Hooker's Consequentialism and the Depth of Moral Experience

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ABSTRACT: In Ideal Code, Real World*, Brad Hooker seeks to offer a version of ideal rule consequentialism that is immune from standard criticisms. I will attempt to challenge Hooker's ideal rule-consequentialist theory by arguing that there are philosophical problems at the ultimate foundation of his maximizing consequentialist and pluralist approach toward well-being and other basic goods. I find that no amount of revision is likely to insulate his approach from standard criticisms. I suggest that any maximizing rule-consequentialist approach toward well-being, taken in a rich and pluralist sense, is likely to fall prey to standard criticisms. In later work, Hooker drops ideal rule consequentialism in favor of an incremental rule-consequentialist approach. That piecemeal approach is also challenged in this paper.*

RÉSUMÉ: Avec Ideal Code, Real World*, Brad Hooker cherche à offrir une version du conséquentialisme de la règle qui serait à l'abri des critiques habituelles. Nous tentons de la mettre en question en soutenant que le principe fondateur de son approche, qui non seulement maximise le conséquentialisme, mais est aussi pluraliste envers le bien-être et les autres nécessités, repose sur des problèmes philosophiques. Il semble qu'aucune adaptation ne puisse protéger cette approche des critiques habituelles. Je suggère que toute approche qui maximise le conséquentialisme de la règle envers le bien-être, interprété dans un sens riche et pluraliste, sera probablement susceptible de tomber sous les critiques habituelles. Nous mettons aussi en question l'approche différentielle qu'adopte Hooker dans ses travaux ultérieurs après avoir délaissé le conséquentialisme de la règle.*

This paper will examine the sophisticated version of ideal rule consequentialism offered by Brad Hooker as well as his later shift from ideal rule consequentialism

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to an incremental approach. My critique will attempt to show that the philosophical problems besetting his ideal rule consequentialism lie at the ultimate foundation of his maximizing consequentialist and pluralist approach toward well-being and other basic goods, and that no amount of revision is likely to render his approach immune from standard criticisms. Indeed, the analysis provided in this paper suggests that any maximizing rule-consequentialist approach toward well-being, taken in a rich and pluralistic sense, is likely to succumb to standard criticisms. I also provide related arguments against Hooker's incremental rule-consequentialist approach.

Let me briefly explain the motivation behind rule utilitarianism and rule consequentialism. An act-utilitarian approach, which preceds case by case, tests the alternative actions in a given case directly by the principle of utility, which requires that utility be maximized. A long-standing criticism of this approach is that any action in a given case — murder, punishment of the innocent, betrayal, etc. — may be declared morally justified, based on whether utility would be maximized for those affected by the given action in the case. According to a rule-utilitarian approach, however, there may very well be cases in which the action that is morally required by the rules in question will not maximize utility for those affected in a given case. And that is thought to be acceptable to the rule utilitarian, since the adoption and obedience to a system of rules is said to maximize utility for society as a whole. In this way, heinous activity ostensibly is ruled out.

It is thought that consequentialism allows for a broader range of basic goods than does utilitarianism. It allows for a range of basic goods that extends beyond well-being or welfare. We might find among such goods the virtues, a provision about distribution, and the like. Although for some consequentialists the basic goods that they specify are somehow to be maximized, other consequentialists limit their task to promoting their specified goods. Later, we will see that Hooker's incremental approach fits this latter category and that there are reasons to reject the approach.

In a rule-oriented approach, the consequentialist principle tests rules which, in turn, determine the moral appropriateness or inappropriateness of actions. By coupling consequentialism with a rule-oriented approach, one can see how rule consequentialism holds the promise of superiority over act utilitarianism. Rule-consequentialism can presumably avoid the prospect of murder, punishment of the innocent, and the like. Despite the apparent advantages of a rule-oriented approach, there appears to be a basic problem with both rule utilitarianism and maximizing rule consequentialism. It would seem that such rule-oriented approaches only postpone the introduction of counter-examples involving murder, punishment of the innocent, and the like, until their appearance at the second level. Whether, for example, a rule against punishing the innocent is to be adopted depends on whether social circumstances, including social feelings and perceptions, will be such that following the system of rules, of which that rule is a part, will best promote utility or good for that society.

