

I

Permissions To Do Less Than the Best: A Moving Band¹

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Our topic in this paper is moral permissions, in particular permissions not to do what will have the best outcome impartially considered. We'll discuss the basis of these permissions and how they relate to other moral ideas such as your special duties to people who are close to you, such as your family and friends. Our main positive suggestion will be that the strength of the permissions, compared both to each other and to the duty to promote another's good, isn't constant but varies with the affected person's closeness to you. If there's a band within which you're permitted to make certain choices, that band moves.

We'll discuss two main types of permission, of which the first are agent-favouring permissions, or permissions to favour yourself. If you can give either one unit of happiness to yourself or five units to another person, impartial consequentialism says you must give the five units to the other person. But common-sense morality disagrees. It says that while you do nothing wrong if you give the five units to the other, you also do nothing wrong if you give the one unit to yourself. That's because you're permitted, at least up to a point, to prefer your own lesser to another's greater good, for example, your own lesser to her greater happiness.² This agent-favouring permission underlies the

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² Early discussions of this permission are in Derek Parfit, "Innumerate Ethics", *Philosophy and Public Affairs* 7 (1977–8): 285–301; Nancy Davis, "Utilitarianism and Responsibility", *Ratio* 22 (1980): 15–35; and, most extensively, Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982).

common-sense idea that some acts are supererogatory, or beyond the call of duty. It would certainly be commendable of you to give the five units to the other person, but it's supererogatory rather than something you're morally required to do. And the reason it's supererogatory is that you're permitted to care somewhat more about yourself.

But there are also agent-sacrificing permissions, or permissions to care less about yourself. If you can give either two units of happiness to yourself or one unit to another person, impartial consequentialism says you must give the two units to yourself, because that will result in the most happiness. Common sense again disagrees, saying you do nothing wrong if you give the one unit to the other person. You don't have a duty to do this, since you likewise do nothing wrong if you prefer your own two units. But you're not required to maximize happiness impartially. You have another permission not to do what will have the best outcome, now an agent-sacrificing permission to produce somewhat less good for another rather than somewhat more for yourself.³

So common sense gives you both permissions to care more about your own good than about another's and permissions to care less. Assuming it's right to do so, what is the basis of these permissions? We start with the more familiar case of agent-favouring permissions. If you're permitted to prefer your own lesser to another's greater good, why is this so?

I. AGENT-FAVOURING PERMISSIONS

Many philosophical accounts of agent-favouring permissions ground them in a conflict between two types of reason. On one side are impersonal or moral reasons to promote the good of all people impartially; on the other are personal or prudential reasons to care disproportionately about your own. The clash between these types of reasons, it's then said, yields agent-favouring permissions. Samuel Scheffler's appeal to "the independence of the personal point of view" is one account of this type. According to Scheffler we aren't just impartial maximizers but have a special attachment to our own projects

³ That common-sense morality grants agent-sacrificing permissions is noted in Michael Slote, *Common-Sense Morality and Consequentialism* (London: Routledge & Kegan Paul, 1985), ch. 1.

and interests, with each of these standpoints generating or recognizing a distinct type of reason. Granting an agent-favouring permission rather than requiring us to maximize impartially recognizes this duality in our motivational structure, by letting sometimes one and sometimes the other win out.⁴

But these reason-based accounts, as we'll call them, either don't yield sufficiently broad agent-favouring permissions or give them the wrong rationale. The permissions common sense grants are fairly extensive. If you're permitted to prefer one unit of your own happiness to five units for another person, you may also be permitted to prefer one of your own to six or seven for another, and you're certainly permitted to prefer it to four, three, or two units for another.

But imagine, as is perfectly consistent with reason-based accounts, that impersonal and personal reasons can be weighed precisely against each other. Imagine, for example, that while impersonal reasons count everyone's happiness equally, your personal reasons count your own happiness ten times as much as other people's, and the two types of reason have exactly equal weight. Then weighing them against each other will result in a ranking that splits the difference between them and is equivalent to a single ranking counting your own happiness five times as much as other people's. And while this ranking lets you choose either one unit of happiness for yourself or five units for another, it requires you to prefer six units for another to one for yourself and also requires you to prefer one unit for yourself to four, three, or two for another. Given full comparability between reasons or points of view, their duality yields no broader a permission than does impartial consequentialism. The permission may involve a precise 1:5 rather than 1:1 ratio, but it's no more extensive.⁵

A reason-based account can avoid this result by denying that the conflicting reasons can be precisely compared. Derek Parfit takes this line. He says that if you can give either one unit of happiness to yourself or a thousand units to another, your impersonal reason outweighs your personal one and you should prefer the thousand. But if your choice is

⁴ Scheffler, *The Rejection of Consequentialism*, ch. 2.

⁵ This objection is made in Shelly Kagan, "Defending Options", *Ethics* 104 (1994): 333-51, pp. 338-9; and Douglas Portmore, "Position-Relative Consequentialism, Agent-Centered Options, and Supererogation", *Ethics* 113 (2003): 303-32, pp. 306-7.

between one for yourself and five for another, it may be that neither reason outweighs the other nor that they're exactly equal in weight; likewise if you have a choice between one for yourself and six, four, or three for another. When reasons can't be determinately compared, however, you're free to act on either. So given a broad band within which reasons aren't precisely comparable, there's an equally broad band of agent-favouring permissions.⁶

But this account gives the resulting permissions the wrong rationale. For it makes it a necessary condition for their existence, and therefore for the existence of supererogation, that reasons not be completely comparable. But surely when common sense holds that some acts are beyond the call of duty it isn't thinking about the comparability of reasons; it has no view about so *recherché* a topic. And surely it need have no such view. It's simply a persuasive idea in itself that morality doesn't demand large sacrifices of you to give only slightly greater benefits to others—if it did, it would be unreasonable.

It may be replied on Parfit's behalf that we could never weigh impersonal and personal reasons precisely, and this is true at least epistemically. But the fact that *we* can't assign precise weights to reasons is consistent with there being, metaphysically, completely determinate truths about what those weights are. And the common-sense view isn't that supererogation is a merely epistemic phenomenon. It's not just that we have to act as if two choices are both permitted because we can't know which is required; it's that the choices are in fact both permitted. For that metaphysical view to be justified in Parfit's way the weights of reasons would have to be in fact only partly determinate, and our belief in supererogation surely doesn't depend on that abstruse metaphysical claim.

