**Consequentialism and Its demands: The Role of Institutions**

**Abstract.** It isn’t saying much to claim that morality is demanding; the question, rather, is: can morality be so demanding that we have reason not to follow its dictates? According to many, it can, if that morality is a consequentialist one. This paper takes the plausibility and coherence of this objection – the demandingness objection – as a given. Our question, therefore, is how to respond to the objection. We put forward a response that we think has not received sufficient attention in the literature: institutional consequentialism. This is a consequentialist view that, however, requires institutional systems, and not individuals, to follow the consequentialist principle. We first introduce the demandingness objection, then explain the theory of institutional consequentialism and how it responds to the objection. In the remainder of the paper, we defend the view against potential objections.

**Keywords.** Consequentialism, institutions, demandingness, rule-consequentialism, global justice

**1. The demandingness objection to consequentialism**

It isn’t saying much to claim that morality is demanding; the question, rather, is: can morality be so demanding that we have reason not to follow its dictates? According to many, it can, if that morality is a *consequentialist* one. Why is this?[[1]](#footnote-1)

To answer this question, we need first to understand what consequentialism is. Consequentialism, in its most general sense, is the view that normative properties depend only on consequences. This general approach can then be applied at different levels to different normative properties of different kinds of things, but the most prominent example is consequentialism about the moral rightness of acts. This act-consequentialism holds that whether an act is morally right, depends only on the valuable consequences of that act. More precisely, in its classical form which we will not question in this paper, promotion is understood as maximization. Thus its single principle, often called the principle of beneficence, gives us the act-consequentialist criterion of rightness: “act in such a way as to produce the best possible consequences.” The demandingness objection originally targeted only utilitarians who advocated consequentialism with a welfarist theory of value, that is, a theory that focuses on human welfare, well-being, or happiness as the relevant consequence. However, the objection can be employed against any form of act-consequentialism (henceforth: consequentialism) that involves maximization.

What exactly does the objection say?[[2]](#footnote-2) It is built upon two pillars: one, that consequentialism is excessively demanding and, two, that an adequate morality shouldn’t be excessively demanding. Consequentialism requires the agent to promote the good until the point where further efforts would burden the agent as much as they would benefit others. However, the situation that determines what would be best overall is far from ideal: today’s world involves, for example, significant levels of poverty that prevailing levels of charitable donations are insufficient to eradicate.[[3]](#footnote-3) Given that acting to alleviate poverty is likely to have, in sum, better consequences than pursuing individual goals and projects, it seems unavoidable that, if one accepts consequentialism, one must devote most of one’s resources to humanitarian projects. At the same time, most would agree that this cannot be right, that people should not be required to sacrifice their lives for morality. This is the second pillar of the objection. Its function is to ground a constraint on admissible moral theories requiring them to avoid excessive demands. If they do not, the conclusion follows that these theories cannot be morally correct and guide people’s conduct.

In short, the objection claims that consequentialism’s excessive demands are objectionable. We can put the objection somewhat more formally as making an argument in the following general form:

1. Consequentialism makes demand D;
2. Demand D is an excessive and therefore objectionable demand;

Therefore,

1. Consequentialism is objectionably demanding;
2. If a moral theory is objectionably demanding, then it should be rejected;

Therefore,

1. Consequentialism should be rejected.

This general form acquires a specific reading depending on how the clause ‘excessive and therefore objectionable’ is spelled out: what in one’s view is objectionable about excessive consequentialist demands. In particular, the way we have introduced the objection is compatible with three different versions of premise 2) and a fourth can be added as an often mentioned corollary. On the moral reading, consequentialism is claimed to be *wrongfully* demanding since it requires agents to make sacrifices that they are not, in fact, morally required to make as they are excessive. On the rational reading, consequentialism is held to be *unreasonably* demanding since it requires agents to make sacrifices that they do not have decisive reason to make since they are excessive. Third, on the motivational reading, consequentialism is taken to be *motivationally* overexerting because it pictures agents as moral saints who can bring themselves to do whatever morality asks of them no matter how excessive it is. A fourth, epistemic reading of the objection, holds that consequentialism is *epistemically* challenging because it requires agents to be (nearly) all-knowing when it comes to the consequences of their actions or because it makes agents in some other way severely epistemically disadvantaged (e.g. it requires them to understand a very complex principle or have outstanding computational abilities).

Although it is our contention that a switch in focus on to institutions helps with all four forms of the objection, in this paper, in the absence of a proper theory of reasons that we could employ (given the confined space at our disposal to work out such a theory), we are not concerned with the rational version of the objection.[[4]](#footnote-4) The three other readings we will handle in a bundle, although our focus will be on the moral reading. Yet, it is clear that reducing the excessive moral and epistemic demands on individuals would have positive motivational effects as well and a theory that is motivationally and epistemically less demanding might also be morally more acceptable (depending on whether a moral code like consequentialism should be capable of being applied in conduct). That these different readings of the objection are in this way intertwined is also indicated by the fact that premise 2) is typically taken to be driven, at least in part, by intuitions that appear to encompass all three versions (although no doubt this claim should be experimentally confirmed).

Let us then take the moral reading of the objection. From this way of putting the objection, it is clear how one can respond to it: one of the three premises – 1), 2), or 4) – has to be rejected.[[5]](#footnote-5) This is hardly an option with premise 4) though, since if a moral theory is wrongfully demanding, then that moral theory is false, hence conclusion 5) certainly follows. This leaves us with premises 1) and 2). Premise 2) is normally taken to rely, at least in part,[[6]](#footnote-6) on an intuition, and can be rejected by either denying the existence of this intuition, or arguing that we have reason not to rely on it.[[7]](#footnote-7) This won’t be the route we take, though. This leaves premise 1) as the only possible target. Rejecting this premise is also the perhaps most popular way of responding to the objection, but we will give it a twist. Instead of either restructuring consequentialism so that it doesn’t make the demands it is alleged to make or denying the empirical circumstances that give rise to these demands (given the consequentialist principle’s application to individual agents), we change the focus of consequentialism from individuals to institutions.[[8]](#footnote-8) In the next five sections we explain what we have in mind and in subsequent sections we defend it against possible objections. We then end the paper with a summary and some concluding remarks.

**2. Institutional consequentialism**

The core idea of our approach is to direct attention to the ability of institutionsto reduce moral demands on individuals. Accordingly, we call our view *institutional consequentialism.*[[9]](#footnote-9) Institutional consequentialism builds on an influential idea of an avowedly non-consequentialist thinker: Rawls’s (1971) theory of justice. Adapting his point about social justice to consequentialist morality, we hold that the following division of labour is justifiable: the demanding moral principles regulate the design of a basic institutional structure, whereas individuals have the duty to set up and maintain these institutions.[[10]](#footnote-10) This idea clearly goes some way towards tackling the demandingness objection since, arguably, even in our present world, setting up and maintaining consequentialist institutions would be not nearly as demanding as applying the principles ourselves. Exactly how demanding it would be, is ultimately an empirical question to be answered with the help of political science, economics, and other social sciences. Below we will introduce some reasons for thinking that our claim is along the right lines. We will first offer reasons for adopting institutional consequentialism that do not solely depend on worries about (over)demandingness. Next, building in part on these considerations, we will show how institutional consequentialism can help with reducing moral demands on individuals.

