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The limits of compromise

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Abstract

This paper defends the view that the limits of compromise are identical with the moral principles that set limits to human action more generally. Moral principles that prohibit lying, stealing, or killing, for example, sometimes make it morally impermissible to accept a compromise proposal, for the simple reason that the proposal involves an act of lying, killing, or stealing. The same holds for any other moral principle that sets limits to human action. This may sound straightforward and, perhaps, trivial. Yet in the philosophical literature, discussions of the limits of compromise have singled out more specific principles: Avishai Margalit proposes that the limits of compromise are set by the value of humanity, Simon May points at racial equality and more generally democratic legitimacy, Alexander Ruser and Amanda Machin appeal to the value of integrity, and a fourth at least initially plausible account invokes the idea of public justifiability. After discussing in greater detail what an account of the limits of compromise may be expected to do, the paper will show that none of these accounts is convincing.

KEYWORDS
compromise, deontic restriction, ethics of compromise, integrity, limits of compromise, public justification, rotten compromise

1 | INTRODUCTION

This paper defends the view that the limits of compromise are identical with the moral principles that set limits to human action more generally. Moral principles that prohibit lying, stealing, or killing, for example, sometimes make it morally impermissible to accept a compromise proposal, for the simple reason that the proposal involves an act of lying, killing, or stealing. The same holds for any other moral principle that sets limits to human action. This may sound straightforward and, perhaps, trivial. Yet in the philosophical literature, discussions of the limits of compromise have singled out more specific principles: Avishai Margalit proposes that the limits of compromise are set by the value of humanity, Simon May points at racial equality and more generally democratic legitimacy, Alexander Ruser and Amanda Machin appeal to the value of integrity, and a fourth at least initially plausible account invokes the idea of public justifiability. After discussing in greater detail what an account of the limits of compromise may be expected to do (Section 2), the paper will show that none of these four accounts is convincing (Sections 3–6).

Why does it matter if the limits of compromise are identical with the moral principles that set limits to human action more generally? First and foremost, it is a matter of clarifying the debate: The paper will show that it is misguided to search for principles that set the limits of compromise in a different sense than ordinary moral principles that prohibit lying, killing, or stealing do. Second, the view may have some interesting implications, for example about the status of cost–benefit analysis in the process of making concessions in compromise negotiations.[1] Unfortunately, I will not be able to explore these implications here.

The topic of the paper should be distinguished from three other topics. First, I am interested in the *moral* limits of compromise, not in the *feasibility* limits of compromise. Feasibility limits determine the factors that make it *impossible* (or at least more difficult) to reach a compromise. Second, I am interested in limits that specify what makes it morally *impermissible* to compromise, not in limits that specify what makes it morally *permissible not* to compromise (although I will say a few words on this in Section 5). Third, I am interested in moral limits regarding compromises' *content*; not in moral concerns regarding the negotiation procedures or the initial negotiation position of the parties (for example, that there are unfair power discrepancies between the parties, or that illegitimate threats are being made).

2 | WHAT IS AN ACCOUNT OF THE LIMITS OF COMPROMISE TO DO?

Let me start by clarifying what an account of the limits of compromise may be expected to do. We can take the 'deontic status' of a compromise proposal to be dependent on the ranking of the available proposals. Somewhere in the ranking is the line that separates the proposals that are permissible to accept from those that are impermissible to accept. All kinds of moral considerations can affect the ranking of the proposals and thus be (co)-responsible for the deontic status of a proposal. But an account of the limits of compromise should arguably not just list all possible moral considerations that can make a compromise proposal relatively good or bad. If the project of those who single out specific principles as the 'limits of compromise' is to make sense at all, an account of the limits of compromise will rather have to specify *principles* that rule out certain compromise proposals as impermissible. One can call such principles *deontic restrictions*. Let me say a few more words about how they work.