There are other reason-based accounts of agent-favouring permissions, but they have other objectionable features.⁷ And we think this

⁶ Derek Parfit, *On What Matters* (Oxford: Oxford University Press, 2011), Vol. 1, pp. 137–41; see also Joseph Raz, *Engaging Reason: On the Theory of Value and Action* (Oxford: Oxford University Press, 1999), p. 243. Unlike Scheffler's, Parfit's view is not about specifically moral permissibility, but it can be turned into one that is if the reasons it weighs are all called "moral".

⁷ Elaborating a suggestion of Slote's, Portmore argues that in supererogation cases your prudential reason to promote your own lesser happiness outweighs your moral reason to promote the other's happiness, so you're rationally required to prefer your lesser happiness. But you're morally permitted to prefer the other's greater happiness, because you're always

whole approach is misguided. It tries to derive the permissions from more basic normative factors that aren't themselves permissions but count positively in favour of an act, such as a reason or an "ought other things equal" to do it. And we don't think the relevant "may" can be derived in the right way from just "oughts". A successful account must start with moral factors some of which are themselves permissive. We now propose an account of this sort, formulated using language derived from W. D. Ross.⁸

This account generates agent-favouring permissions by positing an independent and underivative permission to pursue your own good. More specifically, it holds that alongside a prima facie duty, or duty other things equal, to promote everyone's happiness impartially, you have a prima facie permission to promote your own happiness. This permission has to be weighed against the impartial duty and in some cases will lose to it. If you can produce either one unit of happiness for yourself or a thousand units for another person, your duty outweighs your permission and what's true all things considered is that you ought to produce the thousand. But if you can produce either one unit for yourself or five for another, the permission outweighs the duty and you're permitted all things considered to favour yourself.⁹

Unlike the two accounts discussed above, this one yields broad agent-favouring permissions even if all normative factors can be precisely compared. Let's say your prima facie permission outweighs your prima facie duty up to but not beyond the point where the ratio of

morally permitted both to do what's best supported by all your reasons and to do what's best supported just by your moral reasons; see Slote, "Shelly Kagan's *The Limits of Morality*", *Philosophy and Phenomenological Research* 51 (1991): 915–17, and Portmore, "Position-Relative Consequentialism, Agent-Centered Options, and Supererogation". As Kagan objected to Slote, however, this view implies that supererogatory acts are irrational, which is neither plausible nor the view of common sense-morality (Kagan, "Replies to My Critics", *Philosophy and Phenomenological Research* 4 (1991): 919–28, pp. 927–8). Portmore replies that this objection applies to all accounts of supererogation and so doesn't count specially against his own (p. 328), but it does not apply to the account we defend below.

⁸ W. D. Ross, *The Right and the Good* (Oxford: Clarendon Press, 1930), pp. 19–20.

⁹ Accounts that likewise posit underderivatively permissive factors are given by Joseph Raz and Joshua Gert. See Raz, "Permissions and Supererogation", *American Philosophical Quarterly* 12 (1975): 161–8, and *Practical Reason and Norms* (London: Hutchinson, 1975), pp. 89–97; and Gert, *Brute Rationality: Normativity and Human Action* (Cambridge: Cambridge University Press, 2004). We find our Ross-inspired account simpler and more perspicuous than these two, but the basic idea is the same.

benefits to you and the other is exactly 1:5. Then you're permitted to prefer one unit of your own happiness to five for the other, though not to six for the other. But you're also permitted to prefer one unit of your own happiness to four, three, or two units for the other, because a permission that outweighs a four-unit gain in happiness also outweighs a three-unit, two-unit, or one-unit gain. The resulting all-things-considered permission is therefore broad even if the moral truth is completely determinate, and it's also only a permission, involving no duty to prefer your one unit. The *prima facie* duty to promote happiness impartially that weighs against it implies a *prima facie* permission to do so, and since nothing conflicts with that permission, you're also permitted all things considered to prefer the other's five. As common sense holds, in a one-for-you vs. five-for-another case you may make either choice.

Some may resist the idea that there are underivative permissions, saying that if an act is permitted there must be some deeper explanation why. If this objection is based on the more general view that no normative truths can be underivative, it raises metaethical issues beyond the scope of this paper. But many, including Scheffler and Parfit, think there can be underivative truths about reasons or oughts. If asked why we have reason or ought other things equal to promote happiness impartially, they'll say there's no explanation: we just do. But the concepts of ought and permission are interdefinable. You ought to do an act when you're not permitted not to do it, and you're permitted to do it when it's not the case that you ought not to. But then there's no reason why, if claims using one of these concepts can be underderivatively true, claims using the other cannot. If it can be a primitive truth that you're other things equal not permitted not to do something such as pursue your happiness, surely it can also be a primitive truth that you *are* permitted to do it.

Others may object to the idea that permissions can have weights. We understand what it is for one *prima facie* duty to be stronger than another, they may say, but talk of a permission's weight is meaningless.

Again, however, we see no force in this objection. What exactly is the strength of a *prima facie* duty? We think it's just that duty's tendency, in competition with other duties and perhaps permissions, to make some act your all-things-considered duty. One duty is therefore stronger than another if it has more of that tendency, so a *prima facie* duty to do

X is stronger than a prima facie duty not to do *X* if, taking the two together, what's true on balance is that you ought to do *X*. Just as one physical force is stronger than another if, when they conflict, it does more to determine the physical outcome, so one prima facie duty is stronger than another if it does more to determine a normative outcome, by making the act it favours simply your duty.¹⁰

But the same analysis can be applied to permissions: the strength of a prima facie permission is again its tendency to determine a normative outcome, now by making an act all things considered permitted. We don't need this concept in order to weigh permissions directly against each other, because they don't conflict. A prima facie permission to do *X* and a prima facie permission not to do *X* don't oppose each other, since it can be true both that you're permitted all things considered to do *X* and that you're permitted all things considered not to; you can have the option to choose either. But we do need the concept to weigh prima facie permissions against duties. A prima facie permission to do *X* and a prima facie duty not to do *X* do conflict, and we have to decide which is stronger. If the permission is stronger, you're all things considered permitted to do *X*; if the duty is stronger, *X* is all things considered forbidden. As was the case with duties, a permission's weight is just its capacity to determine, in competition with other factors, an all-things-considered normative outcome, though now a permission rather than a duty. And once we've weighed permissions against duties in this way, we can use the result to weigh them indirectly against each other. If the permission to do *X* outweighs some duties that the permission to do *Y* does not but the opposite never occurs, the permission to do *X* is stronger. Though it doesn't win in direct conflicts with the permission to do *Y*, it wins other conflicts that the permission to do *Y* does not.

It may be objected to this analysis that we can make sense of weighing one prima facie duty against another because, like conflicting physical forces, they are items of the same kind; but we cannot meaningfully weigh a duty against a permission because they are of different kinds.¹¹ But while a force pushing an object in one direction can conflict with

¹⁰ Ross explicates the concept of prima facie duty by analogy with physical forces in *The Right and the Good*, pp. 28–9.