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Contingent and arbitrary factors are determining whether rules protecting putatively basic goods, such as human life, equity, and integrity, are to be adopted under the rule-utilitarian and maximizing rule-consequentialist systems.

The type of social contingencies that contribute to maximizing rule-consequentialist analyses are not to be confused with the type of social contingencies that may shape the basic moral principles of other ethical theories. An ethical theory, such as natural law ethics, will locate intrinsic goods such as "life" and "knowledge" in fundamental aspects of human nature. Such a theory will proceed from such proposed intrinsic goods to a consideration of social circumstances (to the extent that the circumstances have bearing on basic aspects of human nature or possibly on virtue) in its determination of the more specific basic moral principles. Such specificity is necessary for those secondary moral principles to be relevant to human experience. And, of course, social circumstances and the features of human nature are contingent factors, not necessary truths. But these kinds of contingent factors are to be distinguished from arbitrary contingencies such as social perceptions and feelings. Social perceptions and feelings can be horribly misdirected. Yet, maximizing rule-consequentialist theories must adopt social perceptions and feelings as criteria for determining their fundamental, general moral principles, since social perceptions and feelings are some of the determining factors in an approach that calls for the maximization of the proposed basic goods.

The maximizing rule consequentialist approach suffers the perhaps fatal flaw of offering no logically necessary grounds for moral prohibitions against heinous activities. The existence of hard and fast rules only offers the appearance of protection against such activities. In natural law ethics, for instance, the proposed intrinsic good of "life" can provide a basis for logically deriving a secondary moral principle against murder. "Knowledge" (including truth) can provide a basis for logically deriving a secondary moral principle forbidding deception. And "sociability" or "friendship" can provide a basis for logically deriving a secondary moral principle forbidding institutional cruelty. However, what intervenes between the maximizing rule-consequentialist's foundation of intrinsic value and its secondary moral principles forbidding activities, such as murder and punishment of the innocent, is a sea of social perceptions and feelings. The rule consequentialist must determine what principles best promote the specified goods. But that depends, in part, on the actual feelings, perceptions, and expectations of individuals, however distorted or repulsive.

The following is a case in defense of my point. A society of individuals who put a premium on the feeling of security, and who wish to put minimal effort into their criminal justice system, may very well be subject to "moral" rules that prescribe or tolerate, under certain conditions, murder, public deception, punishment of the innocent, and the like. Such moral rules may not be publicly known under a maximizing rule-consequentialist system (indeed, the society in question may not put a premium on public openness), but the rules may, nevertheless, direct us toward the promotion of the specified goods for that

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society. Such a scenario is certainly plausible. And the justification is possible because of the restrictive confines of the maximizing consequentialist principle. In the final analysis, certain basic goods, or their values, are somehow to be maximized in terms of calculable results. With a theory such as natural law ethics, the basic goods are not to be maximized but, instead, are objects of participation. One participates in such goods, and honours them as well. A maximizing rule consequentialist, on the other hand, must attempt to locate the moral principles that will best promote the basic goods in question.

Brad Hooker has offered a maximizing rule-consequentialist theory of morality that is based, in part, on virtue. He sets out to describe rule consquentialism, a theory which, according to him, demands that moral permissibility depends on considerations concerning "ideal" moral codes.[1] Hooker seeks to get beyond the "usual objections" levied against rule consequentialism by offering what he describes as "an attractive version of rule-consequentialism against which the usual objections will not work."[2] I will argue that despite Hooker's efforts in this regard, his ideal rule consequentialism is open to the kinds of standard criticisms outlined above.

Hooker's fundamental rule-consequentialist principle goes as follows:

> An act is wrong if and only if it is forbidden by the code of rules whose internalization by the overwhelming majority of everyone everywhere in each new generation* has maximum expected value in terms of well-being (with some priority for the worst-off).[3]

Hooker amends this consequentialist principle in response to Richard Arneson's objection that the former does not go far enough in his qualification, which addresses only the prospect of alterations in the human genetic makeup.[4] In Arneson's counter-example, we are to suppose that one thousand years from now biological science is such that socialization and education take place "by direct and precise stimulation of the brain."[5] These changes would drastically alter the costs in bringing about that almost everyone everywhere accept various proposed moral codes. This, argues Arneson, would have significant impact on the ideal rules selected by the rule consequentialist.[6] In response,[7] Hooker amends what lies within the parentheses of his consequentialist principle to read as follows:

> Moral wrongness is determined by the code of rules whose internalization by the overwhelming majority of everyone everywhere in each new generation (not including generations after any new development that significantly reduces the costs of internalizing more complex or demanding codes) has maximum expected value in terms of well-being with some priority for the worst-off.[8]

Hooker's amendment to his basic moral principle is an attempt to account for any factors that significantly lessen the cost of internalizing more complex

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or demanding moral codes. However, Hooker's response is intended only to address Arneson's objection. The problem is that Hooker's amendment does not address genetic or technological changes that might or might not affect the *cost* of internalizing a moral code, but which would decrease or increase the *value* of certain goods related to well-being. Perhaps, in the future, humans will have something similar to armor for skin. In such a scenario, the value of security may drop drastically. And, of course, there is no guarantee (or even reason to think) that the drop in the value of security would fall in direct proportion to the cost of internalizing the moral code.

Hooker does not propose to determine morally wrong actions by identifying that code of rules which, if followed, would have "a maximum expected value in terms of well-being" It is not the effects of "compliance" with a set of rules that is to be measured, according to Hooker, but, rather, the effects of their "acceptance."[9] Hooker wants to consider the moral motivation of the overwhelming majority of humankind. According to him, acceptance of rules involves a disposition to comply with the rules, and also a disposition to encourage others to comply with the rules, to form favourable attitudes toward compliant others, to feel shame or guilt when breaking rules, and to condemn and resent the breaking of the rules by others.[10] He also advises us not to ask, "What would the consequences be if everyone *did* that?" but, rather, "What would the consequences be if everyone *felt free* to do that?" This is because even if everyone's doing a given action would lead to bad consequences, the act might not thereby be morally impermissible, since it might be the case that most people will not want to do the act.[11] He is proposing that morally wrong actions be determined by the *internalization* of the code by the "overwhelming majority" of persons everywhere in each new generation, with a proviso concerning possible human genetic alterations and technological advances. By the "overwhelming" majority of persons everywhere in each new generation, Hooker is referring to 90% or more.[12]

Hooker explains that the acceptance of a rule involves a disposition "to behave in certain ways" and also a disposition "to feel in certain ways."[13] He seems to be equating the acceptance of a rule with the internalization of that rule.[14] Hooker incorporates virtue ethics into his rule-consequentialist account. He distinguishes dispositions that are virtues from those that are not by asking whether the dispositions in question "are essential parts of accepting the rules prescribed by the code with the greatest expected value."[15] But the virtues have more than mere instrumental value, for Hooker. They are also thought to be intrinsically valuable.[16] Dispositions such as honesty, generosity, and loyalty have intrinsic value, in his estimation.[17] He finds that the virtues and "well-being" each have intrinsic value, and he "perhaps" also attributes intrinsic value to some property of the distribution of well-being.[18] In this last case, he is referring to the provision which affords "some priority for the worst-off."[19]

Hooker's approach calls for the measure of the *aggregate* well-being (with some priority for the worst-off) that would result from the internalization of

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rules; not the measurement of the number of acts of kindness, justice, promise-keeping, loyalty, etc.[20] So, supposedly, Hooker's virtue rule-consequentialist theory is immune from the problem of trying to decipher what it would mean to maximize a virtue. He says that there are no types of *actions* that have intrinsic moral value.[21] For instance, if promise-keeping had intrinsic value, argues Hooker, the results would be ridiculous. We would be committed to finding value in the making of promises (and then in keeping those promises) in order to increase the amount of promise-keeping.[22]

If, according to Hooker, the determining factor of the moral inappropriateness of actions is prohibition by a code of rules whose internalization by the overwhelming majority of everyone in each new generation "has maximum expected value in terms of well-being (with some priority for the worst-off)," how is one to identify those actions that are morally permissible? We are told that "rule-consequentialism makes the moral permissibility of an act depend on whether it would be allowed by the set of motivations whose internalization could reasonably be expected to have as good consequences as any other set we can identify."[23] And how does that differ from a rule-*utilitarian* approach? According to Hooker, the latter finds an act to be morally permissible "if and only if it is allowed by the set of rules whose internalization would have the highest expected (or actual) utility."[24] The difference between rule consequentialism and rule utilitarianism is said to lie at the foundation of the two approaches: for the rule consequentialist, well-being *and* some priority for the well-being of the worst-off constitute the intrinsic good or goods, whereas at the foundation of the rule-utilitarian theory, we find utility, with no provision with regard to the well-being of the worst-off.[25] Since it would seem that "utility" and "well-being" might have identical content, the only explicit difference between the two approaches, as characterized by Hooker, seems to be the distribution provision and, perhaps, virtues.

