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Ethics of Justification
A Defence of Contractualism

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Abstract

In What We Owe to Each Other, T.M. Scanlon formulated a new version of the ethical theory called contractualism. This theory took reasons – considerations that count in favour of judgment-sensitive attitudes – to be the fundamental normative notion. It then used normative reasons to first account for evaluative properties. For an object to be valuable, on this view, is for it to have properties that provide reasons to have favourable attitudes towards the bearer of value. Scanlon also used reasons to account for moral wrongness. His contractualism claims that an act is morally wrong if it is forbidden by any set of moral principles that no one could reasonably reject.

My thesis consists of five previously published articles which attempt to clarify Scanlon’s theory and to defend it against its critics. The first article defends the idea that normative reason-relations are fundamental against Joshua Gert. He argued that rationality is a more basic notion than reasons and that reasons can be analysed in terms of their rationally requiring and justifying dimensions. The second article explores the relationship between value and reasons. It defends Scanlon’s view according to which reasons are the more basic than value against those who think that reasons are based on the evaluative realm.

The last three articles defend Scanlon’s views about moral wrongness. The first one of them discusses a classic objection to contractualist theories. This objection is that principles which no one could reasonably reject are redundant in accounting for wrongness. This is because we need a prior notion of wrongness to select those principles and because such principles are not required to make actions wrong or to provide reasons against wrong actions. The fourth article explores the distinctive reasons which contractualists claim there are for avoiding the wrong actions. The last article argues against the critics of contractualism who claim that contractualism has implausible normative consequences for situations related to the treatment of different-sized groups of people.
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Introduction

1. Preface
For some reason, I have always been quite impressed with Popper’s falsificationism in the philosophy of science (see Popper (1958)). The original purpose of this theory was to provide a demarcation criterion for which of the actual activities of investigation count as real, empirical sciences (Popper 1958, 34–9). The critics of the view may be right that for this purpose the criterion is too strict. For good reasons, we want to count some of the lines of investigation and their practices which fail to satisfy Popper’s criterion as science (see Kuhn (1970, 7), Kneale (1974, 217), and Maxwell (1974, 292)).

Despite of this problem, however, I still believe that Popper succeeds in painting an ideal picture of how good scientific investigation should proceed – to what scientists should at least aim at in their work.¹ Theoretical hypothesis should be put forward to explain and predict natural phenomena. After this, they should be tried to be falsified by testing their internal consistency, explanatory power in comparison to earlier theories, and empirical adequacy through experimentation (Popper 1958, 39–41).

In addition to sciences, I believe that suitably applied this model also provides an ideal for how philosophical investigation should proceed.² Philosophical theories should first be put forward as attempts to provide new means for helping us to understand and solve the philosophical and conceptual problems which puzzle us. After this, they should be attempted to be refuted in philosophical debates. Even though this is often done by showing that the considered problem is a pseudo-problem in the first place, the proposed theories still need also critics who try to search for internal incoherencies, false premises, invalid arguments and thought-experiments in which the theory provides false answers.

This process should not be too one-sided. The criticisms of a theory should undergo a similar critical process as the criticised theory itself. Therefore, the evaluated theories need also defenders for assessing the critics’ objections. The criticisms fail to refute the theory if

¹ It is not clear whether Popper even meant to suggest that his view provided necessary and sufficient conditions for picking out empirical sciences from the current, actual investigating practices. Instead, in places, he too seems to offer his view as a ‘proposal or a convention’ for the ‘aims of science’, and makes it clear that the theory is ‘guided by value judgements’ (Popper 1958, 37–8).
² Popper too believed that rational discussion is essential for both philosophy and sciences, and that the rationality in both mainly consists of evaluating critically the proposed solutions to the investigated problems (Popper 1958, 15–6).
they are based on misunderstandings, incoherencies, bad arguments, and so on. In many cases, the defenders of the theory can, on the basis of the objections, develop their view to more sophisticated forms which can stand the previous objections. Through this process we are able to gain new philosophical insights. We can thank the process, for instance, for the development of naive forms of Ayerian emotivism to the ingenious forms of sophisticated expressivism by Blackburn, Gibbard and Ridge.\(^3\)

This image of philosophical investigation is the basis of my thesis. In 1998, after 19 years of work, T.M Scanlon finally published a book called *What We Owe to Each Other* (Scanlon 1998 (hereafter *WWO*)).\(^4\) This book is the definitive statement of a view in moral theory called *contractualism*. Its main aim was to provide new understanding about the nature of moral wrongness. As a comprehensive theory of ethics, it also attempts to shed light on other related subjects such as practical reasons, value, well-being, moral responsibility, promises, relativism, and so on. Scanlon’s book immediately drew a lot of critical attention. Almost all important philosophical journals published within few years critical evaluations of Scanlon’s contractualism, and some even went on to publish theme issues on the topic.\(^5\)

However, the fact that Scanlon’s theory became a subject of a large amount of criticism does not itself falsify the view. In assessing whether the view ought to be dismissed as a result of the criticisms, we need to assess critically the criticisms themselves. We need to see whether the critics’ arguments hit their mark successfully, and, in the case that they do, whether we could improve contractualism in ways that can avoid the presented problems.

It is at this point where the work of my thesis comes in. It is an attempt to defend Scanlon’s contractualism against its critics. Of course, it cannot reply to all the criticisms presented already for the reasons of space. For such a comprehensive defense, far too many objections have been put forward against the view. However, I hope that I have been able to pick out some of the most pressing and interesting problems of the view. I also hope that I have been able to defend the view against these problems satisfactorily. As a result, I believe that we can still count contractualism as a viable view for helping us to understand many, sometimes puzzling, features of morality and wrongness.

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\(^3\) The staggering extent of this development becomes obvious when one compares, for instance, Ayer (1936, ch. 6) to Blackburn (1998), Gibbard (2003), and Ridge (2006).

\(^4\) Prior to the publication of the book, Scanlon had published a series of articles in which he developed his contractualist view. These papers started from the classic “Contractualism and Utilitarianism” (Scanlon 1982).

