the claims as saying that the states in question ought to do these things all-things-considered – that the states have all-told most normative reason to do these things – the answer is ‘no’. That’s because feasibility is a *constraint* on the correctness of claims involving the all-things-considered ought, i.e.

1. A state S ought all-things considered to X at time t only if it is feasible for S to X at t.

So, claims such as the claim that Australia ought to eradicate all social hierarchies any times soon are necessarily incorrect insofar as they involve the all-things-considered ought on account of making infeasible demands.

On the other hand, if we interpret the claims as saying that states ought to do these things as a matter of *justice* – that justice demands of the states that they do these things – then the answer is ‘yes’. That’s because feasibility is not a constraint on what states ought to do as a matter of justice, i.e.

1. It is not the case that a state S ought as a matter of justice to X at time t only if it is feasible for S to X at t.

Thus, claims such as the claim that Australia immediately ought to eradicate all social hierarchies might very well be correct, insofar as they are claims about what states ought to do as a matter of justice, in spite of making infeasible demands.

A number of prominent political philosophers say things that suggest they accept, or at least that commit them to accepting, the combination of theses (1) and (2). Consider, for example, G.A. Cohen’s argument against the Rawlsian ‘first virtue’ thesis. Cohen writes:

[O]ne should not suppose that, as Rawls says in *A Theory of Justice*, ‘justice is the first virtue of social institutions’ where that means that ‘laws and institutions ... must be reformed or abolished if they are unjust’. For sometimes justice is unattainable, and we do well to settle for something else. ... [A]ccording to an ancient Marxist wisdom, justice is not the first virtue of institutions in conditions of scarcity. Under those conditions a just distribution may be impossible to achieve, since powerful people will block it (2008: 84-5).

Cohen’s argument appears to be as follows: It’s not necessarily the case that states are required all-things-considered to do what they are required to do as a matter of justice because the latter, unlike the former, sometimes involves infeasible demands. In other words, the negation of the first virtue thesis follows straightforwardly from (1) and (2). Obviously this argument does not even get off the ground unless (1) and (2) are true.

Or consider Joseph Carens’ nuanced stance vis-à-vis open borders. On the one hand, Carens argues that open borders are required as a matter of justice and, hence, that any states that continue to impose and enforce restrictions on immigration pathways are thereby guilty of committing significant injustice (see e.g. Carens (1988, 2000, 2013)). This is in spite of the fact that Carens concedes that the idea of open borders is ‘not a practical proposal’ and ‘far removed from anything feasible in the foreseeable future’ (2013: x). Thus, Carens appears to accept, or at least to be committed to accepting, thesis (2). On the other hand, Carens also readily concedes that open borders are not required any time soon given what he calls ‘the real-world presupposition’, which he defines in terms of a particularly stringent interpretation of the principle that ‘ought’ implies ‘can’. As he puts it, the idea of open borders ‘is not really intended as a concrete recommendation for current policies or one in a foreseeable future. It is not intended as advice to presidents and prime ministers or to administrators and legislators’ (2000: 643). Or again: ‘If we adopt the real world presupposition … the idea that “ought implies can” will act as a much more serious constraint on our inquiry. … Feasibility becomes a major consideration because we want to be effective, not utopian’ (2013: 304, 300). Thus, Carens also appears to accept thesis (1).

Finally, David Estlund (2011) also says things that are at least *suggestive* of the combination of theses (1) and (2). While avoiding the language of feasibility, Estlund describes our *motivational capacities* or what *we can bring ourselves to do* as ‘a constraint on some tasks in political philosophy but not on others’ (2011: 208). Estlund repeatedly insists that our motivational capacities are not ‘a constraint on the content of justice’ (2011: 226).[[4]](#footnote-4) This makes it sound like he is endorsing a version of thesis (2) – one where ‘feasible’ means what we can bring ourselves to do (see Southwood (2016a)). Yet Estlund also suggests that our motivational capacities are indeed a constraint on what he calls ‘institutional proposals’, which ‘propose the implementation of rules and arrangements such as election and legislation procedure, economic rules and regulations, laws of property, marriage, employment, and much else’ (2011: 218).[[5]](#footnote-5) If institutional proposals are supposed to involve claims about what states ought to do all-things-considered, then it follows that he is endorsing the corresponding version of thesis (1).

The combination of theses (1) and (2) is appealing because it might seem to offer a plausible account of the apparently conflicting reactions many of us have in the face of normative claims such as those mentioned at the outset (see Southwood 2016a; Nagel 1991; Gilabert 2011). In such cases, there is some temptation to say both that such claims are correct in spite of making infeasible demands and that such claims cannot be correct in virtue of making infeasible demands. Endorsing both (1) and (2) allows us to render these reactions perfectly consistent. The interpretation of the normative claims that might be correct in spite of making infeasible demands is one that involves what states ought to do as a matter of justice. The interpretation of the claims that seems automatically incorrect on account of making infeasible demands is one that involves what states ought to do all-things-considered.