Hooker refers to his account as "prioritarian rule-consequentialist," because it affords some priority in the evaluation to the worst-off individuals.[26] This provision presumably insulates Hooker's consequentialism from objections of unfairness that may be levied against rule utilitarianism. He calls for building that priority condition right into the calculation of well-being. He refers to the combination of aggregate well-being and priority for the worst-off as the "weighted sum of well-being."[27] It would thus seem that the only explicit factor for Hooker separating his rule-consequentialist account from a rule-utilitarian account is the distribution provision. And, sure enough, he downplays the difference between the two accounts. He even announces in his book that from page 65 onward, he will usually ignore the difference between the two accounts. Thus, from that point forward, the consequences of a code of rules will generally be open to two alternative interpretations: "aggregate well-being plus some priority for the worst-off" and "aggregate well-being."[28] Hooker concludes reluctantly that his prioritarian rule-consequentialist account is superior

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to a purely rule-utilitarian account, because he finds — though he is not certain of this — "cases in which offensively inegalitarian rules would or did maximize aggregate well-being."[29]

Hooker offers what he terms a "rough" explanation of his meaning of "code with the greatest value." It is that "code whose internalization could reasonably be expected to produce more aggregate value than could reasonably be expected to result from any other code."[30] Hooker goes on to outline his procedure for calculating the "expected value" of a code:

> Identify the possible outcomes of a code's internalization. Assess the value of each of these outcomes. For each possible outcome, assess the probability that that outcome would result from the code's internalization. Multiply the value (or disvalue) of each possible outcome by the probability of this possible outcome's coming about. Sum the products of the multiplication.[31]

But what is it that Hooker is asking us to maximize when he instructs us to find a code of rules, the internalization of which will lead to "maximum expected value in terms of well-being"? What is "well-being"? Hooker seems to distinguish virtue from well-being as separate intrinsic values, and also seems to suggest (although he confesses uncertainty on this) that the distribution provision for some priority for the worst-off is intrinsically valuable. He adopts an account of well-being that purports to be largely neutral between what he identifies as three leading theories of well-being. When trying to determine which actions are morally right, says Hooker, "we can normally remain neutral as between the leading theories of well-being," because despite the fact that these three leading approaches disagree about the constituents of well-being, "in practice there is wide agreement among the main theories of well-being."[32] In "most situations," according to Hooker, we will not have to decide between the three leading theories.[33]

Hooker identifies hedonism as one of the leading approaches to well-being. As Hooker describes that approach, pleasure and the absence of pain are the only intrinsic goods.[34] However, he finds various serious objections against such an approach.[35] He then looks at the view that well-being is constituted by the fulfillment of desires, more particularly the view that defines well-being in terms of both hedonism and the fulfillment of desire,[36] but he finds that approach to be lacking as well. Finally, there is an "objective list" account of well-being. According to that account, knowledge, friendship, achievement, and autonomy all make contributions to an individual's personal good, beyond the pleasure or the fulfillment of desires that they may bring.[37] And it looks like Hooker wants to add "pleasure" to this list of what he takes to be objective human goods.[38] Unlike the other two accounts, Hooker does not seem to have an argument against the objective list approach to well-being.[39] So, it looks like he is saying that, at a minimum, well-being consists of knowledge, friendship, achievement, autonomy, and pleasure.

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If Hooker is correct in thinking that, usually, all three approaches to well-being will be satisfied in a given case, what are we to do when that is *not* the case? His response is that for those cases in which quantity of pleasure is taken to be the only constituent of well-being, and cases in which desire fulfillment is taken to be the only constituent of well-being,[40] we will need to balance out each of those extreme approaches with an objective list approach toward well-being. Hooker concludes that the "most plausible form of rule-consequentialism" will include an objective list account — though he says that particular account would assume some "modest" form.[41] Hooker does not fully explain what is on the list and does not explain just how his list can be considered a "modest" one. He ends that section of his book, which examines the nature of well-being, by apparently suggesting that pleasure by itself, and desire fulfillment by itself, are not enough.[42] But his remarks there are very brief.