Deontic restrictions function as 'side-constraints' (Nozick, 1974, pp. 28–35) or 'trumps' (Dworkin, 1977, p. xi): When a proposed course of action would violate a deontic restriction, it will be ranked lower than actions that do not violate a deontic restriction, even if violating the restriction would otherwise produce better outcomes, and

[1]If, as the paper argues, deontic restrictions are properly taken care of at what I call the fundamental evaluation of compromise proposal, then, roughly speaking everything will be up for cost–benefit analysis in the process of making concessions.

even if violating the restriction would minimize the overall occurrence of violations of the same deontic restriction. And, at least as long as there are alternatives that do not violate a deontic restriction, a proposed course of action that would violate a deontic restriction will be ranked below the cut-off point at which the deontic status of available proposals switches from permissible to impermissible. In that sense, deontic restrictions are not a part of cost–benefit analysis (where all kinds of moral and non-moral considerations for and against an action are weighed against each other), they precede cost–benefit analysis.

For the ranking of the proposals, it is a crucial question whether it is the *agent* who has to violate a deontic restriction. A proposal that makes the agent kill or lie will be ranked lower than a proposal in which the agent does *not* have to kill or lie, even if the consequences of the latter are better. This does not necessarily imply that the same proposal has to be ranked differently from different perspectives. If a compromise proposal involves the violation of a deontic restriction by person *A*, but not by person *B*, one could argue that the proposal has to be ranked differently from *A*'s perspective than for *B*'s perspective (see, e.g., Nagel, 1986). But one could also argue that it has to be ranked the same by both *A* and *B*, because it is morally impermissible for *A* to violate the deontic restrictions, which *B* should acknowledge as well (see, e.g., Mack, 1998). I will here stay agnostic on this.

Amy Gutmann and Dennis Thompson have expressed doubts whether there are any 'unconditional principles' that 'separate acceptable from unacceptable compromises' (2012, pp. 49–50, see also Benditt, 1979, pp. 36–37). But deontic restrictions can be understood as principles with *limited* stringency. Deontic restrictions typically will not sanction violations for the sake of better consequences, but they may give way once the overall consequences one could bring about by violating the restrictions are sufficiently better. Not all deontic restrictions will be equally stringent, of course. The deontic restriction against killing, for example, will be more stringent than the deontic restriction against lying.

My own view is that whatever deontic restrictions there are in morality, they will sometimes make it morally impermissible to accept a compromise proposal, simply because the compromise proposal may involve a violation of a deontic restriction. Indeed, this view looks so straightforward that one may wonder why anyone would disagree with it. Why would anyone single out more specific deontic restrictions as the 'limits of compromise'? I see two possible interpretations. On the first interpretation, authors who single out more specific deontic restrictions merely highlight restrictions that have special historical significance. But while the writings discussed below are indeed rich in historical illustrations, this interpretation would simply mean to not take them seriously as offering general philosophical accounts of the limits of compromise. For that reason, I prefer the second interpretation: On that interpretation, authors who single out more specific deontic restrictions aim to highlight restrictions that are *specific to the morality of compromise*, which the deontic restrictions against killing, stealing, or lying are not. To be sure, the authors discussed below do not explicitly *say* that the principles they put forth are specific to the morality of compromise. But it is, as far as I can see, a good way—indeed, the only way—to make philosophical sense of the project to single out more specific principles as the 'limits of compromise'. My reply in Sections 3 and 4, then, will accordingly consist in showing that the respective deontic restrictions are actually *not* specific to the morality of compromise, but rather on a par with ordinary deontic restrictions against killing, lying, or stealing. My reply in Sections 5 and 6 to the accounts that take integrity and public justifiability as the limits of compromise will take a different route, though, since these accounts *do* point at moral considerations that are specific to the morality of compromise; there, I will argue that these moral considerations do not come in the form of deontic restrictions.

Let me introduce some terminology that will allow me to make my point as clearly as possible. What is peculiar to compromises is that the parties disagree about the merits of different proposals and have to make concessions to come to an agreement. We can imagine the parties to a compromise to first make a *fundamental evaluation* of the proposals. They determine a ranking of the proposals in light of all the moral considerations that apply to them for what they are. Then, in a second step, they pay attention to the fact that they are dealing with someone who disagrees about the fundamental evaluation of the proposals. They thereby consider moral considerations that come into play under circumstances of disagreement about the fundamental evaluation of the proposals, for example the value of public justifiably: They make a *compromise-specific evaluation*. Finally, an *all-things-considered*

evaluation determines a ranking based on a combination of the fundamental and the compromise-specific evaluation, and, of course, the all-things-considered ranking can deviate from the ranking after the fundamental evaluation. (Something close to this distinction between the ranking after a fundamental evaluation and the ranking after an all-things-considered evaluation has been suggested in Kuflik, 1979, p. 51, it plays an important role in May, 2005, and I develop my own take in Wendt, 2016, ch. 3).