In this introductory essay, I will attempt to provide an outline of Scanlon’s contractualism as I read it. During this outline, I will point out the features of the view which I try to defend against the attacks of the critics. The rest of my thesis will consist of five self-standing, previously published articles where the defense of contractualism takes place in detail. These articles are the following:


**Article 5**: “What We Owe to Many”. *Social Theory and Practice* 30 (4), 2004, pp. 485–506.
2. Scanlon’s Project
In order to understand Scanlon’s contractualism, it is important to pay attention to the initial, general theoretical framework to which the different, more specific elements of the view are supposed to fit. This framework, which is often overlooked, is presented in the introduction of *WWO*.

The main question to which Scanlon wants contractualism to provide an answer is ‘[W]hen we claim that an action is wrong, what kind of judgment are we making?’ (*WWO*, 1). Or, in other words, how should we characterise the subject matter of judgments about right and wrong (ibid.)?

Traditionally, there has been two ways of trying to go about answering this question (see Blackburn (1985) and Gibbard (2003, 10). Many cognitivists (including many non-naturalists, naturalists and error theorists), who claim that moral judgments express beliefs, begin answering this question by attempting to directly say something about the moral property of wrongness, and what it is or would be like. The view is that the moral property of being wrong provides the truth-conditions of our beliefs about wrongness and therefore also the content of our beliefs. In contrast, so-called non-cognitivists (or expressivists), who deny the truth-aptness of moral claims and mental states, often begin from the alleged action-producing role played by the judgments about wrongness and then go on to theorize what sorts of desire-like mental states could play this role.

Scanlon, as a constructivist about wrongness, deviates from these traditional lines of thought from the beginning. He hopes that he can shed light on the nature of the judgments about wrongness by concentrating on how people arrive at such judgments in their moral deliberation (*WWO*, 2). If we can characterise this thought-process sufficiently well and understand why we would take judgments arrived at in this way as seriously as we take moral judgments, then this would be enough to dispel any remaining philosophical and metaphysical concerns about the nature of wrongness.

Scanlon hopes to ground his contractualism on his observation that we come to judgments about wrongness as a result of judgments about certain kinds of practical reasons. More specifically, Scanlon claims that the way in which we come to judge that an act is wrong is via first thinking about what kind of reasons people would have for making objections against a principle which allowed the given act. These reasons are then compared
to the reasons which there would be for making objections against the alternative forbidding principle (WWO, 3–5).

All the reasons we compare in this process are based on the kind of burdens which people would have to bear if a certain principle was generally adopted. As a result of such comparisons, the principle which is such that there would be bigger objections against all other principles is finally the one we can expect all reasonable persons to accept. On the basis of this observation, Scanlon then makes the contractualist claim that an act is wrong if it is disallowed by any principle that no-one could reasonably reject (WWO, 3).

This identification of wrongness as the property of being forbidden by the principles that no-one could reasonably rejected is further supported by other observations about the notion of wrongness and its role in our moral practices. First of all, this view about wrongness fits our intuitive judgments about which acts are wrong (WWO, 4). It seems clear to us that wanton killings are wrong. The contractualist grounds this intuition on the fact that the victims of such killings can reasonably reject principles which did not forbid such killings on the basis of the obvious burdens to them.

Second, the view promises to offer functioning and non-mysterious standards of correctness for making judgments about wrongness. Finally, and most importantly, the account seems to be able to provide an explanation of the specific sorts of reasons we think we have for not doing acts which are morally wrong. Scanlon claims that by ensuring that we are able to justify our actions to others on the contractualist grounds we are able to form highly valuable relations with them (more on this in the section 5).

This then is a very brief outline of the contractualist framework which Scanlon created in his introduction to WWO. The rest of Scanlon’s book consists of an attempt to explain and illuminate the concepts on which the account is built, to defend them as philosophically ‘kosher’, to argue for the substantial claims about reasons and certain valuable relations on which the view relies, to draw out the ethical and philosophical implications of the view, and to defend the view against various obvious objections. I will introduce next the central elements of this account in a little bit more detail in the same order as they appear in Scanlon’s book. At the same time, I will also point out the problems of the view which will be discussed later on in the main articles of this thesis.
3. Practical Reasons

Above, we saw that Scanlon’s project is to given an account of moral wrongness in terms of reasons for making objections against alternative sets of moral principles and the reasons we have for avoiding actions that are forbidden by the set which no-one can reasonably reject. As a result, one might think that how much this account can help us to understand the notion of moral wrongness depends on how well Scanlon can explain what practical reasons are. Furthermore, as Scanlon refuses to give an explanatory account of practical reasons, one might think that he fails to illuminate moral wrongness by his own standards (WWO, 17).

This criticism, however, is too hasty. According to the widely accepted Wittgensteinian dictum, all explanations must come to an end somewhere (Wittgenstein 1958, sec. 1). If we want to avoid circular explanations, we must find philosophical bed-rocks, basic notions in terms of which we begin to account for other, more complex puzzling phenomena. Scanlon claims that practical reasons are one such bed-rock. For him, the idea of a reason is primitive (WWO, 17). Even though reasons can be used to explain other notions like moral wrongness, reasons themselves cannot be explained in terms of more basic concepts or properties.

Does this imply that Scanlon fails to give an illuminating account of moral wrongness? Not necessarily. Even if the idea of reasons was a primitive one and reasons cannot be reductively analysed in terms of other concepts, one may still hope to be able to illuminate and elucidate the idea of reasons with other related terms and to dispel skeptical worries. In this way, one can unearth the basic understanding we have about reasons and defend the idea that, because there are no good reasons to be skeptical about practical reasons, one should not have any skeptical worries with regards to moral wrongness either.

The picture Scanlon provides about practical reasons is simple. First, the considerations that are practical reasons are supposed to belong to an ordinary ontological class. One of Scanlon’s examples is a feature of a hat which he is going to buy – its colour. What is significant about reasons is then not which considerations are reasons but rather what it is for these things to have the status of being a reason.