I will now identify what I take to be some basic problems with Hooker's rule-consequentialist approach. For one thing, he has not provided an argument for the proposal that we adopt, in most cases, a neutral stance with regard to the three approaches to well-being. Hooker concedes that each of the three analyses diverges from the others at some point. This suggests that we do need a guiding account of well-being. We have been offered no guidance on the weight to be assigned to each of the two or three approaches that are to be incorporated into Hooker's account. Neither do we have sufficient detail with regard to each of the three approaches. For instance, although he has suggested possibilities such as knowledge, friendship, achievement, autonomy, and pleasure, Hooker has not clearly and fully enumerated what is to be on the objective list. More significantly, he has not established a procedure for assigning variable weights to the basic goods. The truth is, he has not really provided an account of well-being. Without that, there is no hope of establishing an ideal moral code.

Let us recall Hooker's fundamental consequentialist principle: "An act is wrong if and only if it is forbidden by the code of rules whose internalization by the overwhelming majority of everyone everywhere in each new generation has maximum expected value in terms of well-being (with some priority for the worst-off)." The main problem with this approach is that in the absence of an account of well-being, it would seem to be impossible to make the consequentialist calculations needed to arrive at the correct moral code. When Hooker talks about the maximization of value in terms of well-being, just what is it that is to be maximized? That is not identified by Hooker. And just what constitutes the common metric between the disparate goods of well-being, the virtues, and the distribution provision? Hooker seems to be suggesting that each of these goods has intrinsic value. This diversity of basic goods suggests that in trying to establish a moral code, some tough calls and trade-offs are going to have to be made between, for instance, the promotion of well-being and upholding virtue, between the promotion of well-being and implementing the distribution provision, and between upholding virtue and implementing the distribution provision. We do not know what constitutes "well-being," and

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well-being is the main basis of the theory, including the primary basis for determining the nature of the virtues themselves. Not only that, but it appears that the alleged constitutive elements of well-being — autonomy, friendship, achievement, knowledge, and pleasure — are a tricky, if not impossible, amalgam of disparate goods to navigate within a maximizing consequentialist system. For example, it would seem that one cannot promote pleasure without running up against competing factors involved in promoting achievement. It would seem that the promotion of each of the proposed basic goods would impose constraints on the promotion of other basic goods. And Hooker's appeal to our considered moral judgments, in this regard, is unlikely to be helpful, given that different societies — indeed, different individuals within a society — will have different considered moral judgments regarding the various trade-offs. Indeed, there are even likely to be differing judgments as to whether virtue, the distribution provision, pleasure, etc., are fundamental goods. After reflection, some or all of those goods might be considered merely instrumental goods.

Hooker's reliance on an ideal code was apparently short-lived. In response to Alison McIntyre's criticism in which she points to some of the, perhaps, insurmountable problems of attempting to calculate aggregate well-being within Hooker's system,[43] Hooker apparently wishes to abandon the pursuit of an ideal moral code and replace it with a more piecemeal approach that works with "indeterminably non-ideal rules." In his paper "Reply to Arneson and McIntyre," Hooker apparently retreats to a fallback position (which he outlines in his book *Ideal Code, Real World*) by suggesting that the pursuit of an ideal code be replaced with an incremental approach in which "the currently accepted moral code should be revised if and only if such revisions have greater expected value than sticking with the status quo."[44]

It is unclear just what Hooker is advising us to do, now that we are no longer to use his fundamental consequentialist rule to construct some ideal moral code for all societies. One way to read Hooker's incrementalist approach would require examining the moral code in a given society and trying to determine if it can be improved with an eye toward promoting well-being (and toward promoting virtue as well as the distribution provision?). We have already seen the problem associated with the vagueness of well-being and its uncoordinated amalgam of disparate constituent goods. Whether we follow Hooker's ideal fundamental moral principle or follow a route in which each society attempts to chip away piecemeal at its currently existing moral code, the fundamental problem is that Hooker has not established any standard or basis for any of the calculations. No common metric has been established for attempting to determine whether a given code could be improved upon in terms of the various basic goods that ostensibly comprise well-being. I am not even sure it would always be possible to identify a currently accepted moral code in a given society. For example, if a society, such as our own, has anything resembling a moral code, it is likely to be a loose set of highly disparate moral norms and values.