Deontic restrictions against accepting a compromise can thus take two forms. Either they apply in the compromise-specific evaluation, then they can count as deontic restrictions against accepting a compromise proposal *qua compromise proposal*. They are specific to the morality of compromise. Or they apply in the fundamental evaluation of the proposal, then they are deontic restrictions that would apply to the same proposal even if it were *not* a compromise proposal. They are not specific to the morality of compromise. Ordinary deontic restrictions like the ones against killing, lying, or stealing apply in the fundamental evaluation. With this framework at hand, we can now say that those who put forth specific principles as the 'limits of compromise' must be understood as trying to determine deontic restrictions against accepting a compromise proposal *qua compromise proposal*, as trying to highlight deontic restrictions that come into play in the compromise-specific evaluation of a compromise proposal rather than its fundamental evaluation. In the following, I will show that they fail to do so.

3 | THE VALUE OF HUMANITY AND THE LIMITS OF COMPROMISE

Let me start with a discussion of Avishai Margalit's account. Margalit uses the concept of 'rotten compromises' to delineate the limits of compromise. 'Rotten compromises,' he says, are compromises that help maintain an inhuman regime, or made with persons that 'undermine morality itself' (2010, pp. 61, 98, 22–23). Rotten compromises 'should be prohibited in all circumstances,' while '[o]ther compromises should be evaluated on their merit, case by case' (2010, p. 3).

Yet while Margalit does suggest that rotten compromises are never permissible, he in the end seems to regard rotten compromises as permissible in exceptional circumstances where the consequences of not making them are even worse. He says: 'Compromises should never be allowed in cases of crimes against humanity, except to save the lives of the people threatened by such regimes' (2010, p. 63). And:

> Not every agreement with Hitler's regime is rotten by definition. For example, had the deal offered to the Allies by Adolf Eichmann on behalf of the SS's highest authorities been accepted, bartering for the lives of a million Hungarian Jews by supplying Nazi Germany with ten thousand trucks for civilian use, I would not have considered its acceptance by the Allies rotten'. (2010, p. 23, see also pp. 89, 137)

Nevertheless, his view can be understood as invoking pro tanto deontic restrictions against compromises that help maintain an inhuman regime or compromises with persons that undermine morality itself, whereby these restrictions do give way once the consequences of not violating these deontic restrictions are sufficiently worse.

Yet the question is whether these deontic restrictions apply to the fundamental evaluation of compromise proposals or to their compromise-specific evaluation. The answer is that it is the former. Proposals that help maintain an inhuman regime are very bad regarding the fundamental merits of what they propose, and this makes them hardly ever morally permissible. Only in very dire circumstances, where the consequences of not making them are even worse, and no better options are available, will they ever be permissible. But it is not disagreement about the merits of what they propose that makes them so bad, it is straightforwardly what they propose. Therefore, the deontic restriction against putting proposals that help maintain inhuman regimes into practice applies no matter if there is disagreement about their merits or not. It applies to their fundamental evaluation, not their compromise-specific evaluation. Disagreement is relevant only insofar as it is circumstances of disagreement that sometimes

make all fundamentally better options *unavailable*, such that compromises that help maintain an inhuman regime sometimes are permissibly made.

This may look different in the case of compromises made with 'persons that undermine morality itself.' Margalit writes: 'The Munich agreement is a rotten compromise, not predominantly because of its contents, but because it was Hitler who signed it' (2010, p. 21). But that one is not to cooperate with someone like Hitler is not something that only matters under circumstances of disagreement about the merits of compromise proposals at hand. Rather, if a proposal involves cooperating with someone like Hitler, then this should count as a feature of the proposal that affects its fundamental evaluation. It is a bad-making feature independently from any disagreement about the fundamental merits of the proposal.

