

# A Contractualist Moral Philosophy

---

The Difficulty of Tolerance: Essays in Political Philosophy

T.M. Scanlon

Cambridge University Press, 2003

pp. ix + 273

ISBN 0521 533988 (hb) 0521 826616 (pb)

\$55/20

£40/14.95

---

*reviewed by Paul Smith*

**T**hese thirteen essays were first published between 1972 and 2001. Despite the subtitle, they contribute to moral (and legal), as well as political, philosophy. A brief introduction sketches the development of some of Scanlon's views. (More on this would have been welcome.) The essays are impressive not only in their quality, characteristic of Scanlon, but also in their range. As well as highly influential classics such as 'Preference and Urgency' and 'Contractualism and Utilitarianism', there are essays on freedom of expression, rights, due process, human rights, content regulation, quality of life, tolerance, inequality, punishment, promises and contracts. What unites these diverse essays, Scanlon says, is concern with the standards by which social institutions should be assessed. Scanlon is particularly concerned with the tension between assessment of institutions by the degree to which they promote human well-being and by whether they respect the rights of individuals. By deepening our understanding of the concepts of rights, justice, liberty and equality, each of which may conflict with the goal of well-being, Scanlon aims to place these values within a common moral framework (p. 1). This is the contractualist moral theory that Scanlon outlines and develops, according to which the rightness of actions, policies and institutions depends on their justifiability to individuals rather than on the value of their consequences (p. 3).

The centrepiece of this collection is 'Contractualism and Utilitarianism'. Scanlon contrasts these primarily not as normative theories but as accounts of the subject matter of morality. What Scanlon calls 'philosophical utilitarianism' is the thesis that the only fundamental moral facts are facts about individual well-being. This thesis about the subject matter of morality accounts for the appeal of utilitarian normative principles – if individual well-being is all that counts morally, maximizing its sum seems to follow (pp. 129, 131). In contrast, contractualism conceives morality as 'rules for the general regulation of behavior which no one could reasonably reject as a basis for informed, unforced general agreement' (p. 132). A principle is reasonably rejectable if it would cause serious hardship that alternative principles

would avoid (p. 182). (Individual well-being is thus morally significant not intrinsically but because its disregard is reasonably rejectable (p.140).) This contractualism has been developed in Scanlon's *What We Owe to Each Other*, in relation to that domain of morality, and by Brian Barry in *Justice as Impartiality*, in relation to social justice.

This contractualist account of the nature of morality leads to an account of its scope according to which the capacity to feel pain may mark its boundary. Thus, in contrast to other contractualisms, Scanlon's does not exclude from the protection of morality either beings that are not moral agents (e.g., nonhuman animals) or those unable to confer benefits on us (e.g. future persons) (pp. 135-6).

According to Scanlonian contractualism, the source of moral motivation is the desire to be able to justify one's actions to others on grounds they could not reasonably reject. Moral education may plausibly be understood as cultivating and shaping this desire, largely by learning what justifications others and you find acceptable (pp. 138f).

In 'The Diversity of Objections to Inequality', Scanlon argues that there are diverse reasons for substantive economic and social equality but they are based on fundamental values other than equality itself. Among the reasons for pursuing greater equality are the following: to relieve suffering or severe deprivation; to prevent exclusion of the poor from the normal way of life of society, stigmatizing differences in social status and feelings of inferiority, each of which large economic inequalities cause, and each of which in turn damages individuals' sense of self-worth and society's sense of fraternity; to avoid unacceptable control over other people's lives that wealth gives, both control over production and employment and excessive political influence; and to ensure the fairness of competitive processes, by ensuring more equal opportunities in education, employment and politics. Compared to these reasons, the moral ideal of a society in which people are equally well off (which may be appealing) lacks moral urgency.

In 'Human Rights as a Neutral Concern', Scanlon argues, in support of the idea that human rights should be an important determinant of foreign policy, that central human rights are neutral in the sense that they are recognised in diverse societies. This supports the idea that concern for human rights is neutral with respect to the main political and economic divisions in the world (p. 113). An objection to making human rights a determinant of foreign policy is the claim that human rights are not universal, but merely Western, and that to pressurize other countries to conform to our ideas is moral imperialism. In his reply to this familiar objection, Scanlon argues that its tolerant relativism is only apparent: to object to aiding victims of human rights violations on the ground that 'they' are culturally different from us, and live by different rules that do not recognise human rights, reveals an objectionable attitude of cultural and moral superiority (p. 118f). If the objector's goal is to 'let each society decide for itself', then this counts in favour of, not against, support for human rights (p. 122). This view of human rights informs John Rawls's Law of Peoples.

In 'Preference and Urgency', Scanlon argues against subjective preferences as the basis for the valuation of outcomes, and for an objective notion of the relative importance of various benefits and burdens (p. 27). An objective notion provides a measure of a person's well-being that is independent of their preferences – the objective urgency of interests is independent of the strength of subjective preferences (pp. 72, 82). This essay remains an important contribution to the ongoing discussion of the correct measure of well-being for principles of social justice.

Although they were published independently of one another and over many years, these essays interrelate and cohere more than is sometimes the case with such collections. The production, in this period, of a Kantian contractualist egalitarian-liberal political philosophy that apparently depends so little on Rawls's parallel construction is a remarkable achievement. I have merely picked out some highlights in this impressive body of work. These essays repay rereading and it is very useful to have them collected together and made more accessible. This no one could reasonably reject.

#### REFERENCES

- Barry, B. (1995) *A Treatise on Social Justice*, vol. 2, *Justice as Impartiality* Oxford: Oxford University Press  
Rawls, J. (1999) *The Law of Peoples* Cambridge, Mass. and London: Harvard University Press  
Scanlon, T.M. (1998) *What We Owe to Each Other* Cambridge, Mass. and London: Harvard University Press

---

Address correspondence to:

**Dr. Paul Smith**  
**Senior Lecturer in Ethics**  
**Division of Religion and Philosophy**  
**St Martin's College**  
**Lancaster**  
**LA1 3JD**  
**UK**  
**e-mail: p.smith@ucsm.ac.uk**