The status of being a reason is, according to Scanlon, to be understood in terms of a sui generis normative relation of ‘being a reason for’ something. Can we say more about this

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6 Scanlon goes on to specify that the reasons are the potential contents of our beliefs, i.e., propositions (WWO, 56–7). There are interesting philosophical disagreements about what contents of our beliefs or propositions are. Jonathan Dancy has argued that more plausibly reasons are states of affairs or facts (Dancy 2000a, 126–8). On some views about contents of our beliefs these views come to the same thing.
relation? We might say things like to be a reason for something is to ‘count in favour of’ it (WWO, 17). The ‘counting in favour’ relation however fails as a strict analysis of ‘being a reason for’, because the question ‘How does something count in favour of something else?’ leads us directly back to the idea of ‘by being a reason’. The idea of counting in favour of is also unhelpful if we tried to explain the notion of reasons for those who do not already grasp the basic idea.

What are the reasons then reasons for – what do they count in favour of? Scanlon claims that reasons are for and against having judgment sensitive attitudes such as ‘beliefs, intentions, hopes, fears’, and of ‘admiration, respect’, and so on (WWO, 20). These attitudes are identified by their functional roles in human psychology (WWO, 21). Their essential property (i.e., what makes an individual attitude a judgment sensitive one) is that, if a properly functioning rational agent judges that she has sufficient reason to adopt one such attitude, then, by that token, she comes to have that attitude. Similarly, if a rational agent comes to judge that she has sufficient reason not to have one such attitude, then, as a result, she no longer has the attitude. In this sense, the fact that the attitudes of rational agents are favoured and disfavoured by reasons is enabled by the fact that it is ‘up to the agents’ and their judgments about reasons which attitudes they end up having.

In its very essentials, this is the framework of practical reasons which Scanlon offers for us. One task he does not take himself to have is to provide an answer for a wholesale skeptic who denies that there are such things as practical reasons at all. In a way, other, local skeptical views about practical reasons do not threaten Scanlon’s contractualism. These views might have consequences on which set of moral principles no-one can reasonably reject and on who have reasons, and of what kind, not to do acts that are forbidden by this set. But, it may be that contractualism can, by and large, survive such consequences. Scanlon’s main aim in his account of practical reasons is to dispel two frequently discussed sources of worries about practical reasons – one based on the role of desires in practical reasoning and one based on metaphysical problems of locating reason-relations in the world.

In discussing how desires relate to practical reasons, Scanlon is forced to give an account of practical rationality. Scanlon’s own view is that minimal practical rationality is

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7 Scanlon says that such a position would be internally unstable (WWO, 19). Perhaps a global error theory about all normative talk would be such a view (see Mackie (1977, ch. 1), and Streumer (manuscript)). According to this position, all claims about reasons would be false, because there are no reasons for anything. For a convincing argument against error theories in ethics see Shafer-Landau (2006).
constituted of a basic ability or a disposition that enables agents’ beliefs, desires, intentions, fears, and so on to track the agents’ judgments about reasons for having such attitudes. This view is to be contrasted with the so-called Humean accounts of practical rationality which are based on the ‘desire-in, desire-out’ principle (Wallace 2006a, 30).

According to the Humean models, in order for one to become motivated by a judgment about reasons, one must either have a standing, general desire to do whatever one judges oneself to have reason to do, or one must have an antecedent desire to do the thing in question which one judges one has reason to do, or a desire to do something for which acting according to the reason-judgment would be instrumental. Desiring to do something can only be explained by some prior desire. Scanlon does not discuss the first Humean possibility above. Instead, he wants to argue against the latter requirements for the having of practical reasons.

If it were true that, when making judgments about reasons, one can only become motivated to do something as a result of some relevant prior desire, then without such prior motivation it would be impossible to come to desire to do whatever one takes oneself to have reason to do in the given situation. Furthermore, if acting in this way would require desiring to do so, then it would be in this case impossible for the agent to do what she has judged she has reason to do. Yet, like ‘ought implies can’, having a reason to do something seems to require that it is possible act in the way required by the reason (Streumer forthcoming). This thought leads to so-called reasons-internalism. This thesis can be loosely put as follows: One can only have a reason to do something (or have some attitude) if doing the act in question would serve some antecedent motivation belonging to one’s subjective motivation set (Williams 1995).

Two significant consequences for contractualism would follow from this limitation. First, the objections which agents could make against alternative moral sets would depend on the antecedent motivations of the agents. If someone was not motivated by the thought of being tortured, then, on the Humean view, she would not have a reason to complain against principles which allowed torture. Second, if someone was not motivated to seek the valuable relations on which contractualism grounds our reasons not to act wrongly, then she would not

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8 For attempts to give more sophisticated philosophical accounts of such a disposition, allegedly constitutive of practical agency, see Smith (1994, sec. 5.10) and Wallace (2006b). Scanlon contrasts his view of minimal rationality with ideal rationality which in addition requires making correct judgments about practical reasons (WWO, 25–32).

9 Smith has argued that, if becoming motivated by reason-judgments were explained by such general desires, this would make the motivation to act morally fetishistic morally speaking (Smith 1994, 73–76).
necessarily have reasons to follow the set of principles that no-one could reasonably reject. In this case, she might not even have reasons not to do acts that are wrong.\textsuperscript{10} Both of these consequences for Scanlon’s view are highly problematic.

Scanlon’s strategy for discharging these Humean challenges is to argue that there is no understanding of desires under which the substantial antecedent motivations would be required for becoming motivated by reasons-judgments (WWO, 37–41). He agrees with the Humeans that there is a broad, philosophical sense of desires which implies that all action requires having a desire, a pro-attitude, towards the state of affairs that is intended to be brought about with the action (WWO, 37). But, these states as such do not motivate us to act. Rather, these states are states of being motivated, which then on occasion make us act. We can ask of these states what motivated us to adopt them, and thus what ultimately motivated us to act.