So Margalit's notion of rotten compromises does not highlight deontic restrictions that are specific to making compromises: Deontic restrictions against maintaining inhuman regimes and against cooperating with persons that 'undermine morality itself' affect the fundamental evaluation of a given set of proposals, not their compromise-specific evaluation. They apply to them, no matter if there is disagreement about their fundamental merits or not. It is the fundamental ranking that explains why rotten compromises are only permissible under rare exceptional circumstances, when all fundamentally better proposals are unavailable. In other words, then, the deontic restrictions Margalit highlights are just like other deontic restrictions, for example deontic restrictions against lying, killing, or stealing; they all affect the fundamental evaluation of compromise proposals and they all can explain why some compromises are impermissible to make, given the alternatives. The deontic restriction against lying, for example, will sometimes rule out a compromise that involves lying, simply because lying is a deontic restriction in morality that affects the fundamental evaluation of compromise proposals, such that a compromise proposal that involves lying may be below the threshold of moral permissibility in the all-things-considered evaluation of the compromise proposals. The same holds for the deontic restrictions Margalit highlights. They may be more stringent than other deontic restrictions, and they may have greater historical significance, but that does not make them more compromise-specific than other deontic restrictions.

4 | DEMOCRATIC LEGITIMACY AND THE LIMITS OF COMPROMISE

Simon May suggests that the notion of democratic legitimacy can help to delineate the limits of permissible compromising. His account 'identifies racial equality—and legitimate democratic government more broadly—as a value that may not be sacrificed for the sake of competing values, that is, values external to legitimacy' (2017, p. 42). Racial equality and other demands of democratic legitimacy thus have lexical priority over other values, such that '[c]oncessions on racial equality must be paid for in the currency of racial equality' (2017, p. 44). Transitional compromises on racial equality that serve the goal of achieving a greater level of racial equality in the mid- or long-term can be justifiable, accordingly, but not compromises on racial equality for the sake of promoting other values. Once the core demands of democratic legitimacy are satisfied, there is hardly any room for justifiable compromises on racial equality. In that sense, then, racial equality is a 'non-negotiable' value or demand (2017, pp. 35, 39, 43, 45, 46).

In the language of this paper, May suggests that racial equality works as a deontic restriction, and, in contrast to the deontic restrictions put forth by Margalit, it is not a pro tanto restriction, but one with lexical priority over other values. The crucial question is: Is it a deontic restriction that affects the fundamental evaluation of a given set of proposals, or a deontic restriction that comes into play in their compromise-specific evaluation? And, as far as I can see, it is a deontic restriction that affects their fundamental evaluation: If there are two proposals on the table, one involving a sacrifice on racial equality for the sake of some other value, one not involving that sacrifice, then May's principle of democratic legitimacy will rank the latter over the former, no matter if others disagree about the respective merits of the two proposals or not. And it is this fundamental ranking that explains why it is impermissible to choose the former proposal. Similarly, if there are two

proposals on the table, one involving a transitional sacrifice on racial equality for the sake of achieving racial equality in the future, and one that leads to overall worse outcomes with regard to racial equality, then the former proposal will be fundamentally ranked higher than the latter, no matter if others disagree about the respective merits of the two proposals. And it is this fundamental ranking that explains why the former proposal is permissibly chosen. Circumstances of disagreement matter insofar as they determine which proposals are *available*, but they do not give rise to new deontic restrictions. In other words, then, the deontic restriction against sacrificing racial equality for other values is not different from other deontic restrictions, like deontic restrictions against killing, stealing, or lying. The restriction May highlights may have greater historical significance than others, but they all affect the fundamental evaluation of compromise proposals, and they all can explain why some compromises are impermissible to make, given their alternatives. None of them is more compromise-specific than others.[2]