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Searching for a way that Hooker might respond, perhaps he would want to leave his account of well-being open-ended and maintain a fluid account of virtue and basic goods. In his paper "Reflective Equilibrium and Rule Consequentialism," Hooker considers an objection that "the moral goodness of certain dispositions is contingent on the value resulting from the widespread internalisation of these dispositions."[45] He considers a counter-example of a world different from our own — a world in which people do poorly in determining what would benefit others — and finds that the level of altruistic concern that would constitute a virtue in that world would differ from the level in our own world. An exhibit of altruistic concern in the other world equal to that in our own world would result in a scenario in which most of the altruistic actions in that other world would be detrimental to others.[46] Hooker's response to this objection of the contingency of the virtues seems unconvincing. He concedes that what would constitute a virtue in one world might not constitute a virtue in another world, but argues that a virtue "per se" is "intrinsically and necessarily valuable."[47] Moving beyond virtues to secondary moral rules, Hooker finds that "given a complete set of empirical facts, it is a *necessary* truth which rules are morally justified and which dispositions are virtues."[48] According to Hooker, his rule-consequentialist principle applies universally, but the rules supported by it (i.e., the secondary rules) will be relative to empirical facts of the world in question.[49]

These responses by Hooker raise significant philosophical concerns. Hooker's remarks set the stage for a proliferation of virtues or other putative intrinsic goods. There could be different "valid" sets of moral principles for different societies, and even different sets for the various subcultures within a given society. The prospect of a proliferation of principles and virtues does not seem at all conducive to the demands of Hooker's ideal consequentialist principle, even if we apply the human genetic and technological limits to our calculations in deference to Hooker's new proviso. Calculations would have to be made over a range of societies, with their possibly differing "valid" sets of intrinsic goods; and those calculations would likely have to be projected over generations. The fundamental problem is that Hooker has failed to establish a common metric by which to calculate the expected values of disparate basic goods. Given the incompleteness of Hooker's account of well-being, with its disparate basic goods, and given his other basic goods (i.e., virtues and the distribution provision), it seems very doubtful that he is in a position to make such calculations. It would seem, moreover, that similar concerns would arise for any maximizing rule-consequentialist approach that offers a rich and pluralistic account of well-being.

Hooker's shift to an incremental approach, on the other hand, would be based on a problematic notion of well-being coupled with the unenviable task of locating established moral codes for each society, and possibly for each subculture. Given that individuals in each society may form differing considered moral judgments, and could thereby claim different intrinsic goods, the

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definitions of well-being could be legion. This would call into question the value of Hooker's fundamental proposals. For example, there would be no assurance of anything like a distribution provision with regard to the worst-off. Consequentialist calculations of "well-being" for a given society could be radically different from those suggested in Hooker's treatment of various cases, which is based on a certain set of ostensibly basic goods. Finally, when Hooker argues that "given a complete set of empirical facts, it is a *necessary* truth which rules are morally justified and which dispositions are virtues," he seems to miss the point. The concern is that empirical facts, such as desires, aversions, emotional insecurities, etc., may be shaping the nature of "intrinsic" goods and thus the moral bases of right and wrong. And desires, aversions, and emotional insecurities are even more likely to afflict the basic secondary moral rules offered by incremental (as well as maximizing) rule consequentialists. Moreover, some of the putative virtues and vices (if virtues are even acknowledged by the incremental rule consequentialist) that may arise for some societies might be highly dubious in nature. The cultivation of such virtues may allow for punishment of the innocent, murder, betrayal, and other highly questionable activities.

