

Basicity and the Possibility of Non-Foundationalism

In the main part of this thesis – that is, in part III, »Alleged Solutions and Applied Scrutiny« – I have argued that the most promising strategies to supply a rationale for deontic restrictions fail. In this chapter, I want to carve out the implications of this claim. On the one hand, I will offer some considerations that will help place into broader perspective the claim that there is no justification for a deontic restriction against killing the innocent. While some might find the claim that it might be permissible to kill the innocent in deontic-restriction scenarios morally problematic (even if theoretically convincing), I will argue that there is a sense in which the significance of my conclusion should not be overestimated. On the other hand, I would also like to say something about the theoretical implications of the claim that there is no satisfying rationale for a deontic restriction against killing the innocent. In particular, I will examine the possibility of non-foundationalism: the suggestion that we should consider deontic restrictions as justified elements of our best moral theory despite their lack of theoretical grounding, simply in virtue of their strong intuitive foothold.¹⁵¹

Let me begin by emphasising that the scope of my conclusion that there is no rationale for deontic restrictions is more limited than it might potentially appear. This is so for at least five reasons. First, remember that, at the very outset of this thesis, I have distinguished between deontic restrictions and deontic constraints. I stipulated that there is a deontic restriction against φ -ing if, and only if, there is at least one situation in which it holds that

- (i) φ -ing is wrong,
- (ii) φ -ing would reduce the overall number of actions of the φ -type, and
- (iii) φ -ing is wrong in virtue of the type of action φ -ing is.

By contrast, there is a deontic constraint against φ -ing if, and only if, there is at least one situation in which it holds that

¹⁵¹ I adopt the notion of non-foundationalism from Kagan. Compare Kagan (1998, in particular sections 6.1 and 7.5).

- (i) φ -ing is wrong,
- (ii) φ -ing would have better consequences than non- φ -ing, and
- (iii) φ -ing is wrong in virtue of the type of action φ -ing is.

On the plausible assumption that actions of the φ -type are bad, a deontic restriction against φ -ing will imply a deontic constraint against φ -ing. The reverse, however, will not hold good, in particular not if we allow for threshold constraints.¹⁵²

To illustrate that a deontic constraint against φ -ing does not imply a deontic restriction against φ -ing, consider again the example of a deontic constraint against killing the innocent. Assume that there is a deontic constraint against killing the innocent that holds up to 1,000,000 units of goodness (for ease of exposition, let's call them utils). That is, it is not allowed to kill the innocent unless the net good that could be realised by killing the innocent – or, equivalently, the net bad that could be avoided – is one million utils or more. If we assume further that the killing of one innocent has a disvalue of one million utils, it will follow that the threshold constraint against killing the innocent will imply that it is *permissible* to kill the innocent if, by killing the innocent, it can be avoided that two other innocents are killed. If it is permissible to kill the innocent in such a situation, there will be no deontic restriction against killing the innocent. What the example therefore shows is that, even if we assume that there is a threshold constraint against killing the innocent, this does not necessarily imply a deontic restriction against killing the innocent. In general, then, a deontic constraint against killing the innocent does not necessarily imply a deontic restriction against killing the innocent.

As a consequence, even if we have good reason not to include a deontic restriction against killing the innocent in our best moral theory, this will not imply that we should not include deontic constraints, either. Accordingly, my claim that there is no rationale for a deontic restriction against killing the innocent does not imply the further and distinct claim that there is no rationale for a deontic constraint against killing the innocent. And this is as it should be, since I also argued that there is something peculiarly problematic about deontic restrictions. For it is one thing to say that there are certain types of actions that are morally problematic to an extent that not even good consequences can justify them. It is another thing, however, to say that there is some type of

¹⁵² Also compare section 2.1 – where I also illustrate how a deontic restriction against φ -ing implies a deontic constraint against φ -ing, on the plausible assumption that actions of the φ -type are bad.