Nonetheless, I shall argue in what follows that the combination of theses (1) and (2) is untenable. More precisely, it entails an implausible picture of the relation between feasibility and desirability given an attractive understanding of the relation between what states ought to do as a matter of justice and what they ought to do all-things-considered. Thus, I shall conclude that we must give up on either (1) or (2), though I shall not take a stand on which. I shall consider several responses on behalf of the proponent of the combination view and suggest that they are hopeless. I shall then offer a conjecture as to how the problem might have escaped notice hitherto. And I shall conclude by suggesting a related but importantly different vindicating explanation of our conflicting reactions in the face normative claims that appear to make infeasible demands.

II

Let me begin by saying something about the relation between claims about what states ought to do as a matter of justice and claims about what they ought to do all-things-considered.

It seems clear that such claims can come apart in at least one direction. That is, it can be the case that states ought all-things-considered to do things even when it’s not the case that they ought to do these things as a matter of justice. For example, it seems plausible to suppose that states sometimes ought all-things-considered to build museums and art galleries, or to establish certain public holidays, or to engage in certain discretionary foreign aid programs, even when it’s not the case that they ought to do these things as a matter of justice.

The best explanation for such verdicts, I suggest, is the following: Claims about what states ought to do as a matter of justice are deontic claims that are normatively *limited* in the sense that they only aspire to take account of one important class of normative reasons: reasons of justice.[[6]](#footnote-6) By contrast, claims about what states ought to do all-things-considered are deontic claims that are normatively *comprehensive* in the sense that they aspire to take account of *all* relevant normative reasons for and against states acting in that way.[[7]](#footnote-7) This includes reasons of justice when there are such reasons and they are relevant. But it also includes other kinds of normative reasons. Some things that states ought all-things-considered to be in the business of doing don’t seem to have anything to do with justice and, hence, reasons of justice don’t apply or are relevant to them. Other things that states ought all-things-considered to be in the business of doing may have a justice dimension (reasons of justice may apply and be relevant), but the reasons don’t rise to the level of an ought of justice.

Can claims about what states ought to do as a matter of justice and claims about what they ought to do all-things-considered also come apart in the other direction? Some philosophers, influenced by Kant, say ‘no’. That’s because claims involving the ought of justice are said to occupy a privileged role within the domain of social institutions that means that they are necessarily *overriding*.[[8]](#footnote-8) Recall Rawls’ famous remark at the beginning of *A Theory of Justice*:

Justice is the first virtue of social institutions … [L]aws and institutions no matter how efficient and well-arranged *must be reformed or abolished* if they are unjust. Each person possesses an inviolability founded on justice that even the welfare of society as a whole *cannot override* (1971: 3: italics added).

To say that an ought claim is ‘overriding’ is precisely to say that it entails a corresponding claim about what we ought to do all-things-considered. Thus, the Kantian suggestion amounts to the following:

1. If a state S ought as a matter of justice to X at time t, then S ought all-things-considered to X at t.

Notice that if (3) is true, then the combination of theses (1) and (2) is straightforwardly inconsistent. (1) and (3) entail that (2) is false; and (2) and (3) entail that (1) is false. However, quite aside from whatever one thinks of (1) and (2), there is at least some reason to be sceptical of (3). Consider the unenviable situation of states in the aftermath of rule by a totalitarian regime, or a bloody and violent civil war, or occupation by a tyrannical foreign power. Episodes such as these are inevitably characterized by serious complicity on the part of many of the states’ citizens, often of a horrific kind and on a colossal scale (see Lepora and Goodin (2013)). Someone with retributivist leanings might hold that

1. States ought as a matter of justice to pursue and punish all those who played a significant role in the atrocities.

Anything less than that might be thought to fall unacceptably short of what justice requires. Yet we might also think that

1. It is not the case that states ought all-things-considered to pursue and punish all those who played a significant role in the atrocities.

That might be because we fear that the *consequences* of doing so would be likely to be disastrous, rendering insurmountable the already extremely difficult challenge of rebuilding a deeply fractured and fragmented society. In such profoundly non-ideal circumstances states ought to do otherwise than pursue and punish: either forgive and forget (as in de Gaulle’s post-war France); or remember and forgive (as in Mandela’s post-Apartheid South Africa). Alternatively, and quite aside from considerations of consequences, it might be because there is some *other* *duty* that overrides the retributive duty of justice: say, some kind of associative duty (say, a duty to repair a relevant relationship); or some kind of fiduciary duty (say, a duty to honour a commitment one has made to the perpetrators of the atrocities); or even a direct duty to forgive.

Cases of this sort give us at least some reason to think that (3) is false and that we should embrace a *weaker* thesis. The weaker thesis holds that claims about what states ought to do as a matter of justice are *defeasibly* overriding. To say that an ought claim is defeasibly overriding is to say that it entails a corresponding claim about what we ought to do all-things-considered unless there are sufficiently weighty countervailing considerations. So, the weaker thesis amounts to the following:

1. If a state S ought as a matter of justice to X at time t, then S ought all-things-considered to X at t if but only if there are no sufficiently weighty countervailing normative considerations.[[9]](#footnote-9)

Unlike (3), (6) entails that claims about what states ought to do as a matter of justice may come apart from claims about what they ought to do all-things-considered and, hence, that claims such as (4) and (5) may both be true. They may both be true precisely insofar as and because there *are* sufficiently weighty countervailing considerations that may outweigh considerations of justice.