Perhaps Hooker would respond that questionable secondary moral principles or rules would be weeded out by his reliance on reflective equilibrium.[50] This response, however, would hold the prospect of addressing only concerns about flawed virtues and unjust practices; it would not address the problem of a possible proliferation of basic moral principles and virtues. Nevertheless, let us examine this as a possible response to the objections regarding flawed virtues and unjust actions. In his approach to reflective equilibrium, Hooker's fourth criterion for assessing moral theories reads as follows: "Moral theories should identify a fundamental principle that both (a) explains why our more specific considered moral convictions are correct and (b) justifies them from an impartial point of view."[51] Here, Hooker seems to be suggesting that, in order for his ethical theory to pass muster, his consequentialist principle must support his "considered moral convictions." His third criterion demands that moral theories "cohere" with "the moral convictions we have after careful reflection." According to Hooker's approach to reflective equilibrium, "x coheres with y" means that "x endorses y."[52] According to him, "a moral theory 'coheres' with our considered moral convictions if the theory specifies general principles entailing the truth of these convictions, or if at least it endorses these convictions without appeal to general principles."[53] Hooker is not claiming that "x coheres with y" requires that every proposition must be explained or entailed by all the rest.[54] In fact, Hooker claims that when it comes to the fundamental good, well-being, we will have to exercise "judgment" in assigning weight to one component of well-being over another component, and also to determine when aggregate well-being is more important than priority toward the worst-off, and vice versa.[55] The problem with Hooker's suggestion is that even "considered" judgments may differ between consequentialists, and, more

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obviously, between consequentialists and deontologists. Not only that, but Hooker's reliance on the considered moral judgments of individuals leaves open the possibility that one's emotional quirks, insecurities, and cognitive limitations could directly influence the identification and weight of what are taken to be basic goods.

Hooker's fourth criterion demands that a theory's fundamental moral principle (in this case, Hooker's consequentialist principle) support our considered moral convictions. But how could his consequentialist principle do that, given his concession that different societies could have different intrinsic values (and thus different definitions of well-being)? Given the varied and sometimes contradictory accounts of well-being among, and even within, societies, there would be no assurance of a single substantive consequentialist principle. In fact, there could be a proliferation of so-called fundamental consequentialist principles and corresponding sets of derived secondary moral principles. "Our" specific considered moral convictions might not matter at all with regard to other societies, or even with regard to "our own" society, perhaps.

Yet another response that Hooker might make is that the so-called heinous activities of punishing the innocent, murder, deception, public secrecy, and the like, should *not* be ruled out by any absolute moral principle. Indeed, Hooker maintains that there might be cases in which drastic actions will be supported by his consequentialist principle. Instead of insisting on an absolute prohibition of such actions, he opts, instead, to support a "prevent disaster" rule that, in extreme cases, is to override other rules.[56] Hooker admits that he cannot offer a precise account as to when an outcome will be bad enough to invoke the "prevent disaster" rule.[57] And given the open-ended nature of "well-being" in Hooker's account, we can see why such precision is not forthcoming.

The problem with this flexible approach, which allows for drastic actions in extreme cases, is that prior to his presentation of an emergency rule or prevent disaster rule, Hooker needs an adequate basis for a system of secondary moral principles that would, at least generally, rule out punishment of the innocent and other highly questionable activities. Unless Hooker develops the central contents of well-being and the consequentialist coordination of its basic elements, let alone the central contents of the other alleged intrinsic goods and their coordination with well-being, he is in no position to offer a consequentialist foundation for any secondary moral principles. Hooker has not provided an adequate foundation for deriving moral principles forbidding murder, punishment of the innocent, and the like. Neither has he provided an adequate foundation for deriving a "prevent disaster" rule, which would tolerate, under certain conditions, such questionable activities. Whether he wishes to offer absolute secondary moral principles with exceptions built into them as needed, or, as he appears to be doing, to offer secondary prima facie moral principles that may be overridden by competing moral principles,[58] we lack fundamental guidelines for determining the very structure of the consequentialist principle, and this deficiency holds whether we are following a consequentialist principle

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aimed at establishing an ideal moral code or, instead, scrutinizing existing moral codes in the hope of improving them.

Perhaps, more significantly, it is doubtful whether *any* maximizing rule-consequentialist approach could be conducive to the promotion of well-being (or its value), taken in a rich and pluralistic sense. It would seem that any maximizing rule-consequentialist approach would be out of sync with such a diversity of basic goods. The language of maximization simply would not fit there. Hooker's suggested method of calculation in terms of summing the products of outcomes brings this point into sharp focus. To quote that again:

> Identify the possible outcomes of a code's internalization. Assess the value of each of these outcomes. For each possible outcome, assess the probability that that outcome would result from the code's internalization. Multiply the value (or disvalue) of each possible outcome by the probability of this possible outcome's coming about. Sum the products of the multiplication.[59]

I ask the reader to consider the limitations that such a method of calculation would impose on moral reasoning and moral experience. Could any philosopher accommodate the richness and variety of the basic goods comprising Hooker's notion of well-being — knowledge, friendship, autonomy, achievement, and pleasure — within the confines of such calculations? Could *any* set of rich and diverse basic goods be accommodated within the confines of such calculations?