¹¹ We are grateful to a referee for this objection.

a force pushing it in a contrary direction, it can also conflict with friction, which resists the object's moving in any direction. Analogously, a prima facie duty tending to make an act right can conflict not only with one tending to make it wrong, but also with a prima facie permission tending to make it neither right nor wrong. Just as we can weigh a force causing motion against one resisting it, so we can weigh a prima facie duty against a prima facie permission.

We therefore see no sound objections to positing an underivative permission to pursue your own good, and an account that does so may have the further advantage of allowing a more complete account of supererogation.

The concept of supererogation has two sides. On one side, a supererogatory act isn't morally required; on the other side, it's somehow better than its alternative, or "beyond" duty in a sense that connotes superiority. A complete account of the concept must capture this second side, explaining how supererogatory acts are better even though not strictly your duty.

We could attempt this by noting that supererogatory acts have better consequences than their alternatives, for example, five units of happiness rather than one. But this isn't a specifically moral property of the acts, since it can be shared by purely physical facts such as sunny weather and good food. We could also note that supererogatory acts are usually done from a more virtuous motive, such as an altruistic desire for another's five units of happiness rather than a selfish desire for your one. But this isn't an essential feature of supererogation. If you see Warren Buffet drowning and try to save him at significant risk to your life but do so only because you think he'll give you a large reward if you succeed, your act is still supererogatory, in the sense of beyond the call of duty, even though your motive is entirely selfish.¹² As Holly Smith has remarked,¹³ the concept of supererogation is a deontic one, in the same family as right and wrong, rather than one from the theory of moral virtue or of moral credit and blame. Its superiority must therefore be accounted for in purely deontic terms.

¹² See Paul McNamara, "Supererogation, Inside and Out: Toward an Adequate Scheme for Common-Sense Morality", in Mark Timmons (ed.), *Oxford Studies in Normative Ethics*, Vol. 1 (2011), pp. 202–35.

¹³ In conversation.

This is again something reason-based accounts can't do. If you choose another person's five units of happiness over your own one, your act is impersonally or morally better. But if you choose the one for yourself, that's personally or prudentially better. And on these accounts there's no ground to prefer one kind of betterness, the impersonal or the personal, to the other, or to say that either act is unqualifiedly better. At the all-things-considered level, the two acts are on a par.

But the permission-based account may be able to do better. According to it, each of your choices is supported by prima facie moral factors: the prima facie permission to pursue your own happiness on one side, and the prima facie duty to pursue happiness impartially, which implies a prima facie permission to do so, on the other. Whichever choice you make you exercise a prima facie permission, but if you give the five units to the other you also fulfil a prima facie duty, and this may explain that act's superiority. It is deontically higher-ranked because while equally permitted they are also prima facie required. A key feature of prima facie duties is that they don't disappear when they're outweighed. They remain as part of the moral situation and can leave what Robert Nozick calls "moral traces".¹⁴ One of these is the appropriateness of your feeling, if not quite guilt, then what Ross called "compunction" about not fulfilling an outweighed duty;¹⁵ another can be a duty to compensate the person to whom the duty was owed. A third trace, we are now suggesting, may be to explain why supererogatory acts are superior: though no more permissible than their alternatives, they fulfil a prima facie duty that the alternatives don't and are therefore on balance better. The prima facie permission opposing them makes them not required, but the prima facie duty favouring them makes them deontically higher-ranked.

The permission-based account therefore has several advantages over reason-based ones, but it also requires a complication. A plausible moral view can't grant agent-favouring permissions without also imposing deontological constraints such as one against killing the innocent. Otherwise the same permission that lets you save your own life rather than save the lives of five others will permit you to kill five others if that's

¹⁴ Robert Nozick, "Moral Complications and Moral Structures", *Natural Law Forum* 13 (1968): 1–50.

¹⁵ Ross, *The Right and the Good*, p. 28.

necessary to save your life, for example, if you need their organs for transplant to yourself. If there's no intrinsic difference between killing and allowing to die, you'll be permitted to prefer your life to theirs in both cases—a result that's even farther from common sense than impartial consequentialism is.¹⁶ But not only must the permissions be accompanied by deontological constraints, they can have no special weight against these constraints. Surely if it's wrong to kill one innocent person to save two others, as deontological moralities hold, it's also and equally wrong when one of the two is you: your agent-favouring permission has no bearing on this case. So the *prima facie* permission to pursue your own good must have more weight against the duty to promote the good than it does against deontological constraints, and that leads to a more complex structure than if the permission had the same weight against all duties. But the complication is needed in any account of agent-favouring permissions: a reason-based account too must say the reason to promote your own good has more weight against an impersonal reason than it does against deontological ones if it's to forbid killing one to save two who include yourself.

2. AGENT-SACRIFICING PERMISSIONS

Given this account of agent-favouring permissions we now turn to agent-sacrificing ones. And here there's a further difficulty for reason-based views such as Scheffler's and Parfit's, for it's not clear that they even allow these permissions. If you can give either two units of happiness to yourself or one to another person, your personal reason favours giving the two to yourself but so does your impersonal reason, since this will produce the most happiness. But if both types of reason favour the same act, that act should surely be required and the alternative of giving one unit to the other person should be all things considered forbidden.¹⁷

A permission-based view has no such difficulty. It can generate agent-sacrificing permissions by positing another underivative *prima facie*

¹⁶ Shelly Kagan, *The Limits of Morality* (Oxford: Clarendon Press, 1989), pp. 19–24.

¹⁷ In his initial discussion of agent-sacrificing permissions, Slote argued that they don't fit Scheffler's justification of agent-favouring permissions and therefore tell against that justification; see *Common-Sense Morality and Consequentialism*, ch. 1.

permission, now one *not* to pursue your own good. If you can give either two units of happiness to yourself or one unit to another person, you have on one side a prima facie duty to produce the most happiness, which favours giving yourself the two. But you also have a prima facie permission not to pursue your happiness, and if this permission outweighs the duty, you're all things considered permitted to prefer the other's one unit. You're not required to do this, because your prima facie duty to produce the most happiness implies a prima facie permission to do so, and that permission is undefeated. But by positing a second underivative permission we can explain agent-sacrificing as well as agent-favouring permissions. You're permitted other things equal not to do what will give you happiness, and are therefore sometimes permitted on balance to prefer another's lesser to your greater happiness.