There are good reasons supporting institutional consequentialism which are compatible with the consequentialist goal and are not rooted in the independent moral status of non-consequentialist values or, in some cases at least, in (over)demandingness considerations. First, as Rawls emphasizes, the basic institutional structure of society can make the necessary background adjustment that individuals cannot and should not be expected to make.[[11]](#footnote-11) Second, institutions often determine the content of consequentialist morality for individual agents: they coordinate the collective pursuit of consequentialist goals when individual duties cannot be specified without prior institutional assignment. In the following two sections we spell out these two ideas in more detail.

However, before this happens, we should say some more about what we take institutions to be.[[12]](#footnote-12) Although the term institution in a narrower sense can refer to organisations and collective bodies, our usage is broader than this. We follow Rawls (1999: 47-8, 55) in regarding an institution as a *public system of rules* which defines institutional roles with rights and duties attached to them.[[13]](#footnote-13)

The institutions that are in our focus in this paper have a number of further characteristics. First, we take an institution to be existing when a number of people regularly and knowingly follow its rules. Rather than considering institutions as abstract objects, i.e. possible forms of conduct expressed by systems of rules, we focus on institutions as actual practices, i.e. the way these rules are realised in the actions of persons. Viewed this way, institutions are constituted by the conduct of individuals upholding them. Second, many though not all institutions we are concerned with include formal sanctions to enforce their rules. The most important examples of those that do are legal and political systems, and economic institutions.

**3. Institutions and background adjustment**

Institutions enable agents to act on local, often partial, reasons rather than to aim at consequentialist ends. They contribute to the more effective promotion of consequentialist goals by counteracting informational, cognitive and motivational limitations in individual agents.[[14]](#footnote-14) They are also necessary for a division of labour allowing individual agents to specialize and exploit their comparative advantages. We take up each consideration in turn.

Consider, first, the point that institutions are better placed to deal with the consequences of individual choices that run far into the future and spread across a large number of individuals. Markets notably have the virtue of coordinating decentralized information. They can structure competition among agents with limited information to generate efficient outcomes. For instance, entrepreneurs do not know the willingness to pay of all their potential customers, or the reservation wages of potential employees. Thus economic actors lack crucial information they would need if they were to calculate the social costs and benefits of their options, e.g. in the range of potential prices they can set for their products or in the range of salaries they could pay to their employees. Furthermore, the consequences of our actions lead into the indefinite future, and we have imperfect knowledge about how they will affect future persons.

Not only do we not currently have all relevant information about the consequences of our actions, it is also undesirable for us to try to maximize the information available to us. Due to our cognitive limitations collecting and processing information is costly (think of the notion of bounded rationality put forward by March and Simon (1958)). Individual agents are unlikely to maximize the good by spending all their time gathering information and trying to calculate the consequences of all the available courses of action open to them. Market institutions allow agents to economize on information by consulting market prices. This is a standard theme in the writings of economists. As Hayek (1976: 20) famously put it: the trouble with the utilitarian approach is that it neglects to take account of our ignorance.

Next, individual agents’ capacity to promote the good is further compromised by their tendency to biases such as self-deception due to non-consequentialist motives (Smart 1956: 347). Institutions correct for these biases by removing informational and motivational burdens from individuals in their day-to-day decisions.

Finally, institutions allow for an efficient division of labour between agents with different skill-sets and opportunity costs. They are necessary for a specialization that exploits agents’ comparative advantages. Take the example of adversarial systems such as legal procedures which are often justified by pointing out that a division of labour between adversaries leads to the best outcomes. Defenders are required – within the limits of law – to do what they can in order to get their client acquitted even when they know them to be guilty. The necessary division of labour – adversary or otherwise – is likely to involve experts with special skills or knowledge and the assignment of special responsibilities, powers and prerogatives to participants.

The idea of background adjustment is that the consequentialist goal can be more effectively promoted in an institutional setting involving a division of labour rather than by independent individual actions by agents each of whom aims at promoting the good. This division of labour permits and may even require some agents to act on partial rather than impartial reasons following, for example, self-interest in markets and the interests of principals in courts of justice. Agents are to follow a narrow range of reasons in day-to-day decisions rather than aiming at promoting consequentialist goals. The upshot of these considerations is that the institutional structure can make the necessary background adjustment that individuals cannot and should not be expected to make.

**4. Institutions constituting the content of morality**

Besides replacing a broader set of factors agents are to consider with a narrower one, the division of labour under consideration specifies the content of consequentialist morality for individual agents when individual duties are indeterminate. Institutional rules allocate responsibilities within a larger group. To take two examples, political and economic institutions coordinate the behaviour of large numbers of agents in strategic settings, and they solve collective action problems and implement policies that would otherwise not be implemented. Again, we discuss each in turn.

Consider first institutional coordination in a strategic setting. The outcome associated with individual choices often depends on the choices of numerous other agents which are in turn influenced by expectations about what the former might do. Owing to this kind of strategic interaction there is often no way to determine in the absence of institutions what course of action one ought to do in pursuit of consequentialist goals (Hardin 1988). Institutional rules are an effective means to coordinate strategic interaction such that a group of individuals can achieve a morally required outcome when this is possible only if everyone or a sufficiently large number of people follow the same course. For example, institutional systems single out one specific combination of property rules, welfare provisions, educational and health systems etc. from among several possible combinations that are equally desirable on consequentialist grounds since they produce equally good outcomes (Miklósi 2008). Political institutions thus specify underdetermined consequentialist demands by settling a unique set of rules.

In addition to their coordinating function, political institutions solve collective action problems and implement beneficial policies that would otherwise not be implemented. For example, institutions are needed to provide public goods such as clean air or population immunity against infectious diseases.[[15]](#footnote-15) The provision of these goods requires the joint contribution of a significant part of the population. However, individuals have an incentive not to contribute their share since they benefit regardless and contribution is costly to them.[[16]](#footnote-16) Institutional rules involving sanctions against noncompliance and positive incentives encouraging contribution counteract the incentive to free-ride and to make public goods possible. They provide assurance to members of a group that others contribute their share of the collective burden.

Institutional rules allocate responsibilities within the larger group in an authoritative manner since it is not at all obvious who bears what responsibility in promoting the good. How institutions go about allocating responsibilities is partly a matter of devising the most efficient division of labour (given individual preferences, comparative advantages etc.) but there is also an element of arbitrariness in dividing up the tasks. This is clearest in the case of public good provision, where individual contributions make no real difference to the outcome once the good – e.g. population immunity – is there.[[17]](#footnote-17)

We want to emphasize that institutions are subject to different rules when they coordinate, allocate and enforce responsibilities among their participants than the participants themselves. Institutional rules sometimes pre-empt the application of consequentialist reasoning by their subjects and permit or even require reliance on partial considerations, as in the case of economic competition or adversarial systems. Finally, at the extreme, as in the cases of public good provision and perfectly competitive market equilibria, individual duties do not even make sense without prior institutional assignment since by assumption individual actions make no difference to the outcomes. In short, consequentialist goals can sometimes be only collectively interpreted (Regan 1980: 186).