Do other desires have the ability to lead us to be in the states of being motivated to do something? According to Scanlon, some have and others do not. His view is that desires have the power to motivate us only in so far as they implicitly include seeing the object of the desire as good or reason-providing. It is a typical feature of occurrent desires that they keep directing our attention to such evaluative features of the object (WWO, 39–40). There are desires which do not involve this element, but these we see as \textit{mere urges}. We usually see them as external forces working in us rather than as something that motivates us to act. Furthermore, if the motivating force of desires goes back to seeing something as good or reason-giving, then there would be only weak grounds for the Humean objection that reason-judgments themselves as formations of beliefs cannot make us to be motivated to act independently of the antecedent desires (see Wallace (2006a)).

Independent of whether only desires can motivate us to action, a similar internalist conclusion would be true if it turned out that desires are the source of our practical reasons. On this view, reasons acquire their normative force to rationally justify our actions from an appropriate relation to furthering the satisfaction of our desires. Intuitively, such a view may sound plausible. If I want to buy a new pair of jeans, then I have a reason to go to the shop where they are sold.

\textsuperscript{10} One can find traces of the Humean model from Scanlon’s first formulation of contractualism. There, Scanlon grounded our reasons for not doing wrong acts on a general, widespread desire to be able to justify one’s actions to others with a reference to principles that no-one could reasonably reject (Scanlon 1982).
Scanlon attempts to resist this view about the sources of normativity by arguing that, even though desires may affect what reasons we have, the source of justification cannot be traced back to them (WWO, 43). A basic desire to eat mud does not have the power to rationalise actions of an agent who desires to act in this way. No matter how she desires to eat mud, she does not acquire a reason to do so. However, saying this does not force us to deny that desires can affect what reasons we have. One way of accommodating this intuition is to say that, once we have adopted a plan to pursue some goal, this gives us derivative reasons to take into account things that help us in carrying out that plan and to ignore reasons for doing other things. However, such reasons are not given by our wanting to carry out the plan but rather they are derivative from the reasons there are to carry out the plan in the first place (WWO, 45–6).11

The second set of worries about practical reasons is based on philosophical, metaphysical considerations. If practical reasons were metaphysically untenable, then wrongness, as accounted for in terms of reasons, would inherit the same problems. Taken at face value, our talk and beliefs about reasons are about ‘counting in favour of’ relations between things in the world and our judgment-sensitive attitudes. This gives rise to the so-called ‘location problem’ of finding the reason-relations from the world as it is understood by our scientific world-view (Jackson 1998, ch.1). In this respect, it would be comforting if we could analyse claims about reasons in terms of claims about natural properties and relations. Scanlon is hesitant about going down this route because of the open question arguments that can be put forward against such naturalistic views (WWO, 57–58).12

This appears to leave him with two choices. His first option would be to accept that judgments about reasons are about \textit{sui generis}, non-natural relations in the world. This would imply having to defend, on the threat of error theory, the idea that such relations can really be found from the world. His second option would be to agree with the expressivists that judgments about reasons are not descriptive but rather express special, desire-like attitudes. These judgments could, for instance, express accepting a norm of treating a consideration as counting in favour of an attitude (see WWO (58) and Gibbard (1990, 163)). Furthermore, as

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11 Of course reasons can be given by other subjective considerations. That I enjoy eating coffee ice-cream gives me a reason to eat that kind of ice-cream. I would not have such a reason if I didn’t like its taste.

12 There are naturalistic accounts that at least seem to be unaffected by the traditional open question argument either because they are openly revisionistic or because they make use of the sense/reference distinction (see, for instance, Railton (1986)). Whether they are successful in avoiding the open question argument is questionable (see Horgan and Timmons (1992)).
Scanlon accounts for wrongness-judgments in terms of judgments about reasons, he faces the same choices also in the case of wrongness – either it is a non-naturalistic property reducible to reasons, or wrongness claims express acceptances of norms of treating considerations as reasons.

Scanlon wants to show that his account of reasons and wrongness are not threatened by the forced decision between the metaphysically suspect realism and the truth-aptness denying expressivism. He thinks that there is room to maneuver between these lemmas. In my interpretation, he does this by formulating a constructivist proposal.13

On this proposal, contrary to what the expressivists say, judgments about reasons are truth-apt. However, when they are true, they are not made true by the robust, in-the-world normative reason-relations (WWO, 60). Rather, what it is for judgments about reasons to be true is for them to be outcomes of epistemically satisfactory procedures of making these judgments. In an analogical way, judgments about arithmetic are not made true by a Platonic universe of abstract objects, numbers, but rather by the procedural standards of arithmetical reasoning (WWO, 63). Similarly, the appropriate standards of practical reasoning create the standards of correctness for judgments about reasons. In the current minimalist fashion, the truth of the judgments can be identified with these procedural standards. Scanlon thus seems to be able to by-pass the metaphysical commitments which traditionally have been thought to follow from truth-aptness.

Towards the end of his account of reasons, Scanlon attempts to describe the deliberation procedures which confer warrant for the judgments about reasons (WWO, 64–76). According to him, a natural starting point is the inevitable ‘seemings to be reasons’ that we come to experience. When something seems to be a reason for us, we can critically reflect whether we really want to judge that the consideration in question is a reason. We can ask questions like ‘What the reason-providing consideration in question really is?’, ‘What kind of a reason this consideration is supposed to provide?’, ‘How this reason fits to the other judgments about reasons we are committed to?’, ‘Is there an interpersonal agreement about the given reason?’, and so on. If the reason-judgment passes these deliberative tests, then, in the words of David Wiggins, there is nothing else left to think than that the consideration is a reason (Wiggins 1991, 66 and 80). As a result, if wrongness-judgments are judgments about reasons, then this constructivist account also extends to the case of wrongness.

13 Here my reading of Scanlon follows Timmons’ interpretation against Street’s (Timmons 2004, Street manuscript).

Gert’s argument begins from our pre-theoretical judgments about rationality of actions in certain cases. It then proceeds to show that no view based on the single reason-relations could explain these intuitions. Instead, according to Gert, our rationality-judgments reveal that the notion of reasons can be analysed further into two distinct normative relations. These are the ability to rationally speaking require actions and the ability to rationally speaking justify actions. If this was right, then Scanlon’s basic account of reasons would be wrong and his account of wrongness would be lacking a solid foundation.