This second underivative permission connects with a striking view of Ross's while also giving it a more persuasive rationale. Ross held that though there's a moral duty to pursue other people's happiness, there's no duty of any kind to pursue your own; you ought to seek knowledge and virtue in yourself, but are under no obligation to seek your happiness.¹⁸ But he stated this view in a problematic way.

Like the reason-based theorists discussed above, Ross assumed that the basic normative factors must all be positive or favouring ones, which in his case meant they must be prima facie duties rather than permissions. But imagine that you can give either a thousand units of happiness to yourself or one unit to another person. Ross's view implies that you're required to give the one unit to the other person. This act is supported by the prima facie duty to promote the happiness of others, while the alternative is supported by no duty and therefore by nothing. So you're required to prefer the other's vastly smaller happiness. But surely you do nothing wrong if you prefer your own vastly greater happiness.¹⁹

¹⁸ Ross, *The Right and the Good*, pp. 21, 24–6, 151; and *Foundations of Ethics* (Oxford: Clarendon Press, 1939), pp. 72–5, 129–30, 272–4, 284.

¹⁹ This objection to Ross is made in A. C. Ewing, "A Suggested Non-Naturalistic Analysis of Good", *Mind* 48 (1939): 1–22, p. 20, and Michael Stocker, "Agent and Other: Against Ethical Universalism", *Australasian Journal of Philosophy* 54 (1976): 206–20, p. 208.

We can avoid this implication if we supplement Ross's view with some *prima facie* permissions. A permission to pursue your own happiness will make room for supererogatory acts, which Ross himself did not recognize; he thought that when doing so won't violate any deontological constraint, you're required to maximize the good.²⁰ And a permission not to pursue your happiness will often yield his view that you have no duty to pursue your happiness without making it wrong for you to do so. You'll be permitted to prefer one unit for another to two for yourself without that being your duty, and you'll also be permitted to forgo two units of happiness when taking them wouldn't affect anyone else. How far the resulting all-things-considered permissions go will depend on what duty this *prima facie* permission is weighed against. If this is only the duty to promote other people's happiness, as in Ross's view, the resulting permission will be unlimited and you'll also be permitted to prefer another's one unit to a thousand for yourself and to simply forgo a thousand when no one else will be affected. But if the opposed duty is to promote happiness impartially, as we think is more plausible, the *prima facie* permission will eventually be outweighed and forgoing a thousand units in these cases will be wrong. Just as there is excessive agent-favouring, so some agent-sacrifice will then be excessive and forbidden.

3. A BAND OF PERMISSIONS

Positing two *prima facie* permissions yields an even broader range of all-things-considered permissions, some agent-favouring and some agent-sacrificing, and this range can be helpfully represented in a diagram. In Figure 1 the vertical line represents different ratios between your own and another's good, with agent-favouring ratios like 1:10 above the 1:1 midpoint and agent-sacrificing ones like 10:1 below it. The shaded band includes all those ratios that permit you all things considered to choose either your own or another's good, and the fact that this band extends

²⁰ Ross, *The Right and the Good*, p. 39.

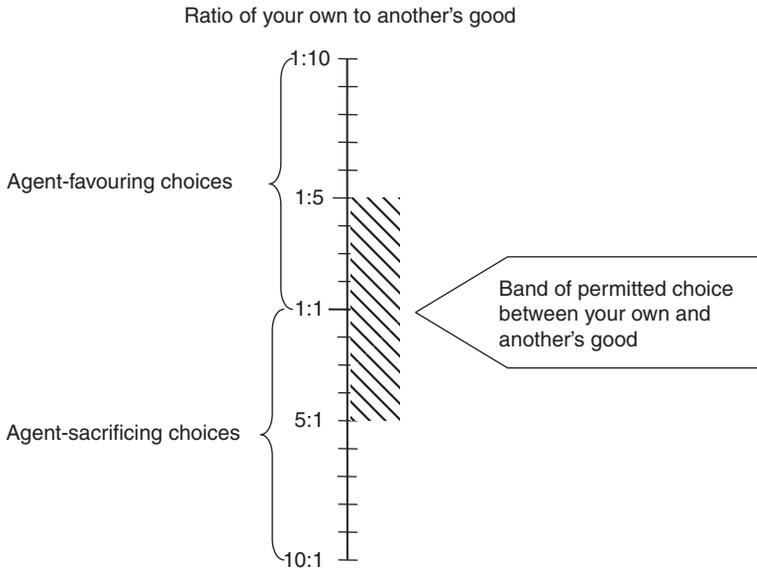


Figure 1

around the midpoint shows that you have both kinds of permission, agent-sacrificing as well as agent-favouring. You're permitted to choose either your own or the other's good both when it's one unit for you or two for her, and when it's two units for you or one for her. Moreover, the size and location of the band reflect views about how strong the prima facie permissions are. In Figure 1 the band stretches from the 1:5 ratio to 5:1, so you're permitted to prefer one unit of your own happiness to as many as five for another person, and one unit for another to as many as five for yourself. This treats the two permissions as moderately strong compared to the duty to promote happiness impartially: if the band were wider, running, say, from 1:10 to 10:1, they'd be stronger compared to this duty, whereas if it were narrower they'd be weaker. Figure 1 also treats the two permissions as of equal strength—note that the band is symmetrical around the 1:1 point—and that too isn't necessary. We may, for example, think the permission to pursue your own good is stronger than the permission not to, so the band should extend farther above the 1:1 point than it does below it, and we anticipated that possibility when we introduced the two kinds of

permission. Our initial example of an agent-favouring permission had you choose one unit of happiness for yourself over five for another person, whereas for agent-sacrifice we had you choose one for another over two for yourself. This reflected our belief that, when the two are stated abstractly, the agent-favouring permission is intuitively more extensive, which demands an asymmetrical diagram, as in Figure 2. With more of the shaded band above the midpoint, there's here more self-favouring allowed than self-sacrifice, or more extreme ratios permitted for the former than for the latter. But the opposite view is also in principle possible, with a band that extends further below the 1:1 point than it does above it. And the extreme of either view recognizes only agent-favouring or only agent-sacrificing permissions; this requires a diagram whose band starts at 1:1 and goes only up or only down.