It may be worth reiterating that neither May nor Margalit explicitly say that the principles they put forth are specific to the morality of compromise. It is my attempt to make philosophical sense of the project to single out specific deontic restrictions as setting the 'limits of compromise'. When May explains in what sense racial equality is a 'limiting principle' in the ethics of compromise, he emphasizes that racial equality is not only of first-order importance. After all, he says, other political values have first-order importance as well. Rather, racial equality is a limiting principle in the ethics of compromise insofar as it also operates as a 'second-order exclusionary reason in the sense that it restricts the range of first-order values that may be balanced against each other in political deliberation and negotiation' (2017, p. 37). But this still does not help to explain why racial equality should be singled out as setting the limits of compromise. For one thing, second-order exclusionary reasons still affect the fundamental evaluation of the proposals, not their compromise-specific evaluation. Second, *all* deontic restrictions operate as second-order exclusionary reasons: To say that they operate as second-order exclusionary reasons is just a different way to describe their function as side-constraints. Now, as mentioned above, deontic restrictions that do not have lexical priority over other considerations can in principle give way, once the consequences one could bring about by violating them are sufficiently better. But that does not mean that they do not operate as second-order exclusionary reasons. As May rightly notes, 'understood as a second-order exclusionary reason, a limiting principle need not be absolute, that is, inviolable in all circumstances' (2017, p. 37).[3]

Some may think that my argument against May (and Margalit) mirrors an argument May has made elsewhere. May has argued that what looks like a principled reason to compromise at first will always turn out to be a reason to revise one's fundamental evaluation of the proposal (in my terminology) (2005, pp. 339–340, 341–342, 346). When it comes to reasons *not* to compromise, on the other hand, he seems to endorse the existence of principled reasons not to compromise. One could certainly try to argue, with May against May (so to say), that what at first looks like a principled reason not to compromise will always turn out to be a reason to revise one's fundamental evaluation of the proposal. It should be noted, though, that this is not the argument I have been making. I argued that what may look like a deontic restriction in a proposal's compromise-specific evaluation turns out to be a deontic restriction in its fundamental evaluation. This does not imply that there are no compromise-specific principled reasons against accepting a proposal. All deontic restrictions give rise

[2]The same point can be made with regard to Arthur Kuflik's account of the limits of compromise. Kuflik asks 'whether plausible deontological constraints can be formulated in terms that do translate, at the bargaining table, into a fixed list of concrete demands, properly labeled "nonnegotiable",' and he suggests, as a plausible principle, that persons 'cannot abdicate their moral autonomy' (1979, pp. 45–46). From that principle, nonnegotiable principles like, for example, freedom from complete and irrevocable enslavement are to follow. Now, it is beyond the scope of this paper to discuss whether persons have inalienable rights. But if they do, this will affect the fundamental evaluation of compromise proposals, not their compromise-specific evaluation.

[3]Even deontic restrictions that have lexical priority can sometimes give way, according to May: 'It may be that in situations of dire emergency the default moral constraints on political compromise can be suspended. But it does not follow that these constraints never apply or that racial equality is always in principle negotiable' (2017, p. 37). To my mind, they should then be considered highly stringent pro tanto deontic restrictions rather than deontic restrictions with lexical priority.

to principled reasons, but not all principled reasons are grounded in deontic restrictions. Principled reasons are simply non-instrumental reasons for or against choosing an option, and as such they need not function as side-constraints vis-à-vis other considerations. For what it is worth, I think that the value of public justifiability can give rise to principled reasons against accepting a compromise, but it does not give rise to deontic restrictions. More on this below.

5 | INTEGRITY AND THE LIMITS OF COMPROMISE

Another candidate for a value that sets 'limits of compromise' is integrity. Alexander Ruser and Amanda Machin point out that 'the parties that are included in a compromise may surrender something that is regarded as integral to their position or identity' (2017, p. 30). This is worrisome from the perspective of the integrity of the parties, and, furthermore, that parties try to preserve their integrity is beneficial for the culture of a democracy, because it promotes healthy competition among parties that represent distinct visions for society (for discussion, see Baume & Papadopoulos, 2022, pp. 8–11; Westphal, 2020):