III

I shall now argue that with even with the weaker thesis in hand we have what we need to show that the combination of theses (1) and (2) is untenable. The problem is that, given (6), (1) and (2) entail an implausible picture of the relation between feasibility and desirability.

Consider the following case. Suppose that, at time t1, Australia ought as a matter of justice to eradicate all social hierarchies. Suppose, however, that it is not the case that Australia ought all-things-considered to eradicate all social hierarchies. It would be the case that Australia ought all-things-considered to eradicate all social hierarchies, except that there is some sufficiently weighty countervailing consideration. In particular, let’s suppose that eradicating all social hierarchies would require destroying the Great Barrier Reef. Suppose that the destruction of the Great Barrier Reef would be sufficiently normatively undesirable that it’s not the case that Australia ought all-things-considered to eradicate all social hierarchies. Perhaps the destruction of the Great Barrier Reef would count as a sufficiently adverse negative consequence that the costs of eradicating all social hierarchies now outweigh the benefits. Or perhaps destroying the great barrier reef would constitute violating some other duty (say, a duty not to do irrevocable harm to unique ecosystems) that is sufficiently important to outweigh the demands of justice. Or whatever. (To be sure, some will deny that a case of this sort is *possible* because they hold that claims about what states ought to do as a matter of justice necessarily override other normatively significant considerations – that is, because they endorse (3). But a proponent of the combination of theses (1) and (2) is clearly not in a position – and indeed has no wish – to do so since, as we have already seen, (3) entails that the combination of (1) and (2) is straightforwardly inconsistent.)

Next, suppose that circumstances then *change* such that, at t2, while everything else is equal and it is still the case that Australia ought as a matter of justice to eradicate all social hierarchies, it is no longer the case that eradicating all social hierarchies would result in the destruction of the Great Barrier Reef. Since, at t2, it is no longer the case that there is some sufficiently weighty countervailing consideration, (6) entails that, at t2, Australia ought all-things-considered to eradicate all social hierarchies.

Now consider the question of the *feasibility* of Australia’s eradicating all social hierarchies. First, suppose that, *at t1*, it is *infeasible* for Australia to eradicate all social hierarchies – say, because the eradication of all social hierarchies is contrary to human nature, or because doing so is beyond the capacity of Australia’s political institutions, or because a more powerful nation such as the United States would cripple the economy or invade Australia if Australia tried to do so. (Again, some will deny that it is possible for it to be the case that Australia ought as a matter of justice to do what is infeasible. But, again, a proponent of the combination of theses (1) and (2) is clearly not in a position – and indeed has no wish – to deny that since to do so would be to give up on thesis (2).)

How about at t2? Recall that, at t2, Australia ought all-things-considered to eradicate all social hierarchies. Thesis (1) says that if a state ought all-things-considered to do something, then it must be the case that it is feasible for the state to do that thing. So it follows that, at t2, it is now *feasible* for Australia to eradicate the inequalities.

Consider what this means. By stipulation, the infeasibility-makers (i.e. human nature, institutional capacity, the prospect of invasion) and the undesirability-makers (i.e. the destruction of the Great Barrier Reef) at t1 are quite distinct. Moreover, the only change that has happened between t1 and t2 is a change in the undesirability-makers (i.e. it is no longer the case that eradicating all social hierarchies would require destroying the Great Barrier Reef). And yet this change in the desirability-makers has somehow produced a corresponding change in feasibility without any change in the infeasibility-makers (i.e. we can suppose that it remains the case that eradicating all social hierarchies is contrary to human nature, or beyond the capacity of Australia’s political institutions, or that the United States would cripple the economy or invade Australia if Australia tried to do so). This is utterly bizarre.

Just to be clear, I am not denying that changes in the undesirability-makers can *ever* produce corresponding changes in feasibility. Clearly they can and do if, as seems plausible, feasibility sometimes depends, in part, on how *desirable* agents find doing things. Suppose that the explanation for why it is infeasible at t1 for Australia to eradicate all social hierarchies is precisely that doing so would require destroying the Great Barrier Reef – a prospect that most Australians find sufficiently outrageous that they are robustly disposed to do just about anything to prevent it happening. In that case, there is nothing bizarre about a change in the undesirability-makers bringing about a corresponding change in feasibility.[[10]](#footnote-10) That’s because this is a case where the infeasibility-makers and the undesirability makers *coincide*.

Rather, my claim is that changes in undesirability-makers (even of this dramatic kind) do not *necessarily* produce corresponding changes in feasibility. To insist otherwise would be to hold a thoroughly implausible picture of the relation between feasibility and desirability. Yet this is precisely what follows from theses (1) and (2) given (6). Thus, I suggest that the combination of theses (1) and (2) is not a tenable one.