**5. Institutions and demands**

Given these considerations, institutional consequentialism can help us with the demandingness objection. It does so in (at least) three ways. First, institutions reduce consequentialist demands on individuals by restricting individual contributions to the moral cause to the setting up and maintaining of institutions. Second, institutions economize on the time and attention spent by individuals on the pursuit of consequentialist goals. Third, institutions also remove some of the motivational burdens in making and executing decisions. The first claim speaks directly to the moral reading of the demandingness problematic, the second and the third do so indirectly, via tackling, at least in part, the epistemic and motivational demands of consequentialism. The result, we submit, is that institutions thus allow individuals to lead personal lives. Let us consider each of these claims in turn.

Our first claim is that institutions significantly reduce moral burdens on individuals simply by not requiring them act according to the consequentialist principle but only to set up and maintain institutions that make sure the principle is fulfilled. This claim can be supported by at least three considerations. First, consequentialism is notoriously insensitive to the number of those who contribute and this significantly increases the moral burden on individuals. However, well-designed institutions can successfully counteract this by distributing the burden over all individuals, e.g., in the form of taxation, and by making sure that everyone contributes. This leads straight to the second consideration. As noted before, institutions are the best instruments for coordination in strategic settings (Goodin 1995: 67). Individuals cannot ensure that their fellow citizens contribute to the fulfilment of consequentialist aims: this is simply not in their power. However, institutions can both set the target to be achieved and make sure that people contribute to its achievement. They allocate responsibilities and help individuals avoid frustrating one another’s attempts at promoting the good, as they would when trying to do the same good deed in an uncoordinated manner. By preventing much waste caused by futile or counterproductive attempts at promoting the good, institutions reduce burdens on individuals. Finally, third, the institutions themselves would be such that they are designed to prevent overburdening those who contribute to their maintenance. Thus, Bailey (1997: 53-4) argues the rationale for designing consequentialist (in his case: utilitarian) institutions is to avoid moral exploitation: situations in which not only aggregate well-being is not optimal but also the utilitarian agent is made worse off.[[18]](#footnote-18) In our imperfect world, Bailey (Ib.: 147-8) then points out, this translates into the task of making sure that utilitarian agents do not impoverish themselves. In Bailey’s view this requires institutions that make sure that utilitarian agents do not have to rush off every time when someone is in need but can instead stand by their posts (be that oneself, one’s family or one’s projects). In his view, such institutional framework would at least in part consist in a network of substantive and procedural rights (establishing self-ownership and world ownership) as well as reasonable distributive institutions (in particular: a social minimum).

Our second claim is that institutions allow agents to economize on information and attention. Individuals can take a narrow perspective when they interact with others in institutional settings such as markets and courts, and benefit from an efficient division of labour. Furthermore, institutions can relieve individuals of some informational and cognitive burdens in their charitable contributions as well. Consider the fact that a large part of the consequentialist demands on us are iterative in nature. The particular demand in question is not itself significant, in fact, we can assume that it is rather trivial. Assume, for instance, that due to collective organization, we do not have to give out, at once, a huge sum of money to help the needy, but only a small sum. However, if we have to do this constantly, i.e., if consequentialist demands become too numerous (even if trivial), their intrusion to our life will be constant and objectionably demanding: they will demand our constant attention, not allowing us to get on with our lives.[[19]](#footnote-19) Institutions can again help with this. They can not only make sure that the amount of our contribution is manageable, but also that we do not have to contribute constantly, i.e., decide how much and to which organization to give to help the needy and then write a check several times a day (Goodin 2009: 9-10). They can do so by, e.g., deducting our contribution from our monthly salary and then distributing it to the relevant agencies on the basis of their reliability and efficiency.

Our third claim is that institutions remove some of the motivational demands of consequentialism from individuals. For one thing, they provide assurance to individual agents that others are going to shoulder their share of the collective moral burden in the face of pervasive moral disagreement and self-interested motives.[[20]](#footnote-20) Besides changing payoffs associated with existing preferences, institutions can also shape preferences when individual agents cannot do so. Institutions can help ‘launder’ irrational preferences based on false beliefs (Goodin 1995: 133). They can also purge antisocial preferences in current and future human beings. For example, institutional pressure, the “naming and shaming” of wrongdoers and institutionalized dialogue can change our personal motivations better to promote the good. Institutional solutions can also help society achieve the consequentialist goal by optimally designing future persons so as to cause them to lead healthier and happier lives, and to have preferences that make the outcome the best in the long run.

The emerging picture, we think, is persuasive enough. Yet, there are possible objections. The most obvious one is that institutional consequentialism merely transfers the demandingness problematic to the institutional level: it is now institutions that will be required to do too much. However, there are no psychological, motivational, epistemic or other demands-related problems with institutions, not at least similar to those individuals face (cf. Goodin 1995: 68). The demandingness objection derives its force in large part from the fact that a committed consequentialist individual would not be able to lead a personal life, that his/her individuality would be wiped away by the impersonal requirements of consequentialism. But it does not make much sense to claim that societies and their institutions would face similar fate just because they have to contribute much. It can of course happen that under the pressure of demands an institution turns out to be inadequate to the task. But the way we (would) react to such situation is not moral disapproval, but, assuming we agree with the moral task (which we do here), determination to design better (more efficient, larger etc.) institutions.[[21]](#footnote-21)

The only way, it seems, high contributions required of societies could have seriously negative effects if their members’ lives would be affected in a devastating way via the destruction of certain *shared social practices* that constitutively contribute to their identity. But, first, given the alleviating effect of the division of labour in place, the particular society in question would really have to contribute extraordinarily much in order for such individual effects to threaten. This might happen, given the world as it is, but notice that the same idea of division of labour could then be taken to the global level to counteract this tendency. This no doubt raises the question of global morality, i.e., what our duties are to societies that we are not members of. We will say more about the problem of global morality and the role institutions, hence institutional consequentialism can play in it, at the end of the paper.

Second, the destructive influence of high societal contributions would have to affect the relevant projects and commitments of people. The fact that as a result of high societal contributions individual members would have to give up certain luxuries of life in order to help suffering others elsewhere, could hardly be persuasive. Finally, third, we do not find the idea of social practices being *constitutive* of one’s individual personality plausible. This is after all a distinctively communitarian thought that is subject to the criticism that people can reflect upon and decide about their aims, projects and commitments in life (Kymlicka 2002). Given the good moral reasons in support of the consequentialist cause, it might therefore well be the case that, instead of experiencing the results of high societal contributions as destructive of their personal life, people would see them as more in line with their new, reformed personality (that, though, does not have to be so reformed as to also conform to consequentialism when applied to their actions directly).

