

Scanlon on Moral Motivation & The Fragmentation of the Moral

Véronique Munoz-Dardé,
Dept of Philosophy, UCL

In *What We Owe to Each Other*, T. Scanlon describes the moral and political atmosphere of the sixties and early seventies in the United States thus:

In the 1950s many Americans believed, naively, that their institutions were uniquely justifiable; that America was free of class barriers, and that it was a society in which benefits were fairly earned. They therefore felt that they could enjoy these benefits in the comforting confidence that the institutions through which they had acquired them, though not perfect, were closer than any others to being ones that no one could reasonably object to. The combined blows of the civil rights movement and the movement that arose in reaction to the war in Vietnam shattered these illusions beyond repair. Different people reacted to this in different ways, some by protesting against the war and working for civil rights, others by vehemently denying that the charges of injustice at home and criminality abroad had any foundation.

And he comments:

What these reactions had in common was a deep sense of shock and loss; both testify, I believe, to the value people set on the belief that their lives and institutions are justifiable to others.

It would be easy to find elsewhere examples of similar public commotions and tensions created by the revelation of deep injustices, and the consequent sense of a need to reflect on public institutions and their normative foundations. The conclusion drawn is less familiar, that deep divisions about normative assessment of social and political affairs manifest precisely the appeal and significance of a common, central,

part of our moral thinking: the idea of justifiability to others, and the importance attached by all to it.

This evocation of a period of profound public tensions and debates, a period which also constituted the context for *A Theory of Justice*, and the observation of the near universal pull that considerations of right and wrong have, contains in a nutshell some of the themes essential to T. Scanlon's contractualism.

One might say that the sense of loss experienced by so many Americans in the sixties and early seventies created, however negatively, a sense of the shared importance attached to certain core values: fairness in public life, justice and the rightness of institutions. Very few felt unmoved by these considerations. Scanlon suggests that this, in and by itself, highlights a positive pull which right and wrong have for the kind of beings we are: there is a positive value of living with others on terms that they cannot reasonably reject. Much of Scanlon's contractualism is devoted to explaining and accounting for the pull that co-operative relations with our fellow creatures have on us, and for the related distinctiveness that objections to acting wrongly have with respect to other reasons.

Let me underline an important aspect of this way of putting things. Justifiability to others is placed at the centre of the story; justifiability, that is, of the effects our private and public actions have on people. But the notion of justifiability is not assumed to be prior to those of right and wrong. Just think of the historical example given at the outset. The sentiment shared both by those Americans who worked to fight and repair injustices, and by those who denied that gross injustices were taking place, was a sense of wrongness, a sense itself *intimately linked* to the fact that they would not be able to justify to the individuals affected any denial of rights, or violent oppression. The familiar, basic, reaction prompted by wrongness is thus not described independently of, and antecedently to, justifiability to others. Rather, as a matter of the phenomenology of public discontent, a sense of injustice is in part the sense of the unjustifiability of public actions, that they could not be justified to the people they affect. The way this sense of injustice is bound up with the sense of unjustifiability itself explains the distinctive force of wrongness, the priority and importance it takes in our motivation.

Notice that if we adopt this picture justifiability to others gives us a *substantial* sense (to use Scanlon's vocabulary) of what we share. We may not share confidence in what the source of central, important values is; we may not even be confident

about the procedures by which we determine what they are, but we have substantial certainty about right and wrong, namely that this is something we deeply care about.

The appeal and significance of moral reasons which arise in this way is, as Scanlon is quick to note, too narrow to account for everything to which the name 'morality' is commonly applied. When we move to that wider terrain, the fragmentation of the moral is apparent. This poses a theoretical question: is there a common subject matter of the moral. But it also raises a question which has been felt to be more pressing practically, in the face of deep disagreements about the source of moral values and about what is right and wrong: questions about the objectivity or truth of moral claims, their relation to reason, and whether or not they should be regarded as in some sense relative or subjective. In the face of deep disagreement about the source of (moral) value, we may think that the emphasis put on justification to each person, the emphasis on treating people in ways that they recognise as justifiable, must come at a second stage. It may look as if we need to appeal to something prior to any substantive values (about which there is disagreement) in order to justify the moral claims that each person has, that they should be treated in a certain way within our deliberations and appropriately respected by our actions. This would lead us to look for a justification in what Scanlon calls a *formal* manner, independent, that is, of the appeal to any specific value. This strategy, common to Kant, Hare (and, I think, Joseph Raz), consists in describing rational constraints on our deliberation and action which have reason-giving force independently of, and prior to, ideas of justification and justifiability (at least in Scanlon's sense). Responsiveness to morality is then grounded in rationality and impartiality.