IV

What might the adherent of theses (1) and (2) say in response? So far as I can tell there are only three remotely viable responses. The first is to deny (6) in favour of the following still weaker thesis:

1. If a state S ought as a matter of justice to X at time t, then S ought all-things-considered to X at t if but only if i) there are no sufficiently weighty countervailing normative considerations and ii) it is feasible for S to X at t.

(7) implies that there are *two* ways that claims about what states ought to do as a matter of justice might fail to entail corresponding claims about what they ought to do all-things-considered. First, they can be outweighed by sufficiently weighty countervailing normative considerations. Second, they can make infeasible demands. This allows the adherent of the theses (1) and (2) to avoid implausible changes in what is feasible that are occasioned merely by changes in the desirability-makers. For example, in our case of the Great Barrier Reef, (7) does not entail that, at t2, Australia ought all-things-considered to eradicate all social hierarchies. Thus, it does not follow from (1) that it is now feasible for Australia to eradicate all social hierarchies. (1) simply does not apply.

The question is: what entitles the adherent of theses (1) and (2) to reject (6) in favour of (7)? Here is an argument for (6):

1. If a state S ought as a matter of justice to X at t, then S has some normative reason to X at t.
2. A state S ought all-things-considered to X at t if and only if i) S has some normative reason to X at t and ii) there are no sufficiently weighty countervailing normative considerations.

Therefore,

1. If a state S ought as a matter of justice to X at time t, then S ought all-things-considered to X at t if but only if there are no sufficiently weighty countervailing considerations.

Which premise are we supposed to reject?

I’m going to assume that rejecting (8) is not going to be an appealing option for the adherent of theses (1) and (2). To be sure, it is plausible that there are some so-called *merely* *formally normative* ‘ought’ claims that do not entail that agents have normative reasons to act in accordance with them, such as claims involving the rules of Tiddlywinks.[[11]](#footnote-11) (Take the claim that ‘you ought not to play a squopped wink’.) But recall that the adherent of theses (1) and (2) is trying to identify an interpretation that can vindicate claims such as the claim that Australia ought to eradicate all social hierarchies. It is highly doubtful that merely formally normative oughts such as the ought of Tiddlylinks provide an attractive model for this purpose.

This suggests that an adherent of theses (1) and (2) who wishes to reject (6) in favour of (7) is committed to rejecting (9). That is, she is committed to holding that there are cases where we have some normative reason to do something and no sufficiently strong normative reason not to do it, and yet it is not the case that we ought all-things-considered to do it because it is not feasible for us to do so. This is puzzling in various ways.[[12]](#footnote-12) Most importantly for our purposes, it leaves it very unclear how exactly claims involving the all-things-considered ought are supposed to be understood. As noted above, the natural thing to say is that such claims are to be understood as *normatively comprehensive* deontic claims: deontic claims that aspire to take account of all relevant normative reasons for and against states acting in that way. But it turns out that such a characterisation is not available to the adherent of theses (1) and (2) who wants to reject (6). What should she say instead?

Perhaps she will say that claims involving the all-things-considered ought are to be understood as deontic claims that aspire to take account, not merely of all relevant reasons, but of all relevant *considerations*, non-normative as well as normative.[[13]](#footnote-13) But this doesn’t help one jot. For it is natural to ask: Why think that whether or not an act is feasible is a relevant consideration (and, say, whether the act happens on Friday at 3:29pm isn’t a relevant consideration)? And why think that feasibility is relevant in this particular way, by being a constraint on what we ought to do all-things-considered (rather than in some other way)?

So far as I can tell, the only thing left to say is that being constrained by what is feasible is itself partly *constitutive* of claims involving the all-things-considered ought. Part of what it *is* to be a claim involving the all-things-considered ought is to be constrained by what is feasible. But this is, in effect, to give up on the main motivation for endorsing the combination of theses (1) and (2), namely to give a vindicating explanation of our apparently conflicting reactions in the face of certain normative claims that make infeasible demands. For that reason, it’s also entirely unsatisfying. What we wanted to know is what it is *about* different oughts that makes it the case that they are or aren’t constrained by what is feasible.

V

So much for the first response. The second response is to concede (6) but insist that the infeasibility of an act is itself a *reason* not to perform the act – indeed a *decisive* reason, that is, a reason of a sufficiently weighty kind to eclipse reasons on the other side.[[14]](#footnote-14) Thus, if it is infeasible for Australia to eradicate all social hierarchies, it follows that Australia ought not to eradicate all social hierarchies all-things-considered, even if this is what Australia ought to do as a matter of justice, and irrespective of whether or not there is some *other* sufficiently weighty countervailing consideration (such as the fact that eradicating all social hierarchies would require the destruction of the Great Barrier Reef). If infeasibility is a decisive reason of this kind, then the proponent of theses (1) and (2) may accept (6) without this resulting in an implausible picture of the relation between feasibility and desirability. That’s because if infeasibility is a decisive reason, then (6) does not entail that, at t2, Australia ought all-things-considered to eradicate all social hierarchies. On the contrary, Australia ought all-things-considered *not* to eradicate all social hierarchies at t2. Thus, again, it does not follow from (1) that it is now feasible for Australia to eradicate all social hierarchies since (1) simply does not apply.