However, having said all this, one problem is still looming. It could be pointed out that we have not paid adequate attention to the difference between maintaining (running) and setting up (or even just reforming) an institution. Bailey (1997: 149) identifies two sources of the difference between their respective demands. One, institutional reform typically requires political reform which in turn needs political activism to make sure that the reforms take place. Two, even after the reforms are enacted (e.g. as law), expenditures are needed to get new institutions up and running. As Bailey points out, beside leading to increased demands, both sources are also beset with collective action problems: the costs of setting up institutions typically rest on the shoulders of few but the benefits of institutions once set up are spread throughout society. In short, given all this, even if maintaining an institution is not objectionably demanding, setting up institutions is.

There are three scenarios to consider. One concerns the global level where institutions appear to be absent; as before, we leave this problematic to the end of the paper. On the domestic level, we can distinguish two cases. In one case, and most developed countries belong here, there is an already existing, sufficiently well designed and supported institutional framework. In this case, we believe that the above objection does not have sufficient force. In such societies there will be enough initiative and motivation to reform institutions in such a way that burdens are distributed over a high number of individual agents. We should also not forget that institutional systems have a nested structure in which one institution can reform another and in these societies already reformed, well-functioning institutions will be available to help individuals out in their reform endeavours.

The other case is admittedly more difficult. Here we have to imagine the opposite or near the opposite of what we described above. That is, there are no or not enough well designed institutions that could help us reform other institutions; people, moreover, are short-sighted, selfish, and, perhaps, corrupt. To illustrate: We could say that Rawls’ (1999) liberal peoples and perhaps some of what he calls decent peoples belong to the first category, whereas burdened societies, rogue (outlaw) and failed states and probably some other illiberal peoples belong here.[[22]](#footnote-22) In this case, it does seem correct to say that institutional reform is hopeless. Of course, these societies can also change but this happens in radical ways that consist in eradicating and then redesigning the entire institutional system. However, for this very reason it is unlikely that there is a universal consequentialist obligation to fight for institutional reform in these circumstances: given the high likelihood that any such effort would merely be wasted, the expected utility (or whatever the relevant consequence is) would be too little to ground any proper consequentialist obligation.

**6. Our version of institutional consequentialism**

We hope that the above considerations suffice to make the case for institutional consequentialism as a response to the demandingness objection convincing enough. Assuming that this is so, we will now spend some time on clarifying the exact nature of institutional consequentialism.

Our preferred version keeps the original act-consequentialist setting and connects it to the Rawlsian division of labour idea. We think this is best done by endorsing a version of two-level consequentialism.[[23]](#footnote-23) That is, institutional consequentialism makes use of the well-known distinction between criterion of rightness and decision-procedure: the former is still given by (maximizing) act-consequentialism, but the latter consists mostly in decision procedures that common-sense morality recognizes - they are those decision-making rules the following of which produce the best consequences overall (Hare 1981; Railton 1984). Now, for reasons given in previous sections, for individuals the perhaps most important such decision rule is to set up and maintain institutions that are designed according to the act consequentialist principle of beneficence. In short, while the criterion of rightness is the same both for individuals and for institutions, the former are not required to apply the principle of beneficence in their every-day conduct.

However, as it stands, this view is not complete. Institutions, recall, are public systems of rules. Hence it is these rules that are designed according to act-consequentialism. But notice also that at least some of these institutions are run by public officials and in the case of these institutions many of the traditional problems of act-consequentialism might reappear (Eggleston 2014: 136-7). In particular, as we saw earlier, act-consequentialism requires huge amount of information regarding the consequences of actions, since it has to reckon with all the consequences of every possible action way out in the unforeseeable future. Although this could be, at least to some extent, counteracted by a division of labour among the officials themselves, decision-making could still be seriously crippled by all the information gathering, processing and constant calculation. Also, act-consequentialism might lead to the breaking down of coordination that we praised above as an advantage of institutional consequentialism. This is because the officials would expect one another not to stick to plans and commitments since, as committed act-consequentialists, they would shirk from these plans as soon as an opportunity with better (expected) consequences arose.

These problems count in favour of introducing decision procedures for public officials that are different from the principle of beneficence that inform the design of the rules that constitute the institutions. In other words, they push us to extend two-level consequentialism to institutional conduct as well insofar as this concerns individual decision-making *within* the institutions. Moreover, as Goodin (1995: 62-5) persuasively argues, these decision procedures should be general in form allowing only for few exceptions.

To sum up, as two-level institutional consequentialists, we hold that both private citizens and public officials, although their conduct is ultimately evaluated by an act-consequentialist criterion rightness that is also used to design institutions, are to apply general rules that need not be consequentialist and hence need not be the same as the rules that constitute the institutions. For private citizens, the most important decision rule is to set up and maintain institutions; for public officials, there could be any number of rules, among them, especially perhaps on higher administrative levels, the principle of beneficence itself. A caveat is needed here, though. Two-level consequentialist rules are typically considered to be what Rawls (1955) calls ‘summary rules’: heuristic devices, ‘rules of thumb’ that are to be employed in decision-making only insofar as they do indeed produce the best consequences. If it turns out that they do not, the rules can be broken, an exception created or an entirely different rule employed.[[24]](#footnote-24) Since we have already admitted that public officials can use the principle of beneficence as a decision rule (albeit, we reckon, rarely), the question naturally arises whether the same is true of private citizens and if it is, what this implies in terms of demands on them. Our response is that we indeed don’t deny that private citizens might indeed, on occasion, resort to directly applying the principle of beneficence but, for the reasons given in preceding sections, this would rarely happen, if at all.[[25]](#footnote-25) Hence we don’t see demandingness problems arising from this aspect of our proposal.

This is then our general picture of what institutional consequentialism should look like. Of course, two-level consequentialism is anything but an undisputed theory. We do not have the space here to deal with all of its problems but there are two issues that we would like to address since they are relevant for further specifying our understanding of the theory. The first problem is specific to our proposal. It could be claimed that by endorsing two-level consequentialism we are only paying lip service to the idea of a division of labour since, strictly speaking, we do not have different moral principles for individuals and for institutions. Instead, we have the same moral principle, i.e., the same criterion of rightness, but different decision rules. Our answer to this is to bite the bullet: we do not see why this *has* to be a problem. It is clear that we have a division of labour in place, albeit it is not one that would introduce a rupture into the structure of consequentialism. It would have to be a rupture, it seems, since, on the proposed alternative that is now demanded of us, there would have to be two more codes, one for individuals and one for institutions, and only the latter would be consequentialist. Although ‘consequentialism’ is often considered to be a family resemblance term, such a hybrid theory might be stretching things too far.[[26]](#footnote-26)

The second problem is well-known and general. It is normally put like this. The rules people use in making decisions largely overlap with the publicly affirmed morality of their society. However, on two-level consequentialism, these rules do not constitute the true morality: that is still given by the act-consequentialist criterion of rightness. The question, then, is how to combine these two moralities. One option is to inform people about both moralities and make it clear to them that the rules they use for decision-making are merely ‘summary’ rules whose function is instrumental to the true consequentialist aim. The problem with this solution is that in this case rules used in decision-making will be subject to change by anyone at any time. This not only calls into question whether they can be considered to be rules at all, but also reproduces problems mentioned earlier: long-term commitments, trust, and expectations might break down if too many exceptions are granted, or rules are continuously changed.