Ratio of your own to another's good

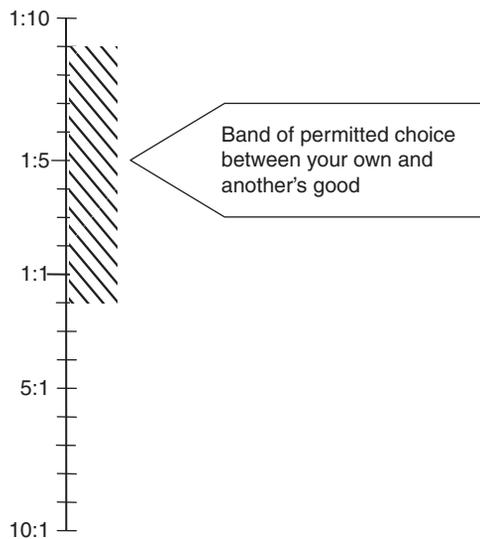


Figure 2

So far we've formulated the permissions in terms of ratios, so you're allowed to prefer your own or another's good up to a certain ratio but not beyond. But it may be wondered whether your permissions should instead depend, either wholly or in part, on the absolute size of the gap between your and the other's good. Imagine that you give one unit of happiness to

yourself rather than ten units to another person. Can what matters here be not that you cared ten times more about your happiness but that you preferred happiness of yours that was nine units smaller? Can the latter be what determines whether your act was permitted?

We don't think your permissions can depend only on the absolute gap between your own and another's good. Then if it was wrong to prefer one unit of happiness for yourself to ten for another, it would be equally wrong to prefer a million and one units for yourself to a million and ten for another. That's surely implausible: at the million level a nine-unit gap is trivial. But more moderate views count both the absolute size and the ratio, saying the maximum ratios for permitted favouring and sacrifice are different given different-sized totals. Is some view of this type preferable to one that looks only at ratios?

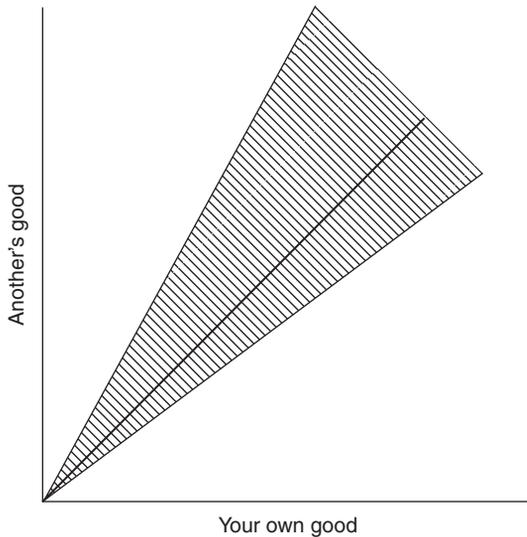
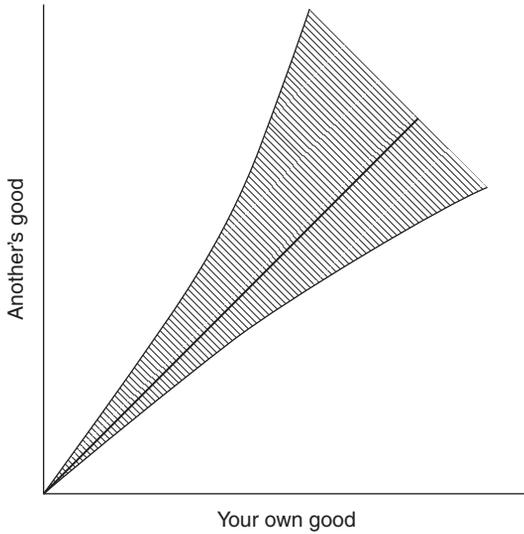
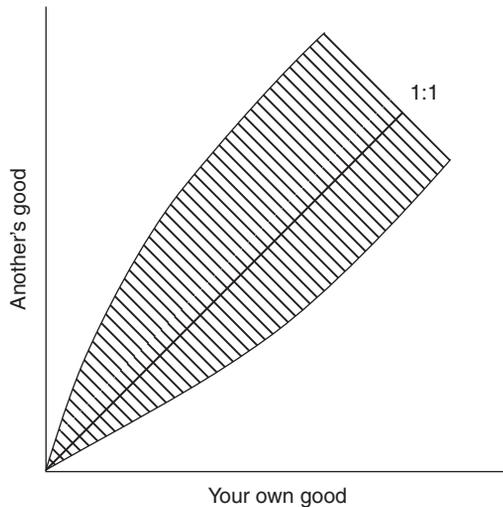


Figure 3

These alternative views require a more complex diagram, as in Figure 3. Here the vertical axis represents the other's good and the horizontal axis your own, while the 1:1 ratio is now a 45-degree ray going out from the origin and the band of permissions has become a cone surrounding that ray. If your permissions depend only on the ratio between your and the other's good, the rays bounding this cone are straight, as in Figure 3. (And note how the cone's asymmetrical

placement again allows more agent-favouring than agent-sacrifice.) But we can imagine other views. One allows greater ratios of favouring and sacrifice at greater absolute levels; this generates rays that bend out, as in Figure 4. Another, represented in Figure 5, allows smaller ratios at higher levels and has rays that bend in. Given this latter view, a degree of self-favouring that's permitted when dividing small benefits may not be permitted when dividing large ones.

**Figure 4****Figure 5**

We think these views, and especially the last, have some intuitive appeal. But they all face what can be called a “batch” problem. Imagine that the view in Figure 5 allows you to favour yourself up to a 1:10 ratio when ten units of happiness are being divided but only up to 1:8 when there are a hundred. Then if, when forced to divide a hundred units between yourself and another in one go, you give yourself ninety, you act wrongly, whereas if you could divide the hundred into ten lots and give yourself nine units from each you could reach the same outcome permissibly. But surely it can’t make a moral difference whether you reach a ninety–ten division in one step or many, and since a version of this problem arises for any view that counts absolute size as well as ratios, we’ll stick from here on to the simpler view that looks only at ratios.²¹

Though in one sense straightforward, adding a second *prima facie* permission creates a problem for our account of supererogation. That account says that supererogatory acts are superior because, as well as exercising a *prima facie* permission, they fulfil a *prima facie* duty. But consider the case where you can produce either two units of happiness for yourself or one for another person. Here each of your options is supported by a *prima facie* permission, but if there’s a *prima facie* duty to promote happiness impartially, giving yourself the two units also fulfils that duty and should therefore be preferable in the same way that supererogation is: it has more *prima facie* factors on its side. But this doesn’t seem true: preferring your own greater happiness in this case *doesn’t* seem better. The alternative of preferring the other’s lesser happiness also doesn’t seem better; your two options seem to be on a par. So our account of supererogation seems to have a counterintuitive implication when extended to agent-sacrifice.