Nonetheless, we should resist the idea that infeasibility is a decisive reason not to do something – or indeed a practical reason of any kind. Practical reasons are considerations that are supposed to play a certain distinctive role with regard to practical reason. Roughly, they are considerations that it is appropriate to adduce within practical reason to help settle the question of what to do (see Hieronymi (2011), Wallace (2014)). For example, it is appropriate to adduce the fact that I find surfing to be the ideal complement to the highly cerebral activity of being a philosopher to help settle the question of whether to take up surfing again (in support of taking up surfing again). And it is appropriate to adduce the fact that the last time I went surfing I sustained multiple, displaced C1 and C2 fractures (in support of not taking up surfing again).

By contrast, it is not plausible to suppose that infeasibility is a consideration of this kind. Consider the disturbingly nearby possible world in which my taking up surfing again is not feasible because I am a quadriplegic. If infeasibility is a reason (whether decisive or otherwise) not to do something, then it should be appropriate for me to adduce the fact that it is infeasible for me to take up surfing again in order to help settle the question of whether to take up surfing again (against doing so). But this seems manifestly inappropriate. The point is that it would seem that I’d gone wrong in even contemplating the question of whether to take up surfing again (Southwood 2016b). *A fortiori*, I would have gone wrong in treating the fact that it is infeasible for me to take up surfing again as bearing on the question.

VI

The third and final response that I shall consider is to try to show that cases of the sort I presented are *impossible* because they rely upon the possibility of infeasibility-makers and undesirability-makers coming apart, whereas this is not possible. According to most existing accounts of feasibility, this is a hopeless prospect. However, it might seem that there is one kind of account of feasibility that promises to give the adherent of theses (1) and (2) what she is after. So-called *cost-based accounts* of feasibility hold that it is feasible for agents to realize certain states of affairs just in case doing so is *achievable without undue costs* (see Räikkä (1998), Buchanan (2004), Miller (2013)). Thus, it may be feasible for Australia to substantially reduce social hierarchies but infeasible to eliminate them altogether inasmuch as substantial reductions in social hierarchies are achievable without undue costs, whereas eliminating social hierarchies altogether would be unduly morally and/or prudentially costly.

It might seem that cost-based accounts are at odds with my assumption regarding the distinctness of feasibility and desirability. That’s because such accounts hold that claims about feasibility are, in effect, special kinds of desirability claims: in particular, claims about *undue costliness*. Thus, cost-based accounts hold that at least certain changes in desirability – namely, changes in whether states of affairs are achievable without undue costs – *do* entail corresponding changes in feasibility. So, if Australia’s eradicating all social hierarchies is infeasible at t1, this just means that eradicating all social inequalities would count as unachievable without undue costs. Moreover, if the normative situation changes in such a way that, at t2, it is not longer the case that eradicating all social inequalities would count as unachievable without undue costs (because it no longer requires the destruction of the Great Barrier Reef), then it follows that it now counts as feasible, at t2, for Australian to eradicate all social hierarchies. Thus, it might seem that there is at least one perfectly respectable account of feasibility that allows us to endorse theses (1) and (2), as well as (6), without this resulting in an implausible picture of the relation between feasibility and desirability. It only seems to generate an implausible picture of the relation between feasibility and desirability insofar as we are in the grip of a mistaken view of feasibility.

But this relies upon a crucial misinterpretation of cost-based accounts. The natural way to interpret such accounts is that claims about feasibility have an essential evaluative aspect. As David Miller nicely puts it:

I believe in fact that the notion of practical possibility that Rawls relies upon has an inescapable normative element. The limits of political possibility are set not just by physical and sociological laws, but by implicit assumptions about what, for us, would count as a tolerable or intolerable outcome. This can perhaps best be illustrated by considering what Rawls has to say about the family as a social institution. … Proposals to reform the family so that women are treated more fairly within it (by, for example, being entitled to a share of their husbands’ income on divorce) remain within the bounds of feasibility, whereas proposals to get rid of the family altogether and replace it with some other institution for raising children step beyond those bounds – not because they break some natural law but because in liberal societies people are fundamentally committed to family life in some form (2013, pp. 32-33).

Miller believes that truths about what is feasible are determined, in part, by evaluative considerations (facts about what would count as unduly costly). But this does not mean that he believes that truths about feasibility are *wholly* determined by evaluative considerations. As this passage makes clear, he also believes that truths about feasibility are determined, in part, by *non-evaluative* considerations: laws of logic, laws of nature, perhaps psychological and sociological laws, and so on. Consider doing something (squaring the circle or flying) the achievement of which would be fabulous but that is logically or nomologically impossible. Proponents of cost-based accounts such as Miller are hardly going to say that squaring the circle or flying are feasible because doing these things would not be unduly costly. The point is, rather, that there are *other* things (such as abolishing the family) such that doing those things is perfectly logically, nomologically, psychologically, sociologically possible etc and yet infeasible because doing it would be intolerably costly.