Most two-level consequentialists, therefore, opt for a different alternative. Their idea is that, people should value decision-making rules *for their own sake*, i.e., they should look at them as constituting the true morality, as giving the content of their conscience. They are not supposed to be aware of their merely instrumental nature. While this could guarantee that the rules are rarely broken, two further problems arise. First, we do not want inflexible rules; after all, one virtue of the consequentialist approach is that it is sensitive to changing empirical circumstances. This outcome could be avoided if we do give some people the right to change the rules. However, this does not affect the second problem: that on this view the true morality must not be publicly affirmed but must be kept secret. All that is added is now that the secret morality will be safeguarded by a small elite of rulers who make sure that the correct rules are used via constant revisions and the requisite education and socialization of people. That is, we are forced to endorse what Sidgwick (1907: 489-90) – approvingly – called ‘Government House Utilitarianism’. However, most people find such a solution unpalatable (although others disagree, see Smith 1990; Lazari-Radek & Singer 2010; Eggleston 2014).

We disagree about this assessment of the consequentialist’s options. Concerning the first solution, we should not forget that our focus is on institutions. Most institutions have public rules of review and recognition: higher-order rules that tell subjects how to identify, review, and change rules. They also have rules concerning how they should be supported and what to do with citizens when they fail to support them. Of course, these rules too can be revised but their revision and change are normally made very difficult and subject to various conditions (think of constitutional amendment procedures). While this solution is not watertight, a sufficiently comprehensive institution design can make sure that rules are not constantly changed and sufficient trust is created in the system without violating the publicity requirement. Concerning the second solution, there is a way to reject the idea that people cannot pursue non-consequentialist decision rules for their own sake while also being aware of their instrumental nature. The idea is that some kind of compartmentalization is possible: judges do this all the time when they bracket their personal views in making decisions and Rawls’s (1993) notion of public justification relies on a similar idea when it requires people not to introduce non-public justification in public debates. Hence, we conclude, either way there appears to be at least some hope for saving two-level institutional consequentialism.

**7. Two objections**

So far we have described the demandingness objection to consequentialism (section 1), introduced institutional consequentialism as a response (sections 2-5), and further elaborated upon the exact structure of the view (section 6). In section 5 we have already responded to two immediate objections to our approach; it is now time to consider further problems. From the literature on Rawls’s theory of justice, two objections seem to have clear relevance for us. First, Murphy (1998) has argued that demandingness considerations will not give us what he calls *dualism*: the Rawlsian idea that different principles apply to institutions and to individuals. And, the thought is, we need dualism in order to substantiate the present response to the demandingness objection. Second, consequentialism, unlike, for instance, the Rawlsian system appears to be a monist theory in the following sense: the same criterion of rightness applies to individuals as to institutions. Hence the dualist idea that is taken to underlie the present response to the demandingness objection may not be justifiable in the case of consequentialism.

Since we take the second problem to be more basic and our response to it will also help with the first problem, let us proceed in reverse order. Rawls and others following him indeed use consequentialism as the prime example of a comprehensive, monist theory: the principle of beneficence should apply both to institutional and to individual conduct. How can we deny this? But we think the relevant question to ask is: once we properly understand what it means for the principle of beneficence to apply to an agent, why shouldn’t we deny it? On the view defended here, beneficence does not apply to individuals in the sense that it does not directly guide their action: it is not a decision rule for them. The maximization of the good often cannot and should not be what individuals aim at and this is true even of public officials on certain occasions. Beneficence provides decision-makers with a criterion for the moral assessment of alternative courses of action and the social planner for the design of institutions, but it doesn’t provide a sufficiently action-guiding rule individuals are to follow.[[27]](#footnote-27) This is just what two-level institutional consequentialism is about.

We suspect that something else lies behind the idea that consequentialism simply cannot be a dualist theory. We can see this by introducing a distinction discussed at length by Scheffler (2005). There are two versions of the idea of division of labour in Rawls’s work. There is first a division of *moral* labour that urges us to have separate moral principles for institutions and individuals on the ground that they promote different moral values. Since the relevant moral values in the case of individuals also have to do with partial concerns – such as relationships or self-interest – this is indeed a division of labour that, it seems, consequentialism, being a thoroughly impersonal theory, cannot make use of; on this reading consequentialism must be a monist theory.

A possible line of response would be to argue that consequentialism is not necessarily impersonal in nature. But we let this go since there is a better answer. Recall that we introduced the thought above as one half of a distinction. As it happens, the other half is more suitable for consequentialist purposes. Scheffler calls it the *institutional* division of labour. It relies on the idea that there are different rules for the design of the basic institutional structure of society and one for individual conduct. The consequentialist moral criterion belongs to the first group for several reasons we discussed earlier (background adjustment and institution’s constitutive role). It seems that institutional division of labour is all that we need to answer Murphy’s challenge if interpreted as above.

We can also answer now Murphy’s first objection: that demandingness considerations will not give us what he calls dualism, yet we need dualism in order to substantiate the present response to the demandingness objection. We accept the second half of Murphy’s claim, so the question is: what supports the first half? At its core, his point is simple: it is perverse to require people to establish and maintain consequentialist institutions, but not require them to pursue the consequentialist aim personally. Our response to this is twofold. First, we do *not* need to claim that the demandingness objection is what justifies dualism for the consequentialist. As we just saw, there *are* good reasons to single out institutions as morally special that make a perfectly good case for why individuals shouldn’t and – as far as the reasons above are concerned – couldn’t pursue consequentialist aims individually. In short, our first claim is that we should endorse dualism for these (and perhaps other) reasons and this will still give us a response to the demandingness objection as a (perhaps unintended) side-effect of the division of labour that dualism secures for us.

Our second response is more tentative and uses an argument from Goodin (1995: 30-7). We interpret him as arguing that the demandingness objection, contrary to what Murphy claims, does in fact *require* consequentialists to endorse institutional consequentialism. His argument appears to rely on a particular reading of the demandingness objection: that when premise 2) claims that the consequentialist demand is a wrongful one, this is in fact a plea for excuses – the excuse being that it is not the individual’s job to fulfil the demand, yet, it is something that should be done. Goodin thinks that individuals do have this excuse available to them due to the absence of effective coordination on their level. This then exculpates individuals but, in turn, inculpates communities since the job has to be done and communities, in the form of institutions, have the relevant formal coordination structures present. This is a good argument, but a lot depends on whether Goodin is right about his reading of the demandingness objection: can consequentialists demonstrate that the “job has to be done” by someone? If they cannot, Goodin’s argument collapses; if there is, we have a second answer to Murphy’s challenge.