I argue against Gert by showing that the attempt to analyse reasons in terms of two distinct normative forces has untenable consequences. I also show that we can account for the rationality-judgments in his examples by taking into account the moral reasons described by contractualism. As a result, we can continue to believe that the basic normative notion is reasons.

Of course, many other objections have been made against Scanlon’s views about reasons, rationality, and desires. Unfortunately, I have no room to discuss these objections in this work. However as many of these objections are not based on the wholesale skepticism about these notions, their consequences for contractualism are quite likely to be less catastrophic.14

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14 For interesting critical discussions of Scanlon’s views about these issues, see, for instance, Marshall (2003), Copp & Sobel (2002), and Arkonovich (2001).
4. Value and Well-Being

As described earlier, Scanlon’s main proposal is that, when we make judgments about wrongness, we are thinking about practical reasons. According to an obvious and probably the most popular alternative, when we judge that some act is wrong, what we are thinking of is rather the value of the options open for us. On this view, the evaluative notion of value is the basic normative notion that is the fundamental object of all our moral and normative thinking.

This value-based alternative has been most influential in the consequentialist moral theories which are a part of a larger family of teleological views about reasons, value and rationality. The core of such views consists of two claims. According to the first, the sole bearers of value are states of affairs. The relevant states of affairs here are the ones which agents have the ability to bring about. According to the second, the value of the states of affairs determines the reasons one has to bring about those states of affairs and thus also whether it is right or wrong to bring about them.

The second essential claim in teleology is thought to be a formal feature of the very idea of value – it is to be promoted and brought about. This feature itself can be based either on the view that claims about reasons can be analysed in terms of comparative value of options, or on the idea that values are uniquely reason-providing properties. The result of this teleological framework is in any case that, when we think about reasons or about wrongness, we fundamentally must be thinking about how valuable the different states of affairs which we could bring about are.

We can recognise the appeal of the abstract teleological framework when we look at a familiar view which is build around it by adding certain optional parts to it. Consider a version of naïve utilitarianism which is a sum of two elements – hedonism and consequentialism. This view begins from an axiology which defines value in terms of a feature with which different states of affairs are to be compared. The only consideration of value, in this view, is pleasure. Furthermore, pleasure is valuable impartially – everyone’s pleasure is just as valuable and important. And finally, value is additive.

These claims give us criteria with which we can form a ranking of all states of affairs from the most valuable one that contains most pleasure and least pain to the least valuable one.

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15 Many philosophers in the teleological tradition understand the notion of states of affairs rather inclusively as to include acts, processes, and so on.
16 G.E. Moore defended the first view in *Principia Ethica* (Moore 1903, Sec. 17). The latter view is also often attributed to him, but it is uncertain whether he ever held it (see Dancy (2000b)).
that contains most pain and least pleasure. The consequentialist element of the view then asserts that one has most reason to bring about the most valuable states of affairs, and that it is right to do so and wrong to act in any other way. The heart of this latter part of the theory seems to be the intuitive maximizing conception of rationality (Scheffler 1985, 414).

Scanlon tries to resist the conflicting teleological framework in two ways. His first argument against the teleological views relies on examples. They attempt to show that, in the case of the given values, certain important reasons we have for acting in the appropriate ways in relation to those values cannot be understood in the teleological framework of values and reasons (WWO, ch.2, sec. 2–3). For this reason, if we adopt the teleological way of understanding values and reasons, this will distort our view of what reasons we have in a way that has unfortunate effects.

Scanlon’s best example of a value which status as a value ‘is simply not, or even primarily, a matter of thinking that certain states of the universe are better than others and are therefore to be promoted’ is that of the value of friendship (WWO, 88). On the teleological construal, states of affairs that include more friendship-relations have more value. This additional value gives us reasons to act in ways which promote the existence of friendship. The problem with this understanding of the value is that it makes acts of friendship problematically instrumental for creating certain states of affairs. It also makes the reasons we have for doing friendly acts derivative reasons based on our teleological reasons for bringing about the valuable state of affairs. Yet, thinking that our friends themselves are not the source of our reasons for our friendly acts distorts our relation to them.

Scanlon’s alternative picture begins from the idea that valuing friendship is a matter of recognizing the practical reasons involved in friendship-relations as good reasons. This requires accepting the non-teleological reasons for being loyal, for being concerned about the friends’ interests, for trying to stay in touch and spend time with the other, and so on. The value of friendship is then just the fact that these reasons are good reasons – that the features of the person who are our friends and the relation we can form with them really ground our reasons for acting in the way as good friends act (WWO, 89).

That some values cannot be understood in the teleological framework is of course not an argument against the idea that other values have the teleological structure. The significance of such examples is, however, to prepare us for Scanlon’s own general account of value – the so-called buck-passing account (WWO, ch. 2, sec. 4). In the teleological view, the value of the
future states of affairs is the ground of our practical reasons. In contrast, according to the buck-passing account, for an object or states of affairs to have value just is for it to have features that give us reasons for certain attitudes like admiration and for certain typical ways of acting with respect to the given object. This would mean that, even if in thinking about the wrongness of our acts we would make a reference to some values, we would ultimately be thinking about the reasons that are given by the object which has value.

My second article, “Reasons and Value – In Defence of the Buck-Passing Account”, is a defence of Scanlon’s general theory of value. It begins by attempting to show that even the ways in which the defenders of the teleological view have tried to reformulate their views to avoid Scanlon’s objections remain problematic. It then argues against Jonathan Dancy to the conclusion that certain alternatives for both the teleological view and the buck-passing view are untenable (Dancy 2000b). The paper ends with an attempt to show that the buck-passing view can avoid the problems of the other views and that the view can avoid certain alleged problems.17

Scanlon’s attempt to downplay the importance of values in our thinking about wrongness ends with a discussion of the substantive value of well-being (WWO, ch. 3). The notion of well-being is usually brought up in the moral argumentation. It has been thought to be a ‘master value’ which is located in the very core in our moral thinking. Many have thought that it acquires this special status by being the unique basis for the choices of rational individuals. Other things are valuable for rational agents only in so far as they contribute to their well-being. For this reason, well-being has been thought to be the ground on which the interests of individuals should be taken into account in moral theory (WWO, 108–9, see Bentham 1970, 11). In line with his general buck-passing theory of value, Scanlon tries to undermine this picture by arguing that, from the perspective of the rational individual, the value of well-being is instead ‘transparent’ and ‘inclusive’.