But once we interpret cost-based accounts in this way, we see that they are perfectly compatible with – indeed they entail – my claim that infeasibility-makers and undesirability-makers may come apart. Cost-based accounts accept that there are infeasibility-makers that are not also undesirability-makers. This means that we have precisely what we need to generate cases that are problematic for the adherent of (1) and (2). Thus, for example, it might be that it is infeasible for Australia to eradicate all social hierarchies because doing so would violate a sociological law, whether or not doing so would be unduly costly.

In order to find an account that would not permit us to generate the problematic cases we would need to interpret cost-based accounts as holding that feasibility claims are not merely claims with an essential evaluative aspect but that they are *merely* evaluative claims. Such an interpretation is hardly plausible. For it would entail that it is feasible for me to square the circle and fly. Thus, from what I can tell, it remains true that there is no plausible account of feasibility that would give the adherent of the combination of theses (1) and (2) what she needs.

VII

I have argued that the initially appealing idea of combining the thesis that feasibility is a constraint on ought all-things-considered, i.e. thesis (1), with the thesis that feasibility isn’t a constraint on ought as a matter of justice, i.e. thesis (2), results in an implausible picture of the relation between feasibility and desirability and cannot credibly be maintained. This naturally raises the question: Why has this escaped notice?

Who knows? But let me offer a very tentative suggestion. The suggestion is that the error may result from a seductive ambiguity in the vicinity of claims about what states ought to do as a matter of justice that means that there is a possible misinterpretation of (2) that is perfectly compatible with thesis (1).

The ambiguity concerns the locution ‘justice requires’. John Broome (2007) has helpfully noted that the locution ‘F requires’ may involve two quite different senses of ‘requires’. First, they may involve what Broome calls the ‘property sense’. Employing the property sense of ‘F requires’ simply means articulating a necessary condition for some F. Here are some examples:

1. Bachelorhood requires that one be unmarried.
2. Happiness requires that one get enough exercise.

These claims may be perfectly accurately rendered as

1. Being unmarried is a necessary condition for being a bachelor.
2. Getting enough exercise is a necessary condition for being happy.

Second, ‘requires’ may also involve what Broome calls the ‘source sense’. Consider the following:

1. The law requires that one wear a seat-belt.

This cannot be accurately rendered in terms of some necessary condition for being the law. Rather, it expresses the idea that the law makes *demands* *of us*, of which the demand to wear a seat-belt is one. It means something like

1. The law demands of one that one wear a seat-belt.

By contrast, bachelorhood is not a source of demands such as a demand to be unmarried. And happiness is not a source of demands that include the demand to get enough exercise. It seems entirely wrong to render (10) and (11) as

1. Bachelorhood demands of one that one be unmarried.
2. Happiness demands of one that one get enough exercise.

The instances of ‘F requires’ that we have considered so far, while they involve a locution that is ambiguous, do not *themselves* seem to be ambiguous because there seems to be a unique interpretation of them that is reasonable. Thus, ‘happiness requires’ and ‘bachelorhood requires’ may only reasonably be interpreted as involving the property sense and not the source sense, whereas ‘the law requires’ may only reasonably be interpreted as involving the source sense and not the property sense.

But Broome also notes that other instances of ‘F requires’ (e.g. morality requires, prudence requires, and rationality requires) may *involve* either the property sense or the source sense. Take the claim that

1. Morality requires that we be honest.

This may involve the property sense in which case it means something like,

1. Being honest is a necessary condition for having the property of being moral (i.e. being a moral person).

But it may also involve the source sense in which case in means

1. Morality demands of us that we be honest.

Now return to justice. Take a claim such as the following

1. Justice requires that Australia eradicate all social hierarchies.

Such claims, I suggest, are straightforwardly ambiguous depending on whether it is the property sense or the source sense of ‘requires’ that is at issue. Interpreting the ‘requires’ in the property sense yields the following:

1. It is a necessary condition for (perfect or sufficient) justice to obtain that Australia eradicates all social hierarchies.

That is to say that if Australia does not eradicate all social hierarchies, then (perfect or sufficient) justice will not obtain. By contrast, interpreting the ‘requires’ in the source sense yields

1. Justice demands of Australia that Australia eradicate all social hierarchies.

If Australia does not eradicate all social hierarchies, then we can say more than that (perfect or sufficient) justice will not obtain. We can say, in addition, that Australia will have violated a demand – a demand of justice.

What is the significance of this ambiguity for our purposes? Recall thesis (2). Thesis (2) holds that

1. It is not the case that a state S ought as a matter of justice to X at time t only if it is feasible for S to X at t.

I myself do not think that thesis (2) is ambiguous, though others may disagree. However, here is a thesis in the vicinity of thesis (2):

(2\*) It is not the case that justice requires a state S to X at time t only if it is feasible for S to X at t.

I think that (2\*) *is* straightforwardly ambiguous. It can be interpreted in two different ways depending on how we interpreting the ‘justice requires’. Interpreting ‘justice requires’ in the property sense yields

(2\*\*) It is not the case that it is a necessary condition for the obtaining of (perfect or sufficient) justice that a state S performs X at time t only if it is feasible for S to X at t.