> The political realm is enlivened by the incompatibility and clear distinctiveness between political positions. Is it not important for some positions to remain steadfast and uncompromising? Parties may refuse to deliberate in the recognized terms not because they cannot but because they do not want to risk the watering down of their position and conforming to the very 'terms' they reject. (2017, p. 40, see p. 34)

In contrast to May's and Margalit's principles, the value of integrity indeed affects a proposal's compromise-specific evaluation. To see that, let us assume that compromise proposal *A* is better than compromise proposal *B* in their all-things-considered evaluation, or, more precisely, in their evaluation that considers everything fundamental and compromise-specific *except* integrity-concerns. (One could call it the *preliminary* all-things-considered evaluation). At the same time, let us assume that *A* is inferior to *B* from the point of view of the personal values and commitments that inform the fundamental evaluation besides more general moral concerns. Integrity then enters the picture in the compromise-specific evaluation precisely because the preliminary all-things-considered evaluation *deviates too much* from the part of the fundamental evaluation that is informed by personal values and commitments.[4] (This does not imply that *all* compromises necessarily compromise the agent's integrity, or that all compromises compromise the agent's integrity to the same extent; for discussion, see Benjamin, 1990, pp. 32–38; Bellamy, 2012; Tillyris, 2017; Wendt, in press).

To give a fictional example: Two political parties in a coalition government are negotiating about a compromise regarding drug policy. To keep things simple, let us assume that just two proposals are feasible and on the table: One is decriminalization, the other a new first warning policy that gives young offenders a second chance (combined with less harsh punishment in general). One of the parties is a liberal party, the other is a conservative party, and they disagree about the fundamental evaluation of the two proposals. The liberal party is committed to decriminalization or even legalization as a core concern that matters for its liberal identity. Yet in the preliminary all-things-considered evaluation, the first warning policy is better. Integrity then enters as a concern about the discrepancy between the preliminary all-things-considered evaluation and the part of the fundamental evaluation that is informed by the liberal party's distinctive values and commitments: While the first warning policy is better all-things-considered, decriminalization is better in light of the party's distinctive values and commitments.

[4]Integrity can also come into play when the *fundamental* evaluation deviates too much from the part of the fundamental evaluation that is informed by personal values and commitments.

The question is: Can integrity ground a deontic restriction that makes it impermissible for the liberal party to accept the first warning policy? I do not think so. Integrity does not look like a concern that matters in the form of a deontic restriction. Integrity is a value that gives agents *discretion* about what to do, to live in line with their personal values and commitments, but it can hardly make it impermissible for them to do what would otherwise be the better thing to do—which is, of course, the function of deontic restrictions. Following Samuel Scheffler's terminology (1994), one could say that integrity grounds an agent-centered prerogative that makes it permissible for agents to not accept the otherwise better compromise proposal, but it does not ground a deontic restriction that makes it *im*permissible to accept it (see Wendt, 2023).[5] Of course, the integrity-based prerogative to refuse to compromise is not maximally stringent. Sometimes one is morally required to compromise one's integrity (see Lepora & Goodin, 2013, pp. 165–166; Sabl, 2018, p. 273).

Christian Rostbøll's discussion of the limits of compromise is in line with this. Rostbøll points out that, 'in a democratic context, one should not compromise with parties that do not accept the norm of democratic respect that explains the non-instrumental value of compromise in the first place' (2017, p. 631). He does not draw a connection to the value of integrity, but one could: To make compromises with those who do not accept the norm of democratic respect would arguably violate the integrity of democratic politicians. In any case, Rostbøll's point is that the 'imperative to compromise' that is grounded in democratic respect 'cannot be unconditional' (2017, p. 632).[6] He thus seems to conceive of the 'limits of compromise' as something that gives agents permission *not* to compromise, not as something that makes it *im*permissible for them to compromise. *If*, in a particular situation, it should be all-things-considered better to make a compromise with a party that does not accept the norm of democratic respect, then integrity will not make it morally impermissible to do so; rather, it will make it morally permissible *not* to do so.[7]

6 | PUBLIC JUSTIFIABILITY AND THE LIMITS OF COMPROMISE

Andrew Lister (2007) and myself (Wendt, 2016, ch. 14) have suggested that public justifiability is a value that generates principled reasons *in favor of* making compromises. But if public justifiability can generate principled reasons in favor of making compromises, then it might also generate principled reasons *against* making compromises that are *not* publicly justifiable. The question is whether these principled reasons can take the form of deontic restrictions.