There are several ways to avoid this implication. One is to say that, while the outweighed duty to promote happiness impartially does leave a trace in agent-favouring cases, it doesn’t in agent-sacrificing ones. This move isn’t completely impossible, since sometimes an outweighed duty doesn’t leave traces. If you let five patients who need transplants die because the only way to save them is to kill another innocent person, you shouldn’t feel compunction about your choice to let the five die and

²¹ We are grateful to Luke Roelofs for suggesting these alternative views to us and to Tom Donaldson for the batch objection against them.

don't owe anyone compensation. Still, having the very same outweighed duty make a maximizing option superior in one kind of case but not another does seem to us worryingly *ad hoc*. Another possibility is to hold, as Ross did, that the competing duty is one to promote happiness not impartially but only in other people. Then the outweighed duty won't count in favour of the two units for yourself in agent-sacrificing cases and giving them to yourself won't be preferable. But now the alternative of giving the one to the other will be preferable, and that too seems wrong; as we said, your two options seem on a par. In addition, the Rossian view implies that agent-sacrificing permissions never run out, so you're permitted to prefer one unit of happiness for another to a thousand or a million for yourself, which we find implausible. We're therefore not sure how to respond to this problem and will have to leave it unresolved. An initially promising account of supererogation seems to have counterintuitive implications when extended to agent-sacrifice, and while there are ways to avoid these implications, none is entirely satisfactory.²²

4. A MOVING BAND

We've suggested that agent-sacrificing permissions are less extensive than agent-favouring ones, and the intuitive case for them may also be less compelling. But some may go further and reject that case entirely, saying that while you're permitted to prefer your own lesser to another's greater good, you're never permitted to do the opposite. To sacrifice your own greater for another's lesser happiness is wrong.

In taking this line they may appeal to a Kantian duty of self-respect, or duty not to act in ways inconsistent with respecting yourself as

²² Does this problem remove the permission-based account's advantage over reason-based accounts, which we criticized for not being able to explain why supererogatory acts are superior? It does not. Our account does give an explanation that covers cases of supererogation as such; it only has problematic implications in certain other cases. And though none of the devices that would remove these implications is entirely satisfactory, several are available. By contrast, reason-based accounts can give no explanation whatever of the superiority, in an unqualified sense, of supererogatory acts. In addition, the permission-based account retains its other advantages: that it can generate extensive agent-favouring permissions without assuming that reasons aren't precisely comparable, and that it allows, as reason-based accounts cannot, agent-sacrificing permissions.

equal in status to other persons and having the same rights and duties.²³ One aspect of this duty, they may say, is a requirement to treat your own good as equally important to other people's and therefore never to subordinate it to theirs. But you do subordinate it if you prefer their lesser to your greater happiness.²⁴

We don't find this argument persuasive. If self-respect involves properly honouring your status, rights, and duties, it presupposes an independent account of what those are and can't determine their content. If you don't have an independent permission to prefer others' lesser happiness, your doing so may well show self-disrespect. But imagine that you do have such a permission, sacrifice no further than it allows, and have the following beliefs: that you're only permitted to prefer another's lesser happiness but have no duty to do so; that you're also permitted to prefer your own lesser happiness, and even to do so to a greater extent; and that your mix of permissions and duties is exactly the same as everyone else's. If you then make a free choice to prefer another's lesser happiness, knowing that it's a free choice and in no way required, you surely violate no duty of self-respect.

This leaves the bare claim that you're not permitted to prefer another's lesser good, which we again find unpersuasive. But we think there's something to be learned from a more restricted version of it suggested to us by Sergio Tenenbaum.²⁵ He notes, rightly in our view, that the most intuitively compelling cases of permitted agent-sacrifice involve someone closely related to you, such as a spouse, child, or friend. If we're asked to imagine a case where preferring another's lesser happiness is allowed, we naturally think first of ones where the other is some kind of intimate. As a partial sceptic about agent-sacrifice, Tenenbaum concludes that it's permitted only with people who are close to you and not at all with strangers. While not condemning all such sacrifice, he does condemn it outside a specified area.

We're not persuaded even by this weaker anti-sacrifice view; we think you're permitted to prefer the slightly lesser happiness of someone

²³ A classic discussion of self-respect is Thomas E. Hill, Jr., "Servility and Self-Respect", in his *Autonomy and Self-Respect* (Cambridge: Cambridge University Press, 1991).

²⁴ An argument of this kind is given by Jean Hampton in "Selflessness and the Loss of Self", *Social Philosophy and Policy* 10/1 (Winter 1993): 135-65, and "The Wisdom of the Egoist", *Social Philosophy and Policy* 14/1 (Winter 1997): 21-51.

²⁵ In conversation.

you've never met, for example by continuing to contribute to charity a little beyond the point where the benefit to others becomes less than the cost to you. But we think there's truth in a generalization of Tenenbaum's view, namely that the degree of agent-sacrifice you're permitted is greater the closer another person is to you, so the gap between your greater and her lesser happiness can be larger with a spouse or child than it can be with a stranger. It can be all things considered permissible to give up a very enjoyable night out to comfort a child with a mild illness, whereas it wouldn't be permissible to make the same sacrifice for a stranger. It can be permissible to forgo the opportunity for major career success to allow a smaller career success for your spouse, but not for someone you haven't met. While some degree of agent-sacrifice is permitted with strangers, it's significantly less than with intimates.

We also accept a complementary view: that the degree of agent-favouring you're permitted is smaller the closer someone is to you. With a stranger you're permitted to prefer your own lesser to his significantly greater good. On some views you're permitted to prefer keeping \$1000 to saving the life of someone starving on the other side of the world, but surely no one thinks it's permissible to prefer keeping \$1000 to saving the life of a close friend, and it would be appalling to prefer keeping \$1000 to saving the life of your child. In these cases the duty to save the other clearly outweighs the permission to seek your own happiness. So whereas the degree of agent-sacrifice you're permitted increases the closer someone is to you, the degree of agent-favouring you're permitted decreases.

These two views have a combined effect: in our diagrams the band of permissions no longer has a fixed position, as it did in Figures 1 and 2, but moves down as the person whose happiness you can promote gets closer to you. If she's a stranger, the band comes fairly far up the diagram, with its top much farther above the 1:1 midpoint than its bottom is below it. If she's a friend, the band is lower down; maybe now it's symmetrical around the midpoint, with as much self-sacrifice allowed as self-preference. And if she's a spouse or child, the band is even lower, with its bottom farther below the midpoint than its top is above it. A sequence of diagrams with these features is given in Figure 6, where the diagram on the left represents your permissions concerning strangers, the one in the middle those for friends, and the one on the right those for a spouse or child. As the person you can benefit becomes

more of an intimate the whole band moves down, allowing less agent-favouring and more agent-sacrifice.