Notes

An earlier version of this paper, which was entitled "Problems with Hooker's Rule Consequentialism," was presented at an APA Pacific Division colloquium in March 2008. This paper benefited considerably from comments made by Matthew Talbert, who was the commentator at that colloquium. I am also grateful for comments made by an anonymous referee for *Dialogue*, which improved this paper.

* Assume that new generations are not changed genetically. If genetic engineering alters human genetic makeup, the codes that are best will probably be different. [Hooker's footnote. Asterisk in place of footnote number.]

1 Brad Hooker, *Ideal Code, Real World: A Rule-consequentialist Theory of Morality* (Oxford: Clarendon Press, 2000), pp. 1-2.

2 Hooker, p. 3.

3 Hooker, p. 32.

4 Richard Arneson, "Sophisticated Rule Consequentialism: Some Simple Objections," *Philosophical Issues* Vol.15, *Normativity* (2005), pp. 248-49.

5 Arneson, p. 249.

6 Ibid.

7 Hooker, "Reply to Arneson and McIntyre," *Philosophical Issues* Vol.15, *Normativity* (2005), pp. 268-69.

8 Ibid.

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9 Hooker, *Ideal Code, Real World*, p. 75.
10 Ibid., p. 76.
11 Ibid., p. 5. Original emphasis.
12 Ibid., p. 84.
13 Ibid., p. 76.
14 Ibid.
15 Ibid., p. 36.
16 Ibid., pp. 36-7.
17 Ibid., p. 34.
18 Ibid., p. 36.
19 Ibid., pp. 32-33, 36.
20 Ibid., p. 33.
21 Ibid.
22 Ibid., p. 34.
23 Ibid., p. 131.
24 Ibid., p. 59. Note omitted.
25 Ibid., pp. 43, 59.
26 Ibid., p. 59.
27 Ibid., p. 56.
28 Ibid., p. 65.
29 Ibid. Note omitted.
30 Ibid., p. 2.
31 Ibid.
32 Ibid., p. 42.
33 Ibid.
34 Ibid., p. 37.
35 Ibid., pp. 37-9.
36 Ibid., pp. 39-41.
37 Ibid., p. 41.
38 Ibid.
39 Ibid., pp. 41-2.
40 Ibid., pp. 42-3.
41 Ibid., p. 43.
42 Ibid.
43 Alison McIntyre, "The Perils of Holism: Brad Hooker's Ideal Code, Real World," *Philosophical Issues* Vol.15, *Normativity* (2005), pp. 256-58.
44 Brad Hooker, "Reply to Arneson and McIntyre," p. 277. See, also, p. 278. See, also, *Ideal Code, Real World,* p. 114.
45 Brad Hooker, "Reflective Equilibrium and Rule Consequentialism," in *Morality, Rules, and Consequences: A Critical Reader*, edited by Brad Hooker, Elinor Mason, and Dale E. Miller (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2000), p. 232.
46 Ibid.
47 Ibid.

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48 Ibid. Note omitted. Original emphasis.
49 Ibid., p. 233.
50 Hooker, *Ideal Code, Real World*, pp. 4, 9-16, 104-7.
51 Ibid., p. 4.
52 Ibid., p. 10.
53 Ibid.
54 Ibid.
55 Ibid., p. 106.
56 Ibid., pp. 134-5. In "Sophisticated Rule Consequentialism: Some Simple Objections," pp.237-9, Richard Arneson argues against Hooker's attempt to incorporate the "prevent disaster" rule into his system.
57 Hooker, *Ideal Code, Real World*, pp. 135-6.
58 Although Hooker is unclear about these matters — see ibid., pp. 91-2, 134 — his approach seems to be that his "prevent disaster" provision is a rule that can override other moral rules(p. 135).
59 See n. 31.

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