**8. Institutional consequentialism and global challenges**

So far we have repeatedly set aside the question: does institutional consequentialism work also on the global level as a response to the demandingness objection? Arguably, the demandingness objection is most persuasive when we appeal to existing global problems (what poverty, peace, or the environment would require on the global scale). However, the institutional approach appears to be in trouble here since it seems that the relevant institutions, but not the demands, are missing; hence, we cannot appeal to dualism in response in this case.

One reply to this objection is to endorse an extreme version of what is often called the relationist position in the literature on global justice: that moral claims are grounded in certain institutional relations among people.[[28]](#footnote-28) Hence the response: since these relations do not exist globally, there are no global moral demands either. However, we are not inclined to endorse this way of thinking about global morality; besides, and this is more important in the present context, consequentialism is the prime example of a non-relationalist theory, i.e. one that does not ground moral claims in institutional relations among people. (Some, like Nagel (2005), seem to hold that a non-relational theory must be monist, but we fail to see the connection. The relational/non-relational distinction concerns the grounds of normative claims against others (with consequences for their scope), whereas the monism/dualism distinction is about the site of these claims. Although both invoke institutions, they do so in an entirely different role.)

If we don’t go down this path, we must find the relevant institutions. There are several, not mutually exclusive, ways to proceed. One is to point out that there *are* already several global institutions that can be used for the purposes of fulfilling consequentialist requirements.[[29]](#footnote-29) We cannot do justice here to the vast empirical research done in this field but we can briefly indicate some of the relevant institutions.

Begin with the most obvious of these: nation-states. Consequentialists can regard the state-system as set of distributed general obligations (Goodin 1988: 685). Each government bears a special responsibility for its citizens’ welfare since it is better to have a system of states each of which is responsible for a limited number of people than to require everyone to be responsible for everyone else – recall our previous discussion of the benefits of specialization, division of labour and coordination. This institutionally governed system of assigned responsibilities in turn reduces the burdens on individuals.

Furthermore, given that we have a system of nation-states, governments are in general in a better position to promote the welfare of their citizens than outside actors are. The institutional stance in the development economics literature emphasizes the quality of institutions as the primary determinant of economic development within countries. Outside actors can at best help the global poor by providing assistance in building institutions, for example by facilitating analytical work, supporting reform initiatives and providing technical assistance, rather than by sending direct aid to improve welfare. For this reason, Risse (2012: 68-69, 80) argues that duties to provide international assistance are sometimes going to be less demanding than might be thought or no duty will apply since what needs to be done cannot be done by outsiders.

Nation-states are not the only relevant institutions, however. States are embedded in a system of transnational institutions such as the WTO, the IMF or the World Bank. Institutional consequentialists can welcome this fact since nation-states alone would not be able to solve global collective action problems such as limiting greenhouse gas emissions or the prevention of a global ‘race-to-the-bottom’ in labour regulations and tax laws. Nor can they satisfactorily specify duties for agents in domains such as international trade since it is often unclear which jurisdiction applies to them.

Transnational institutions can in some cases effectively coordinate national policies, solve global collective action problems and specify duties for multiple agents. Relying on their authority to make, interpret and enforce rules in direct or indirect rule-making relationships with individuals globally, transnational institutions fundamentally shape national policies and individual conduct by imposing sanctions and providing incentives in domains such as public health, food safety and product standards, labour standards and environmental regulation (Cohen and Sabel 2006: 165). They are at least potentially capable of performing the functions we argued require an institutional version of consequentialism.

Consider how global institutions such as the WHO can help solve global collective action problems arising between states as agents. Freedom from drug-resistant strains of infectious diseases such as tuberculosis is a global public good whose provision depends on transnational cooperation to overcome incentives for states to free-ride. Owing to the authority granted to the WHO by the current International Health Regulations to take action in public health emergencies even against resistance by member states, it can effectively combat infectious diseases globally. It can enforce compliance to policies that benefit all parties and provide assurance that other states will contribute their share to the provision and maintenance of the public good (Selgelid 2008).

In our current institutional world order including the state system as well as transnational institutions consequentialist demands on individuals are mitigated. Institutions that are sufficiently well functioning spread thin the burdens of compliance across a greater number of parties and reduce the burdens on those who are disposed to shoulder their share of the consequentialist task. They also reduce costs by clearly allocating responsibilities and coordinating the manner agents implement them. Finally, they ease motivational strains by providing assurance that responsibilities will be mutually honoured.

Some of the moral burdens will remain. Duties for individuals will include a duty to promote the reform of existing institutions. Arguably, many of the currently existing institutions with actual or potential global impact are not optimal by consequentialist standards. For example, critics regard the current global intellectual property right regime governed by the TRIPs agreement under WTO jurisdiction as suboptimal (Pogge 2010). It is better than providing no protection to innovator pharmaceutical firms since it incentivizes the development of new drugs by allowing firms to recoup their large investments into pharmaceutical R&D. However, critics argue, the current system leads to a neglect of diseases typically afflicting the poor and concentrates resources on new drugs marginally improving the life-prospects of people living in affluent countries. A lot more benefit could be generated by some alternative institutional schemes – such as Pogge’s Health Impact Fund or Kremer’s Advance Market Commitments – that incentivize the development of drugs for diseases afflicting the globally worst-off. Reforming the current global institutional structure requires political action by individuals as well as by governments, political parties, firms and NGOs.[[30]](#footnote-30)

It is now time to answer a question we set aside in Section 5: given the imperfections of the current global institutional framework, won’t the duty to reform existing global institutions (or to establish new ones) be so demanding as to invalidate the institutional defence of consequentialism itself? We do not think so. Although the duty to promote the reform of global institutions might strike critics of the institutional answer to the demandingness objection as extremely demanding, burdens on individuals are limited, for two reasons.

First, often the most effective way to promote institutional reform is through the establishment of procedural rules which at the same time reduce the burdens on individuals. One reason why some transnational institutions are suboptimal is that they lack support or legitimacy. Institutions need to be shaped so that they motivate their own support. Achieving this is not trivial since there are moral disagreements, including disagreements about socioeconomic justice, within any society, and disagreements are even more pronounced on the global level. It is to a large extent these disagreements that make the collective pursuit of consequentialist aims motivationally demanding. They generate collective action problems and obstruct coordination.