Obviously, a deontic restriction grounded in the value of public justifiability will not apply to compromises in all spheres of life, but only to compromises in politics. It will rule out compromises that lead to laws that are not publicly justifiable. When laws are publicly justifiable, then every 'member of the public' has sufficient reason to

[5]Scheffler argues that there are agent-centered prerogatives, but no deontic restrictions in morality more generally, while I argue in this paper that there are agent-centered prerogatives, but no deontic restrictions that are specific to the morality of compromise.

[6]Compare Bogaards' discussion of Belgium's 'militant consociational democracy' which 'limits the possibility to compromise to a certain category of parties, those that are deemed liberally democratic' (2020, p. 194).

[7]Ronald Dworkin has raised a quite different concern about compromises that he presents as a question of integrity (1986, pp. 183–184). The integrity he is concerned with is the integrity of the law. When matters of principle are at stake, and in particular when there is disagreement about justice, then we should make a 'compromise about which scheme of justice to adopt, rather than [adopt] a compromised scheme of justice' (1986, p. 179). We should not make incoherent 'checkerboard laws.' This is not the place to discuss Dworkin's complex theory of law and integrity. But two points matter for our context. First, the integrity he talks about arguably is *not* that a law's all-things-considered evaluation may deviate too much from its fundamental evaluation. In the end, it is a concern about the *coherence* of the system of law. And whether a law coheres with other law is quite clearly a concern that is addressed in the fundamental evaluation of a proposal. As such, to avoid checkerboard laws is not an imperative that is specific to the morality of compromise. Admittedly, compromising may come with an increased danger that checkerboard laws are being made, but unanimous legislation can over time also give rise to checkerboard laws. Second, it is doubtful whether it could be a deontic restriction to avoid checkerboard laws. If proposal *A* leads to more incoherence in the system of law than proposal *B*, but nevertheless is all things considered better than *B*, then arguably it cannot be impermissible to go with *A* rather than *B*. For discussion see Raz (1992), Baume and Papadopoulos (2022, pp. 4–6), Zanetti (2022, ch. 5).

endorse them. This is the case, according to Gerald Gaus, when they would see the reason to support them after 'a respectable amount of good reasoning,' and if there are no defeater reasons (2011, pp. 245, 250). Other proponents of a principle of public justification will spell the idea out slightly differently, but nuances do not matter in our context. Public justifiability is to be contrasted both with actual acceptance on the one hand, and with a justification that directly appeals to the facts and the true demands of morality on the other hand. Laws are publicly justifiable when they could be endorsed by all members of the public, taken as they are, with all their misguided beliefs and value commitments. But they need not be actually endorsed.

When there is agreement about the fundamental evaluation of the proposals, then the question of public justifiability does not arise. Public justifiability only matters under circumstances of disagreement about the fundamental evaluation of the proposals and, as such, it is a value in the compromise-specific evaluation of the proposals. And when public justifiability is a concern, it may lead to an all-things-considered ranking of the proposals that deviates from the ranking after their fundamental evaluation.

That public justifiability could ground deontic restrictions against accepting the otherwise better proposal looks plausible if public justifiability is taken to be a matter of respect that we owe to persons as ends-in-themselves (see Larmore, 1999, pp. 607–608). Nonetheless, I am skeptical. When a proposal is not publicly justifiable, it is so *for a reason*, and this reason typically matters independently from its contribution to the problem of public justifiability: It will be that someone's rights are violated, or that someone is harmed, or disadvantaged, or something like that. When this is so, then the *reason why* a proposal is not publicly justifiable will have been taken account of in the proposal's *fundamental* evaluation already. And it may well be that it was taken account of in the form of a deontic restriction. But, if so, it was a deontic restriction that already affected the ranking in the fundamental evaluation of the proposals, and I do not see a reason for double-counting it, applying it a second time in the compromise-specific evaluation. In other words, when deontic restrictions that protect persons as ends-in-themselves are at stake, then they apply independently from any disagreement about the evaluation of the proposals, and hence no matter if there is a compromise to be made or not. When a proposal is not publicly justifiable because it violates such deontic restrictions, then public justifiability does not introduce anything on top of what was already taken account of at the level of fundamental evaluation. In the above example, if decriminalization is not justifiable to some members of the public, this may be because it might harm those who are more inclined to take drugs when they are more readily available. This is a fact, if it is one, that explains why it is not publicly justifiable, but it is also a fact that will have been taken account of in the fundamental evaluation of the proposal.