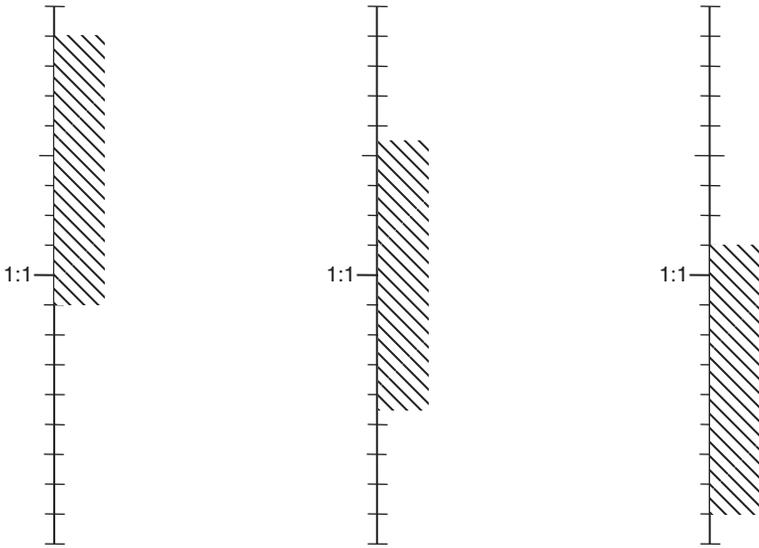


Figure 6

We find this idea intuitively attractive, and it also has a natural explanation, one that reverses that for the locations of the bands in Figures 1 and 2. In those diagrams we assumed that there's just one prima facie duty, to promote everyone's happiness impartially, and saw what results when that duty is weighed against prima facie permissions with different strengths compared to each other. If the permission to pursue your own good is stronger than the permission not to, the band of permissions stretches farther above the 1:1 point than it does below it, as in Figure 2; if the permission not to pursue your good is stronger, the opposite is true.

But common-sense morality doesn't think there's just one duty to promote happiness impartially. It accepts what C. D. Broad called "self-referential altruism", the view that you have stronger duties to promote the good of people who are closer to you, so you're required to show some degree of partiality toward those who are close.²⁶ If you can give

²⁶ C. D. Broad, "Self and Others", in D. Cheney (ed.), *Broad's Critical Essays in Moral Philosophy* (London: George Allen & Unwin, 1971), pp. 279–80.

either two units of happiness to a stranger or one to a friend, you ought to give the one to your friend because he's closer; if you can give either two units to a friend or one to your child, you should for the same reason favour your child. But then we can see the movement of the band in Figure 6 as resulting when *prima facie* permissions of constant strength are weighed against duties of differing strengths. Consider first agent-favouring. If you can give either less happiness to yourself or more happiness to a stranger, your duty to benefit the stranger is, because he's a stranger, comparatively weak. It will therefore often be outweighed by your permission to pursue your own happiness, making your all-things-considered permission to favour yourself fairly extensive. But if the other is a friend or spouse, the opposing duty is stronger and the resulting permission will run out more quickly: favouring that would be permitted with a stranger is not permitted here. Something similar happens with agent-sacrifice. Here your duty to promote the other's happiness positively supports your permission not to promote your own, since the more you ought to benefit her, the more you're permitted to prefer hers to yours. But with a stranger this duty is comparatively weak, and only weakly supports the permission against the duty to pursue your happiness that comes, say, from the duty to promote happiness impartially; the result is only a limited permission to prefer the other's good. But as she becomes closer, your duty to promote her good gets stronger and the resulting all-things-considered permission becomes more extensive. Weighing your two *prima facie* permissions against duties of increasing strength leads to less extensive permissions to favour yourself and more extensive ones to favour her.

5. THE MOVING BAND: FURTHER QUESTIONS

There are therefore theoretical as well as intuitive reasons to believe the band of permissions moves, but there are also more detailed questions about this view. In Figure 6 the majority of the diagrams are asymmetrical, allowing either more agent-favouring or more agent-sacrifice. But the sequence of diagrams embodies a kind of symmetry, since it ends with an agent-sacrificing permission that's exactly as extensive as

the agent-favouring one with which it begins; while asymmetrical at particular points, it's symmetrical as a whole. And the same symmetry can be a feature of other sequences, which start either higher or lower on the scale but also end the same distance below the 1:1 point as they began above it.

But though this kind of symmetry is possible, we don't find it most plausible. We think the degree of agent-sacrifice you're permitted with your closest intimates is less than the degree of agent-favouring you're permitted with strangers, so that even at the extremes your agent-sacrificing permissions extend less far. We've said that on some views you're permitted to prefer keeping \$1000 to saving the life of a distant stranger, but it's surely not permissible—it's beyond the threshold of permissible agent-sacrifice—to sacrifice your life to save \$1000 for your spouse or child. That would be wildly unreasonable.²⁷ You may be permitted to watch a favourite TV show rather than help a stranger achieve a major career success, but it would be excessive to forgo a major success for yourself to allow your child a night of TV. For us a plausible sequence of permissions must start with a band that extends farther above the 1:1 point than its final band extends below it, so you can prefer yourself more to strangers than you can sacrifice yourself to your closest intimates. A view of this kind is represented in Figure 7, and it sustains the priority we initially gave to agent-favouring permissions. Though with your closest intimates you're permitted more agent-sacrifice than agent-favouring, with people in general you're permitted more agent-favouring, because the greatest self-preference you're ever permitted is greater than your greatest allowed self-sacrifice.

²⁷ We owe this example to Shelly Kagan. It may be said that the reason it would be wrong to sacrifice your life in these cases is that your spouse or child would lose more by your death than they would gain from the \$1000. But, first, this is not the only or even the main reason the sacrifice is intuitively wrong; it would also be excessive in itself. Second, we can imagine cases where there would not be this loss, for example, because your child does not know of your existence; here too the sacrifice would be excessive.