The thought is that when we plan how to live and decide what to do (for instance, whether to pursue a career in circus or go sailing over the weekend), what we are thinking about is how valuable such aims and pursuits would be. Translated in the buck-passing language, this means thinking about what reasons there would be for us to act in these ways. However, the consideration we direct our attention to at this point in our individual

17 The buck-passing account of value has created a small industry of literature for and against it. For this reason alone, I had no space to tackle all the problems which the view might have. For some of the most interesting recent arguments see Crisp (2005), Stratton-Lake (2005), Stratton-Lake & Hooker (2006), and Väyrynen (2006).
deliberative perspectives is not the abstract notion of well-being, but rather the first-order features of the life in circus or the weekend spent sailing (WWO, ch. 3, sec. 4).

Saying this is not to deny that success in such choiceworthy goals makes our lives go better. Rather, the point is that the notion of well-being does not help us to understand what reasons there are for pursuing objectives the satisfaction of which is part of what our well-being consists of. Furthermore, the concept of well-being does not help us to compare the costs and benefits of the different options in terms of the factors that are conducive to well-being (WWO, 126–8). Scanlon also argues that the boundaries of the notion of well-being are blurred – the meaning of well-being does not tell us which valuable projects would make our lives go better and which not. Therefore, there is no difference in importance, from the perspective of rationality, between the projects that contribute to our well-being and those that do not. What matters instead from the perspective of rationality is how good reasons there are for us to pursue the given goal independent of its importance to our well-being.

If it were true that the notion of well-being is unimportant for us from our individual deliberative perspectives, then we should be suspicious about well-being’s role in our moral thought. Scanlon lists three potential roles which the notion of well-being could play in ethics (WWO, 137). First, well-being could figure in the content of moral requirements. There could be a potential moral requirement to improve the well-being of others. Second, well-being could play a role in the justification of the moral principles which we are required to follow. It could be claimed that moral principles get their justification as a result of maximizing the well-being of the society or the well-being of the worst-off individual. Third, well-being could help us to answer the justificatory questions for morality – the classic ‘Why should I be moral?’ question.

Scanlon denies that well-being could play any of these roles. First, even though well-being plays some role in certain moral principles (like in the ones that assess the justice of our basic social institutions), most of our important moral principles make no reference to well-being at all (e.g., WWO, 139). Second, Scanlon claims that the notion of well-being is too indeterminate for being able to provide a quantitative standard for assessing the justification for and against alternative moral principles. There seems to be also little reason to think that considerations related to well-being are the sole consideration relevant for the justification of moral principles. Someone would seem to have a good objection against a moral principle...
which denied her the possibility to pursue an unsuccessful but still choiceworthy career in art even if such a principle would ultimately improve the well-being of the person.

Finally, if the earlier conclusion was right and well-being does not guide our rational decisions from our first-person deliberative perspectives, then the notion of well-being cannot tell us why we should be moral, because this question is posed in that very perspective. To conclude, if Scanlon’s arguments against the importance of the value of well-being are sound, then he is in much better position to argue that moral thinking is not about well-being but instead about our practical reasons.\(^{18}\)

\(^{18}\) Unfortunately, none of the articles in this thesis cover Scanlon’s account of well-being and its role in contractualism. For illuminative discussions of the issue, see Wolff (2004) and Arneson (2002).
5. Contractualist Ethics

Earlier on, I already introduced Scanlon’s central contractualist idea according to which when we think about wrongness, what we are thinking about are the reasons people have for making objections against alternative sets of moral principles and the reasons we have for doing acts which are not forbidden by the set of principles that no-one can reasonably reject. If the preliminaries in the first three chapters of *WWO* are plausible, then there should not be anything philosophically suspicious about the general idea that we are thinking about reasons in this case. But, why exactly should we be thinking about precisely the reasons Scanlon claims we are thinking about in this context? Why would our wrongness-thoughts be about the reasons for rejecting alternative sets of moral principles and the reasons to follow the set preferred by Scanlon?

In my mind, Scanlon’s argument for his contractualist conclusion is an example of abductive reasoning. It is an argument to the best explanation. We start from the question: What the property of moral wrongness would have to consist of in order for it to rationally support our wrongness-related moral and linguistic practices? In order to answer this question, we must first list what the relevant features of the practices are.

What are the relevant practices? Scanlon refers to five criteria for potential accounts of moral wrongness. First, whatever the property of moral wrongness is, it would have to be a property that fits our moral convictions of which acts have the property of wrongness. Second, that property would also have to be able to provide reasons that match in strength with the reasons for not doing acts that are wrong (*WWO*, 148). Third, the features of this property would in addition have to explain why we take it to be so important that others recognise and act on these reasons. This would tell us why our relation changes significantly for the worse to those who are left cold by the moral wrongness of acts (*WWO*, 149).

Finally, fourth and fifth, the account would have to be able to avoid the horns of what Scanlon calls the ‘Prichard’s dilemma’ (*WWO*, 149–150). This means first that the account should not take the reason-providingness of moral wrongness as granted. It also means that the account which illuminates the reason-providing nature of moral wrongness to us cannot ground our reasons for not doing wrong acts on grounds that are too external to our idea of acting from moral motives.