Establishing procedural requirements on decision-making may be a good way to achieve legitimacy and thus to reduce motivational demands individuals face. For instance, transnational institutions may need to include in their decision-making frameworks those impacted by them in a way that the affected parties perceive as fair or legitimate.[[31]](#footnote-31) Furthermore, institutional mechanisms may need to be installed to accommodate competing moral views or values. Since the current system of global institutions does not constitute a global state, standard majoritarian democratic mechanisms are not available at the global level. Nonetheless, there are feasible alternative mechanisms that do not require a global state. What Norman Daniels has termed Accountability for Reasonableness in the distribution of health care is a good example of a mechanism that can generate legitimacy without a full-blown majoritarian political decision-process.[[32]](#footnote-32)

Second, for the same reasons we noted in the domestic case in Section 5, when the pursuit of gradual reforms through legitimate procedures is not feasible – since there are no workable institutions in place or current institutions are perceived as grossly unjust or illegitimate – individuals likely have no consequentialist duty to fight for institutional reform since global collective action problems make individual attempts at system change futile and wasteful.[[33]](#footnote-33)

To sum up: institutional consequentialism requires that individuals promote the establishment of institutions that can solve global collective action problems and can specify and enforce duties for agents. New institutions need to be built, existing institutions need to be reformed. Again, consequentialism calls for a division of labour between individuals and institutions – this time on the global level. Although identifying the most effective way to improve existing institutions in the current global framework – and the demands that come with it – is a largely empirical matter, there are good reasons to believe that the global institutional division of labour reduces burdens on individuals. Institutions provide assurance that others will contribute their share of the collective burden. They make it easier to do good by enforcing compliance with rules, and they change preferences to align individual interests with the overall good. Finally, they allow us to direct some of our attention and time to the pursuit of our personal projects and relationships.

The idea of a global division of labour invites an objection, however. Applying Murphy’s second objection to the global case, it asks: Is it not perverse to require individuals to support institutions promoting the good without requiring them to promote the good directly? Rather than lobbying their governments to promote institutional change, they could surely do a lot more good by devoting their resources to charities that help the global poor directly.

We disagree. It may be futile or worse, counterproductive, for individuals to directly pursue consequentialist aims rather than to support just institutions. We have already seen general reasons why this is so but in the global case there are further considerations to mention. For instance, when individual philanthropy through donations to NGOs replaces political action aimed at institutional reform, the proliferation of NGOs may break down coordination and exacerbate the global collective action problems we described earlier. Some critics of NGOs such as the Gates Foundation argue that their entry into the health care sector in third world countries has led to an internal brain drain of health personnel away from the public sector, resulting in suboptimal health outcomes (Daniels 2008: 330). More generally: foreign aid aimed at directly helping the global poor may make things worse through a mechanism similar to the so-called resource curse: it may generate rent-seeking by the elites and crowd out productive investments that are more desirable in the long run (Deaton 2013: 298). Individual philanthropy may also result in harmful long-term consequences by undermining public trust in political institutions and by weakening people’s interest in political participation. If so, it forecloses the possibility of economic development benefiting the poor by precluding reforms necessary to fix underdeveloped countries’ systems of public institutions and the international institutional structure (Deaton 2013).[[34]](#footnote-34) The only way outsiders can help the poor is often indirect: in line with institutional consequentialism, our duty is to assist in building good institutions. Demands imposed on individuals by their duty to make institutions more just in an international context are limited by what individuals can be expected to achieve, taking into account the lessons from the institutional stance in social science.

**9. Summary and concluding remarks**

There may be several good reasons to reject consequentialism. We have argued in this paper that demandingness is not one of them. The right approach to this problem is institutional. Once we realize that a division of labour between individuals and institutions is justified on good moral grounds that are also compatible with consequentialism, we will also see that putative features of consequentialism that many thought would impose excessive demands on individual agents will in fact arise on the level of institutional systems. Consequentialist demands on our time, attention and motivations need not undermine our ability to lead a life rich in personal projects and commitments. Our individuality need not be wiped away by impersonal calculating requirements on our decisions and actions. Our response to the demandingness objection is consistent with consequentialism since it is not based on the independent moral status of values such as fairness, rights or freedom. Our preferred version of institutional consequentialism takes a two-level form with institutions, i.e., public system of rules designed to promote consequentialist aims but individuals – both private citizens and, on occasions at least, public officials – using non-consequentialist decision procedures. Finally, we have argued that although the global stage offers further challenges to our view, there are grounds to argue that these challenges can be diffused. No doubt, there are some questions left open in this yet, we submit, we have provided enough ammunition to make one hopeful for the future of institutional consequentialism.