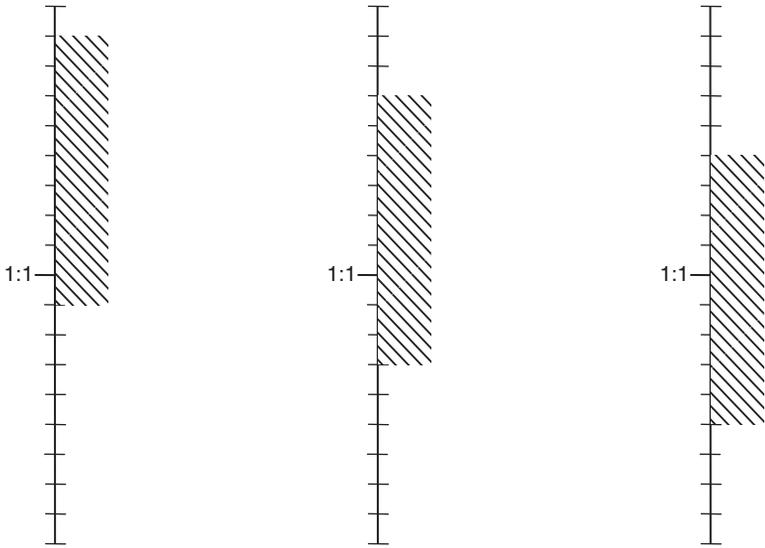


Figure 7

There's a further issue to consider. In Figures 6 and 7 the band of permissions stays the same width as it moves down the graph, so that with all people the gap between your greatest allowed self-favouring and greatest allowed self-sacrifice is the same. A natural question is whether this is necessary. Must the band always be the same width, or can it either narrow or widen as the person you can benefit becomes closer to you? Can there be a bigger or a smaller gap between your maximum permissions for intimates than there is for strangers, or is the gap always the same size?

There's an intuitive limit on any possible changes in width. We've said both that your agent-favouring permissions are less extensive with intimates and that your agent-sacrificing ones are broader, so the ends of the band should move in the same direction. But consistent with this, there's an intuitive case for its narrowing as it moves down.

We've said that on some views you're permitted to keep \$1000 rather than save a distant stranger. If this is right, then the maximum permitted ratio for agent-favouring with strangers is considerably more than 1:10, and that's so even if you need to have \$10,000 at stake to be permitted not to save a stranger. Let's say, somewhat arbitrarily, that the

top of the band of permissions for strangers is at the ratio 1:20. And let's add that the maximum permitted ratio for agent-sacrifice with strangers is just 2:1. This makes the band for strangers quite wide, running from 1:20 at the top to 2:1 at the bottom. But though more agent-sacrifice is permitted with a spouse or child than with a stranger, we think there are fairly strict limits on this sacrifice, so you're not permitted to prefer her much lesser good. Let's say the maximum ratio for sacrifice with an intimate is 5:1, which is just modestly greater than for a stranger. This means that for the band to stay the same width as it moves down, the maximum agent-favouring permitted with intimates must be by the same modest amount less; more specifically, it must be the same three units down from the maximum for strangers, that is, it must be 1:20 minus 1:3 equals 1:17 for intimates. We find that highly counter-intuitive. We think you're only permitted some slight self-favouring with a spouse or child, if you're permitted any at all, and you're certainly not permitted to care seventeen times as much about yourself as about a spouse or child. So it seems that the top of the band must move down much more than the bottom does, resulting in a band of permissions that narrows, as in Figure 8.

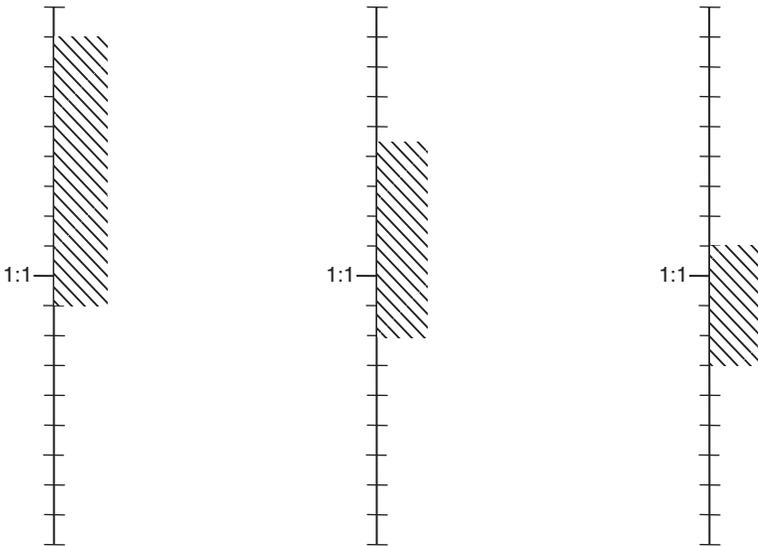


Figure 8

This point can be put more abstractly. With strangers, it's intuitive that you're permitted a significant amount of agent-favouring but only a small amount of agent-sacrifice. With intimates you're permitted only a small amount of agent-favouring but also only a modest amount of agent-sacrifice—remember that you may not sacrifice your life to save \$1000 or even \$10,000 for your child. So the overall extent of your permissions is less with intimates, and the band that represents them should be narrower.

Unfortunately, it's hard to reconcile these intuitions with the explanation we gave of why the band moves down. That explanation weighs *prima facie* permissions of constant weight against *prima facie* duties of differing weights: as the duty to benefit another gets stronger, it tells more against the permission to favour yourself and more for the permission to favour her, reducing the one and extending the other. But then it's hard to see how the width of the band can change. Shouldn't the same change in the strength of a duty have the same effect on both permissions, so the resulting reduction and extension are the same size and the band's top and bottom move the same distance? How can the same alteration in a factor that weighs against two permissions not yield the same result against both?

There seems then to be a conflict between some intuitive judgements about the width of the band of permissions and a natural explanation of why the band moves. We could avoid this conflict by rejecting some of the intuitive judgements, saying either that your agent-favouring permissions with strangers are less extensive than we thought—maybe you're not permitted to keep \$1000 rather than save a stranger—or that your agent-sacrificing ones with intimates are more so. Alternatively, we could say that strengthening the duty to promote another's happiness has more effect against the permission to pursue your happiness than against the permission not to, so the reduction in your agent-favouring permission is greater than the expansion in your agent-sacrificing one. This is again in principle possible. Just as your permission to pursue your happiness can have more weight against one kind of duty than against another, so perhaps a duty to benefit can have more weight against one permission than against another. But this idea still seems worryingly *ad hoc*. If the two permissions are of the same type but just have contrary contents, shouldn't the same duty interact with them in the same way?

We have no satisfying solution to this conflict, though perhaps others will propose one. But we hope to have raised some new issues in this paper. There's been considerable philosophical discussion of permissions to produce less than the best outcome impartially considered, though perhaps more of agent-favouring than of agent-sacrificing ones. But we know of no discussion that asks how the two types of permission relate to each other and which, if either, is more extensive. There's also been discussion of self-referential altruism, the view that you have stronger duties to people who are closer to you. But again we know of no discussion that relates this view to the two types of permission. Here we've argued that as someone gets closer to you your permissions concerning her change, getting less extensive on the agent-favouring side and more extensive on the agent-sacrificing one. You can favour yourself less over intimates than over strangers, and you can favour them over yourself more. There's a band within which you're permitted to choose either your own or another's good, and that band moves down.