Interpreting ‘justice requires’ in the source sense, by contrast, gives us

(2\*\*\*) It is not the case that justice demands of a state S that S performs X at time t only if it is feasible for S to X at t.

I suggest that to the extent that the combination of theses (1) and (2) seemed to be plausible, this might be because we were mistakenly misinterpreting (2) as (2\*\*). (2\*\*) is extremely plausible – indeed arguably truistic. That’s because claims about what is necessary in order for perfect or sufficient justice to obtain are, at most, *evaluative* (rather than deontic) claims. While there is debate about whether deontic claims are constrained by feasibility, it is accepted on both sides that merely evaluative claims are not constrained by feasibility (see Gilabert (2011), Gheaus (20130, Valentini (2011b)). Moreover, (1) and (2\*\*) are perfectly consistent; the combination of (1) and (2\*\*) does not result in an implausible picture of the relation between feasibility and desirability. However, interpreting (2) as (2\*\*) involves a mistake. Claims about what states ought to do as a matter of justice are surely *deontic* claims. This means that the correct interpretation of (2) is (2\*\*\*).

Suppose that I’m wrong that interpreting (2) as (2\*\*) is a *misinterpretation*. Still, this would mean that the combination of theses (1) and (2) cannot deliver on its *promise*. The reason why (1) and (2\*\*) represent a tenable combination has nothing whatsoever to do with a difference between all-things-considered normativity and the normativity of justice. Rather, it has to do with the familiar distinction between the deontic and the evaluative, a distinction that cross cuts the distinction between all-things-considered normativity and the normativity of justice. As noted above, we already knew that evaluative claims are not constrained by feasibility. We didn’t need the combination of theses (1) and (2) to remind us of the fact. The combination view was interesting because it promised to deliver a *different* kind of vindicating explanation of our conflicting reactions in the face of normative claims that appear to make infeasible demands – a promise on which it cannot deliver if we interpret (2) as (2\*\*). In short, there is no interpretation of the combination view that is both plausible and that can deliver on its promise.

VIII

The combination of theses (1) and (2) seemed appealing because it seemed to offer a plausible vindicating explanation of the apparently conflicting reactions many of us have in the face of certain normative claims that appear to make infeasible demands, such as the claim that Australia ought to eradicate all social hierarchies. The explanation was that such claims may indeed be correct insofar as they involve the ought of justice in spite of making infeasible demands but are incorrect insofar as they involve the all-things-considered ought because they make infeasible demands. I have argued that this is not so.

Notice, however, that there is a closely related explanation in the vicinity. This alternative explanation also purports to vindicate our conflicting reactions in terms of whether the ‘ought’ in question is the ought of justice or the all-things-considered ought. In particular, it explains our reactions by holding that normative claims that appear to make infeasible demands, such as the claim that Australia ought to eradicate all social hierarchies, may indeed be correct insofar as they involve the ought of justice and yet incorrect insofar as they involve the all-things-considered ought.

How could this? Here is a simple suggestion: Perhaps the explanation is simply that eradicating all social hierarchies is obligatory from the normatively limited standpoint of what states ought to do as a matter of justice but not obligatory (and indeed quite possibly impermissible) from the normatively comprehensive standpoint of what they ought to do all-things-considered. Whereas considerations of justice alone may demand the eradication of all social hierarchies, there may well be sufficiently weighty countervailing normative considerations of some other kind that would make it at least permissible not to eradicate all social hierarchies (and perhaps even impermissible to) do so. For example, perhaps eradicating all social hierarchies would result in unacceptable threats to security, or to democratic institutions, or to fragile ecosystems, or whatever. On this account, infeasibility is no part of the explanation of *why* it is not the case that Australia ought to eradicate all social hierarchies.

What this means is that we have a vindicating explanation of our conflicting reactions in the face of normative claims that appear to make infeasible demands that does not require us to endorse theses (1) and (2). One thing that means is that the combination of theses (1) and (2) is not in fact well motivated by our conflicting reactions in the face of normative claims that make, or appear to make, infeasible demands. For we don’t need theses (1) and (2) to vindicate these reactions. Moreover, the fact that we can vindicate our conflicting reactions without endorsing theses (1) and (2) is a very good thing since, as we’ve seen, the combination of theses (1) and (2) is an untenable one.

Would endorsing the alternative explanation force us to give up on thesis (2) and, hence, the claim that feasibility is a constraint on what states ought to do (both as a matter of justice and all-things-considered)? Not necessarily. Only if we want to claim both that our conflicting reactions are correct and that the normative claims that *appear* to make infeasible demands *in fact* make infeasible demands. Perhaps we do want to claim this. Even if we do, this shows that our conflicting reactions in the face of normative claims that appear to make infeasible demands may be correct even though the combination of theses (1) and (2) is mistaken (since thesis (2) is false). Alternatively, perhaps we don’t. For it may well be that appearances are misleading. For example, it may be that while it appears to us to be infeasible for Australia to eradicate all social inequalities or for the United States to implement and maintain open borders, these things are in fact perfectly feasible. In that case our conflicting reactions may both be correct without our having to give up on the claim that feasibility is a constraint on what states ought to do all-things-considered. Thus, we might instead give up on thesis (1).