In his account of contractualism, Scanlon attempts satisfy these desiderata for accounts of moral wrongness by explicating and defending a view according to which the property of
wrongness is the property of being forbidden by the set of principles which no-one can reasonably reject (WWO, ch. 4–5). In the core of this account lies the notion of justification. It is supposed to both generate an extension of the contractualist property which fits our moral convictions about which acts are wrong and ground the appropriate kind of reasons we have for not doing wrong acts (WWO, 5). I’ll introduce first the role justification plays as a ground of reasons and then its role in relation to the content of moral wrongness.

According to Scanlon, what provides our reasons for not doing acts that forbidden by the set of principles that no-one can reasonably reject is a valuable form of relation we are able to form with others when we are able to justify our actions to them with these principles (WWO, 154, 162). Admittedly, the normative buck of the value of this relationship will have to be passed in Scanlon’s framework to features of the relationship that provide the more basic reasons for not doing the acts that are forbidden by the principles that no-one can reasonably reject.

In abstract, the main reason-providing feature of this relation is that, as we are able to justify our actions to others on grounds they could not reasonably reject, this enables us to express our respect of the rationality and reasonableness of others. By being willing to be able to justify our actions to them on grounds they can accept, we can show our appreciation of their ability to make judgments about reasons and to act on them. More concretely, being able to justify our actions to others on grounds they can accept as reasonable persons gives us the good of being able to look into their eyes and not feel like shrinking under their gaze as one would if one acted unjustifiably (Pettit 2000, 149).

Scanlon claims that grounding our reasons for avoiding wrong acts on the relation of ‘mutual recognition’ described above gives an account of wrongness that does not merely assume the reason-providingness of wrongness but explains it in a way that is still not too external to our idea of morally motivated action (WWO, 155, 161–2). This would imply that his account has succeeded in solving Prichard’s dilemma.

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19 It may seem like if our fundamental reasons are based on the ability of others to make judgments about reasons, then beings that do not have this ability are left implausibly outside the scope of morality. Scanlon discusses this problem in WWO (ch. 4, sec. 8). First, even if our core moral reasons are based on the notion of justifiability, this does not rule out that there are other moral reasons that might apply to the treatment of animals (WWO, 178, see also fn. 20 below). Second, it seems that the idea of thinking about being able to justify our actions to beings that cannot deliberate about reasons make sense. In this case, our reasons for being able to justify our actions to them on grounds they could accept if they could assess reasons might be grounded on some other consideration than the reciprocal relationship of ‘mutual recognition’.
Scanlon also tries to characterize the relationship in a way that shows us why it is so important for us that the reasons grounded by the relationship can outweigh other conflicting reasons. This happens in the same way as we think that the reasons we have for not doing wrong acts are overriding against other conflicting reasons (WWO, ch. 4, sec. 5). Part of this project of accounting for the priority of morality is to explain both how the relationship of ‘mutual recognition’ must be compatible with each of us pursuing our important personal projects and relationships, and how also these projects, if worth pursuing, must be sensitive to the value of recognizing the equal moral status of others.

Furthermore, Scanlon claims that, if others are not willing to justify their actions to us on grounds which we could accept as reasonable persons, they deny us the respect we would deserve as equal practical deliberators. Being regarded as morally less worthy in this way makes us resentful and changes our relationship to them. This should explain the importance we attach to recognizing the reasons moral wrongness provides (WWO, ch. 4, sec. 4). If all of this is right, then Scanlon’s contractualism satisfies his last four desiderata for accounts of moral wrongness. The first desideratum can still prove out to be more difficult to satisfy. Are the acts that are forbidden by the principles which no-one can reasonably reject really those acts that we intuitively think are morally wrong? How do we even know which principles are such that no-one can reasonably reject them?

As mentioned earlier, the notion of justification is also supposed to shed light on which set of moral principles is such that it could not be reasonably rejected by anyone. After all, the purpose of these principles just is to provide grounds for justification that is constitutive of the relationships of ‘mutual recognition’. In order to see how the notion of justification can play this role, we must begin from the observation that we always attempt to justify our actions to other individuals. In this way, the notion of justification directs our attention to the individual stand-points from which justification is assessed (WWW, 202–6).

The agents to whom we address our justification can present objections against our actions from their standpoints on the basis of the burdens that are created for them as a result of others being allowed to do the kind of acts we are considering. In trying to justify our actions to them, we must refer to a moral principle which would allow our acting in the given

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20 Notice that satisfying this desideratum does not require that wrongness and being forbidden by the set of principles which no-one can reasonably reject are perfectly coextensive. It may be that there are acts that are not forbidden by the contractualist principles but which are still wrong. If this was true, then we would be using ‘wrongness’ in an other sense when speaking about these acts and morality would be in some way ‘fragmented’ (see WWO (ch. 4, sec. 7).
way. The question then is can those individuals for whom licensing our way of acting is burdensome reasonably reject the principles which we attempt to use for justification. The reasons they can use to attempt to reject our principles are the kind of generic, personal reasons based on the burdensome features of their lives to which we would contribute. These reasons are of the same type that we too would use to attempt to reject principles that would be burdensome to us (WWO, 204–5, 219). They include reasons like bodily injuries, inability to rely on the assurances of others and to pursue our personal projects, and so on (WWO, 204).

Whether they are good enough reasons for reasonable rejection is a comparative matter. It is a function of what kind of alternative, individual stand-points and objections based on personal, generic reasons would be created if some other set was generally adopted instead of the one we are trying to use for justification. If there exists an alternative set of principles which does not create the kind of a significant burden to anyone which a given set would, then the person for whom the said unnecessary burden would be create can reasonably reject that set of principles (WWO, 195 and 205). The set of principles that no-one could reasonably reject then is such that all other sets create bigger objections against them from the standpoints of the individuals who live under them.

We can then assume that ‘reasonably rejectability’ thus described creates an extension of the acts that are forbidden by the set of principles that no-one can reasonably reject. If Scanlon claims that to belong to this extension is what is for acts to be wrong, then, given his first desideratum, this extension would have to fit our moral convictions about which acts are wrong. But, why think this is the case?