However critics of formal accounts point out that we often fail to be moved by reasons, and therefore that procedural accounts do not seem to explain the distinctive reason-giving force of right and wrong. The thought is that understanding morality merely as rules of rationality fails to explain and highlight how wrongness is something worth caring about, and caring in a way which has a special reason-giving force.

Scanlon is sensitive to the elements of truth in both sides of this argument. So his strategy is to say that the idea of justifiability plays an important role in *shaping* the very notions of right and wrong, *and* in giving them their priority and importance. Now notice that, thus described, justifiability and justification to others become, in an important sense, a *formal procedure* which shapes what is right and wrong, but a procedure grounded in a *substantial* value that we all share. (This, of

course, is not exactly the way Scanlon puts it. But several of his observations, and the way he distances himself from “fundamental” forms of argument in the last part of the paper, seem to feed into this way of describing things.)

If I am right about this, we have a way of understanding right and wrong (and the central role they play in our moral thought) which is appealing, but also problematic. The appeal of this account is that it articulates the facts of moral experience which we highlighted above, namely that a sense of wrongness is bound up with a sense of the unjustifiability of some action; and the articulation is offered in a way that can be applied universally. In particular, the reason-giving force of considerations of wrongness is *explained*, an explanation which can be advanced against a background of diversity of conceptions of the ultimate, fundamental source of morality. Furthermore, there is, as Scanlon is right to conclude, a substantial gain to be derived from a better understanding of what we, and others, care about, and in particular from a careful apprehension of what it is that we agree and disagree about.

My only reservation is this. Part of the appeal of the lesson drawn from the historical example of the US in the late sixties (and the obvious pull which justifiability to others has on us), is that it highlights the importance we attach to the justice and rightness of the main institutions of society. More precisely, the plausibility of this lesson seems to reside in the need to find a (constraining) framework which guarantees equal respect for persons, and for their distinctive capacity for assessing reasons and justifications, in circumstances which we unavoidably share. In this context, justifiability to others constitutes both the substantive source of right and wrong – the source of their importance and priority over other values –, and the procedure to deliberate about their content, in the face of disagreement. Scanlon also seems right to think that the need and fruitfulness of this contractualist framework (and its insistence on principles that no one can reasonably reject) need not solely be applied to the main institutions of society, for it is just as plausible in the wider framework of what we owe to each other (especially through social policies). This wider part of morality is still situated in a context where there is a need for a better understanding of our disagreements with others in conditions of ‘co-deliberation’. But I am just not sure that the wider realm of morality requires us to elaborate principles through procedures of co-deliberation; and I am further unsure that such principles (once arrived at) would take the kind of priority and importance defined for the social realm over other values that we have. In sum, I am worried that to take this extra step causes the view to become moralistic, in a way which would be directly in contradiction with the very impulse behind the idea of justifiability to

others, and respect for their distinctive capacity to assess and evaluate what matters, and matters fundamentally for them.

At the outset I quoted, and agreed with, Scanlon's insistence on 'the value people set on the belief that their lives and institutions are justifiable to others.' Let me now qualify my agreement with this view. The value people set on the belief that their institutions are justifiable to others seems undeniable, and substantial. But people might be excused if they do not set the same value to constraining through justification to others the whole of their lives, their values and the priorities they give to them.

Véronique Munoz-Dardé,
Dept of Philosophy,
University College London,
Gower St, LONDON WC1E 6BT
v.munoz@ucl.ac.uk

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