Either way, the upshot is that we can explain our conflicting reactions in the face of normative claims that appear to make infeasible demands without insisting that feasibility is a constraint on what states to do ought all-things-considered and yet not a constraint on what they ought to do as a matter of justice.[[15]](#footnote-15)

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1. I say ‘correct’ rather than ‘true’ to avoid assuming that normative claims have truth-value. Thus, ‘correct’ is a placeholder that can be filled in differently depending on one’s meta-ethical predilections. I am grateful to a referee for urging greater meta-ethical neutrality here. [↑](#footnote-ref-1)
2. Political philosophers have begun to devote considerable attention to this issue. For a representative sample, see e.g. Räikkä (1998), Buchanan (2004), Mason (2004), Brennan and Pettit (2005), Brennan and Southwood (2007), Southwood (2015, 2016a), Southwood and Wiens (2016), Estlund (2007: ch. 14, 2011, 2014), Cohen (2008), Swift (2008), Gilabert (2011, 2017), Gilabert and Lawford-Smith (2012), Lawford-Smith (2012, 2013a), Hamlin and Stemplowska (2012), Miller (2013), Gheaus (2013), Wiens (2013, 2014, 2015). For a general introduction to the so-called ‘feasibility issue’, see Southwood (2018). [↑](#footnote-ref-2)
3. A structurally analogous, but substantively very different, view holds that whether or not feasibility is a constraint on the correctness of claims about what states ought to do depends on whether claims involve e.g. a) the *prescriptive* or *evaluative* oughts (see Gilabert (2011) and Gheaus (2013)0; or b) the deliberative or hypological oughts (see Southwood (2016a)). The oughts that are adduced here (the prescriptive ought, the evaluative ought, the deliberative ought, the hypological ought) are supposed to be different in virtue of the core normative practices (e.g. prescription, evaluation, deliberation, criticism) with which they are associated and in the service of which they are supposed to be capable of operating. [↑](#footnote-ref-3)
4. Elsewhere Estlund notes that he is ‘denying that principles of political justice depend on … facts about what people can or can’t bring themselves to do’ (2011: 224). He also notes that ‘even if the reason people will not comply with [a given institutional principle] is because there is a motivational inability to do …, this … does not refute the theory of justice’ (2011: 221). [↑](#footnote-ref-4)
5. For example, Estlund writes: ‘It is important to acknowledge that any institutionalproposal that ignores the facts about how people will actually tend to behave is worthless (2011: 215)’. And again: ‘Surely, a society should not implement institutions that people will not be able to bring themselves to comply with’ (2011: 226). [↑](#footnote-ref-5)
6. There are, of course, different views about what it means for a reason to be a reason of justice: say, a reason concerning the design of the basic structure of a society (see Rawls (1971)); or a reason that is (potentially) justifiably enforceable when it has the requisite strength (see Blake (2011), Valentini (2011a0); or a reason concerning the treatment of those to whom we stand in some special relation such as the relation of co-citizen (see Miller (1976)). These differences don’t matter for my purposes here. [↑](#footnote-ref-6)
7. Notice that feasibility is absent from this characterization of the all-things-considered ought, though, of course, it is perfectly *consistent* with our characterisation that feasibility will turn out to be a constraint on claims involving the all-things-considered ought after all (i.e. thesis (1). I shall consider the idea of explicitly characterizing the all-things-considered ought in terms of feasibility in section IV. [↑](#footnote-ref-7)
8. Immanuel Kant (1998) famously suggested that claims involving the *moral* ought are overriding within the domain of interpersonal relations. [↑](#footnote-ref-8)
9. I shall consider whether it is plausible to further weaken the thesis in section IV. [↑](#footnote-ref-9)
10. Of course, it is important to recognise that it is not the changes in undesirability-makers per se but rather changes in agents’ *beliefs* about the undesirability-makers that are producing a change in feasibility. If there is a change in the undesirability-makers of which agents are unaware, then we have no reason to expect a change in feasibility. [↑](#footnote-ref-10)
11. The idea that that we must distinguish between *merely* *formal* (or *minimal*) normativity, on the one hand, and *substantive* (or *robust*) normativity, on the other, has come to be an important theme in the contemporary philosophy of normativity. See e.g. Parfit (2011), Broome (2013), McPherson (2011). [↑](#footnote-ref-11)
12. It also means accepting that feasibility is not a constraint on claims about what we have reason to do despite the fact that it is a constraint on claims about what we ought to do all-things-considered – a rather odd combination. [↑](#footnote-ref-12)
13. I am grateful to Holly Lawford-Smith for discussion of this suggestion. [↑](#footnote-ref-13)
14. I am very grateful to a referee for suggesting this response. [↑](#footnote-ref-14)
15. I am very grateful to Pablo Gilabert, Holly Lawford-Smith, Emily McTernan, and Laura Valentini for detailed written comments; to audiences at Boston, Princeton, and SMU for challenging questions; and to two referees for this journal for excellent substantive suggestions. Research for the article was supported by FT160100409 and DP140102468. [↑](#footnote-ref-15)