Sometimes a law might not be publicly justifiable for a reason that has *not* affected the fundamental evaluation of the proposal, though, and so the double-counting argument will not apply. It could be that a law is not justifiable relative to mistaken factual or moral beliefs of people, whereas the law would be unproblematic if people would just correct their beliefs. For example, it could be that decriminalization is not justifiable to some persons because they think that consuming cannabis is incompatible with a pious life. All moral arguments that matter fundamentally for the evaluation of the proposal—individual rights, consequences for public health, fiscal effects, and so on—have been taking account of in the fundamental evaluation of the proposal. But piety, at least in the specific interpretation at hand, is not a fundamental concern, and so the reason why decriminalization is not publicly justifiable has not been taken account of in the proposal's fundamental evaluation.

What is *not* under dispute—at least for the sake of the argument—is whether public justifiability matters, under these circumstances. It does matter, as one factor in cost–benefit analysis, because it is a matter of respect to not impose laws on people that are not justifiable to them. But the question is whether it matters in the form of a deontic restriction against putting the proposal into practice. I doubt it. If every choice that is not justifiable relative to some people's beliefs and desires would infringe upon a deontic restriction, this would lead to an absurd proliferation of deontic restrictions. Basically every proposed law and every democratic decision would run against deontic restrictions, since almost every law and every democratic decision will not be justifiable relative to *someone's* beliefs and desires. Proponents of public justification may reassure us that *some* laws and democratic decisions *are* still justifiable to everyone, at least if we assume that only (in some sense) 'reasonable' persons are

owed a justification. This move may alleviate the proliferation problem, even though it will arguably not eliminate it. (For discussion, see Enoch, 2015; Schultz-Bergin, 2021).

In any case, looking at things from the perspective of the morality of compromise suggests that whatever initial plausibility the idea of public justifiability as a compromise-specific deontic restriction may have, it is borrowed from the underlying *fundamental* concerns that *explain why* certain proposals are not publicly justifiable. But these fundamental concerns matter independently from the ideal of public justifiability, and when they take the form of deontic restrictions, they accordingly affect the fundamental evaluation of the proposals. They are not specific to the morality of compromise.

7 | CONCLUSION

This paper discussed four accounts of the limits of compromise and found them wanting. It explained why such accounts are best understood as attempts to specify deontic restrictions that are specific to the morality of compromise. It then demonstrated that the deontic restrictions put forth by Margalit and May are *not* specific to the morality of compromise: They affect a proposal's fundamental evaluation and, for that reason, they do not set limits of compromise in a different way than, for example, deontic restrictions against stealing, lying, or killing. The problem with Ruser and Machin's account, on the other hand, is that the value of integrity does not make it morally impermissible to compromise and thus does not set limits of compromise as they are understood here. (An appeal to integrity is quite convincing when it comes to the question why it may be morally permissible *not* to compromise, though). Finally, an account of the limits of compromise that invokes a principle of public justification overlooks that compromise proposals are typically not publicly justifiable because of underlying fundamental concerns, and so the relevant deontic restrictions will be accounted for in the fundamental evaluation of the proposals.

The upshot, then, is that there are no limits of compromise in the form of deontic restrictions that are specific to the morality of compromise. There are limits of compromise simply because there are moral limits to human action more generally, and *any* deontic restriction that can make an action morally impermissible can also make it impermissible to accept a compromise proposal, namely when the proposal involves the violation of the deontic restriction.

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CONFLICT OF INTEREST STATEMENT

There are no conflicts of interest to report.

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