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1. To answer this question in full we would also have to spend time on the issue why consequentialism is singled out as the *only* objectionably demanding moral theory and whether this is correct or not. For a detailed treatment of this issue, see (*redacted*), on which this section relies in part. [↑](#footnote-ref-1)
2. The objection is perhaps most clearly stated by those who oppose it. For an early statement see Sidgwick (1907), p. 87; for a recent statement see Cullity (2004), Chapter 1. For further references see Hooker (2009), p. 162 footnote 4, and Carter (2009), pp. 163-85, as well as the works to be cited later in this section. [↑](#footnote-ref-2)
3. Unfortunately, it is easy to cite statistics for this claim. Any report by the WHO, the World Bank, UNICEF, UNDP and so on paints the same dire picture, certainly of the global situation, but also, in most cases, of domestic circumstances. See Pogge (2008: 2-3) for more data and references. [↑](#footnote-ref-3)
4. For further discussion of this reading see (*redacted*). See also Portmore (2011) and Dorsey (2016) for an in-depth treatment. The moral reading is the traditional account of the objection and references in previous footnotes provide the relevant sources; the motivational reading is perhaps most apparent in Wolf (1982). For the epistemic reading one could turn to the debate between subjective and objective consequentialism. See also Smith (1989) and (1990) for a discussion of applicability that pertains to both the motivational and epistemic reading of the objection. [↑](#footnote-ref-4)
5. Unless one can show that the argument simply cannot get off the ground. Thus *scalar-consequentialists* claim that consequentialism makes no demands on us, although it does give us reasons to act. See Norcross (2006); for a response, see McElwee (2011). [↑](#footnote-ref-5)
6. We say ‘at least in part’ because, certainly in the case of the motivational and epistemic reading, the more general applicability constraint that generates these complaints can be driven also by moral or conceptual arguments. See Smith (1990: 117-8) for a good discussion. [↑](#footnote-ref-6)
7. This is often called the *extremist strategy,* for an overview and critical discussion see Mulgan (2001). There is also a related debate about the use of intuitions in moral theory. See Sandberg & Juth (2011). Concerning the (widespread) existence of the intuition, see (*redacted*). [↑](#footnote-ref-7)
8. For a discussion of the second, *empirical* *strategy,* see Mulgan (2001) and Bykvist (2010). The first approach, the *restructuring strategy* has given rise to a variety of alternative approaches, some of which regard themselves as consequentialists, others do not. For critical discussion of these views see Mulgan (2001), (2007); Bykvist (2010). [↑](#footnote-ref-8)
9. This is not an entirely unprecedented view in the literature. A similar view appears in Goodin (1995), Hardin (1986, 1988) and Bailey (1998), although only Hardin (1988: 126) appears to mention the kind of dualism we build our theory upon. We take up (some of) their ideas as we proceed in the paper. [↑](#footnote-ref-9)
10. The term ‘ethical division of labour’ comes from Nagel (1979). See also Nagel (1991) for a more detailed investigation of this Rawlsian thought. [↑](#footnote-ref-10)
11. We follow Rawls in talking about the basic structure: this includes roughly ‘the political constitution and principal economic and social arrangements’. It covers legal rules affecting property and the organization of the economy. Property is determined not only by property law regimes but by a broader set of public norms including contract and commercial law, laws in criminal law against force and fraud, public health law, labour regulations etc. See Rawls (1993: 258, 282-3). At the end of this section we provide an account of institutions that is also intended to cover the institutions that form the basic structure in the above sense. [↑](#footnote-ref-11)
12. What follows is adapted from (*redacted*). [↑](#footnote-ref-12)
13. More precisely, they are “the humanly devised constraints that shape human interaction.” They “structure incentives in human exchange, whether political, social, or economic” (North 1990: 3). Institutions thus understood include organisations – such as business firms or universities – but they also include systems of organisations – such as political systems and capitalist economies – and other institutions that do not involve organisations – such as simple barter economies. [↑](#footnote-ref-13)
14. Hardin (1988: 6-9) discusses another type of limit of reason: limitations concerning our value theory. The idea is that we are limited in assessing both utility to ourselves as well as utility to others. These limits have partly to do with the difficulties concerning interpersonal comparisons of value and with the possible non-additivity of value (such as the case of organic wholes). [↑](#footnote-ref-14)
15. Public goods are defined as goods that are non-excludable and non-rivalrous. That is, no one within the relevant population can be excluded from their benefits and their consumption by one person does not reduce the quantity or quality available for others. [↑](#footnote-ref-15)
16. For a good discussion of the case of vaccinations in this context, see (*redacted*). [↑](#footnote-ref-16)
17. A further way in which economic and political institutions assign responsibilities in a constitutive manner is by determining distributive shares through an authoritative determination of property rights (*redacted*). [↑](#footnote-ref-17)
18. Bailey’s (1997: 60) main argument for this non-exploitation principle appears to be that without the principle utilitarianism would be self-defeating. Avoiding exploitation, he argues, is an evolutionarily stable strategy, hence without the principle, utilitarians will die out, and the world will be worse off in utility terms. [↑](#footnote-ref-18)
19. See Cullity (2004) who makes substantial philosophical use of these iterated demands in drawing up the demandingness objection. [↑](#footnote-ref-19)
20. Note that this claim is often put as a claim of fairness. See Murphy (2000) for the most complete theory along these lines. However, it is important to keep in mind, and Murphy is clear on this, that the supposed unfairness of consequentialism and its demandingness are two separate issues. If all there is to demandingness is lack of fairness, then there is no real demandingness problematic. [↑](#footnote-ref-20)
21. Of course, institutions are often comprised of individuals, hence one could argue that these public officials’ lives would be very negatively affected. But what we say in the text holds also here: the response to this would be to design better institutions, i.e., ones in which such consequences do not occur. Moreover, as we show in the next section, it matters here which version of institutional consequentialism one endorses. [↑](#footnote-ref-21)
22. Rawls (1999: 14-15; 63-78; 80-1) describes liberal and decent peoples as those that meet certain minimum conditions such as respecting basic human rights, regarding the law as embodying a commitment to a ‘common good idea of justice’ and treating their subjects as capable of bearing duties. By contrast, burdened societies are prevented by their lack of economic or cultural resources from becoming well ordered. Outlaw states in Rawlsian terminology are states that are aggressive towards other societies and tend to violate human rights. [↑](#footnote-ref-22)
23. Goodin (1995: 61-2), Bailey (1997: 24-7), Hardin (1988: 14-7, 100-110) appear to agree, although their use of the term ‘rule-consequentialism’ is ambiguous between the two readings. The same is true of Mulgan (2007: 126-8). [↑](#footnote-ref-23)
24. We say ‘typically considered’ because two-level consequentialists are not restricted to regarding all social rules as rules of thumb. They can support the adoption of legal rules and social practices that do not allow direct application of the consequentialist principle in particular cases. These rules may even penalize actions that do in fact maximize utility. So a second role of institutions in two-level consequentialism is to modify behaviour by changing payoffs and preferences. [↑](#footnote-ref-24)
25. How rare these occasions would be, depends on whether the rule to set up and maintain institutions would be part of an ideal or a non-ideal set of decision rules. In the former case, following the rule (jointly, we presume, with other rules) would produce extensional equivalence with the requirements of act-consequentialism; in the latter case, it wouldn’t. [↑](#footnote-ref-25)
26. Nonetheless, we keep an open mind on these matters. As we are also open to changing the criterion of rightness from maximizing act-consequentialism to something else if that keeps in place as central the rule for individuals to set up and maintain institutions. Interesting candidates could be Regan’s (1980) co-operative utilitarianism or Mendola’s (2006) multiple-act consequentialism. [↑](#footnote-ref-26)
27. Murphy’s formulations of dualism are ambiguous about this point. Insofar as ‘practical principle’ in the first characterization (Murphy 1998: 254) refers to a moral criterion, we do not deny monism, hence we do not consider ourselves to be dualist in this sense. However, we do deny what Murphy claims monism requires on his second characterization (271), i.e. that people must aim at whatever this moral criterion is. We have been arguing that people’s responsibility is indeed mediated by institutions. It seems that Murphy is working here with an underlying assumption the denial of which is crucial for our proposal: that there is no distinction between criterion of rightness and decision procedure. This, however, is an unwarranted presupposition that Murphy does not argue for. [↑](#footnote-ref-27)
28. Relationists hold that a necessary condition for requirements of distributive justice to exist among individuals is that the latter stand in specific practice-mediated relations with one another. One representative of this view is Nagel (2005). Note, however, that relationists about global justice allow for the existence of humanitarian moral obligations outside these relationships. [↑](#footnote-ref-28)
29. This strategy coincides with proposals by relationist advocates of global justice (for an early representative see Pogge (1994); for a more recent one see Moellendorf (2011). Of course, the justification for their proposals differs from the consequentialist position we started out with, since they hold that claims of justice are grounded in institutional relations. [↑](#footnote-ref-29)
30. A configuration of the global institutional structure that seems well suited to perform the requisite functions is a multi-layered mixture of institutions with varying scope and functions (Pogge 1992). [↑](#footnote-ref-30)
31. For one attempt to forge legitimacy at the global level see Rawls (1999). [↑](#footnote-ref-31)
32. Daniels (2008: Ch.4) has argued that his proposed framework is a good way to address what he calls ‘unsolved rationing problems’, such as conflicting views about what benefits to aggregate in improving health outcomes. [↑](#footnote-ref-32)
33. The same consideration shows the limits of more radical proposals for global institutional change. To take one example, Tännsjö (2008) suggests making a radical break with the *status quo*: he argues that we should build a global state instead of fiddling with particular, relatively constrained institutions. The same may be true of another radical but diametrically opposite proposal. In the context of discussing the EU’s future, Zielonka (2014) argues for what he calls neo-medievalism that relies on a fuzzy system of cities and regions, instead of centralized states. [↑](#footnote-ref-33)
34. It is for these reasons that critics of the Effective Altruism movement argue that the movement’s focus on individual acts of charity is itself misguided. The focus of a proper consequentialist theory should be on systemic reforms rather than individual decisions about how to spend our spare money (Acemoglu 2015). We develop a related objection to Effective Altruism elsewhere. [↑](#footnote-ref-34)