Scanlon’s argument to this conclusion begins from looking at our intuitive judgments about wrongness of acts. The observation is that we do not merely directly ‘see’ that acts are wrong, but rather come to think that they are wrong in virtue of some general characteristic they have (WWO, 197). The types of general characteristics on which we base our wrongness-judgments are expressed by our basic moral principles such as ‘do not kill’, ‘do not steal’, ‘help others in dire need if you can easily do so’, and so on.

The thought then is that, if we look at these principles closely, we see that each one of them is making explicit certain reasons for actions. These reasons are based on different kinds of personal misfortunes from which each of these principles safeguards us.21 If these grounds

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21 It also looks like in cases where the basic moral principles allow for exceptions correspond to the ways in which absolute moral principles of the basic form could be reasonably rejected for hedged principles on the basis of the burdens which would be created by the absolute requirements (WWO, 199).
for reasons are similar to the grounds we have for reasonable rejection, then it is not a surprise that the acts that are forbidden by the contractualist principles are the same ones that are wrong. In this way, Scanlon can argue that our intuitive moral thought just is the thought-process which his contractualist framework makes explicit and systematic. If this is right, then Scanlon’s view satisfies also the first desideratum which he set for accounts of wrongness. Therefore, the property of being forbidden by the contractualist principles can be the moral property which plays the role of moral wrongness in our moral practices.

I hope that this rough sketch of Scanlon’s sophisticated ethical theory provides a sufficient introduction even for the unacquainted reader to be able to appreciate the objections which I will tackle in my three last articles. These papers concentrate mainly on trying to reply to the following three sets of objections.

The most repeated objection against contractualism is that, as an ethical theory, it is empty of content and therefore redundant. The analogy would be that contractualism is like an idle spinning wheel added to the motor of our moral thinking. It is useful to distinguish between two different ways in which this criticism is put forward.

According to the first version of the objection, our judgments about which principles can be reasonably rejected are determined by our prior commitments about which actions are right and which wrong. The allowing of morally wrong acts seems to be the best reason to reject any set of moral principles. This line of thought guarantees trivially that the acts which we think are wrong are forbidden by the principles that no-one can reasonably reject. However, the circularity of the reasoning makes contractualism uninformative about the nature of wrongness. As a result, contractualism would also lack any critical potential for correcting our wrongness-judgments. Contractualism becomes an objectionable form of intuitionism as one of the critics has put it (MacLeod 2001, 283–8).

The second version of the redundancy objection tries to argue that the reasons contractualism identifies as the reasons we have for not doing wrong acts are an unnecessary addition to our space of moral reasons (Stratton-Lake 2003). Their existence relies on more fundamental moral reasons that already suffice to explain why we should not do acts that are wrong. If this was right, then claiming that the property of wrongness is the property of being

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22 For the reasons and relevance, I have omitted discussions about the three last chapters in Scanlon’s book. In these chapters, Scanlon applies his ethical theory to the debates in ethics about moral responsibility, promises and moral relativism (WWO, ch. 6–8).

23 This objection was first put forward by Judith Jarvis Thomson (Thomson 1990, 30, fn. 19, 188). It has since been repeated in various forms numerous times. For the references see Article 3 below.
forbidden by the contractualist principles on the basis that the reasons these properties provide are one and the same becomes suspect.

My third article, “Contractualist Replies to the Redundancy objections” attempts to tackle these objections. It argues that the contractualist framework and especially the notion of justification can provide a criterion for the reasonable rejectability that is internal to the rationale of the view and does not rely on prior judgments about wrongness in an objectionable way. It also emphasizes the role of the practical deliberation procedures in providing critical potential to assess claims about which principles are reasonably rejectable.\textsuperscript{24} The second half of the paper argues that the reasons based on the relationship of ‘mutual recognition’ are not unnecessary but rather required. They are needed in certain circumstance to explain the strength and existence of our reasons not to do wrong acts.\textsuperscript{25}

According to the second set of objections I tackle, the reasons Scanlon gives for not doing acts that forbidden by the non-rejectable principles are of wrong kind and too weak to be the reasons we have for not doing wrong acts.\textsuperscript{26} Again, if this objection was correct, Scanlon would be in no position to claim that he has correctly identified the property of moral wrongness. The first claim is based on the idea that virtuous moral agents are not guided by thoughts about wrongness \textit{per se} but rather by considerations that make acts wrong – the pain of others, their disappointed expectations, and so on. Contractualism removes our attention from these considerations and thus makes us less virtuous. The second claim is based on the thought that the value of the relationship of ‘mutual recognition’ just is too weak against the other values that conflict with the morality of right and wrong. My fourth article, “Contractualist Account of Reasons for Being Moral Defended”, attempts to argue that these objections too fail.

The last set of frequently discussed objections against contractualism questions the idea that the normative prescriptions of the view fit our intuitions about which acts are wrong and which right. These objections begin from the observation that, in the contractualist framework, only the objections which individuals can put forward on the basis of the features of their individual lives count in the reasonable rejectability. This restriction seems to make contractualism unable to provide appropriate moral guidance in moral choices where different

\textsuperscript{24} This objection is also tackled in a different way in the Article 4, sec. 2.

\textsuperscript{25} An alternative reply for the same objection is given in the Article 4, sec. 3.

\textsuperscript{26} Bernard Williams made the first claim in an interview and Susan Mendus has argued for the second (see Voorhoeve (2004) and Mendus (2003)).
sized groups are threatened by equally serious or almost equally serious harms for the individuals (Hooker 2003, Norcross 2002, Otsuka 2000, and Parfit 2004). In my fifth and final paper, “What We Owe to Many”, I attempt to argue that the contractualist framework, with its individualist constraint on the reasons for rejecting principles, can correctly understood provide the right normative conclusions even for these difficult aggregation cases.

If my answers to these seemingly strong objections against contractualism are along the right lines, then there is still good reason to believe that contractualism can provide an illuminating and plausible philosophical account of the notion of moral wrongness. I do not of course claim that my defense of the view provides its final vindication – far from it. Many interesting problematic features of the theory still remain to be discussed. I’m also certain that the view can still be clarified and improved in many ways. These tasks will have to wait until a later date.
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