

Reasonable Reasons in Contractualist Moral Argument*

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I

A plausible philosophical characterization of moral reasoning need not be an oracle for the resolution of difficult moral questions for it to be a significant influence in how a person deliberates about such questions. Reflection upon a particular account may, for instance, have consequences for a person's standing judgments concerning the kinds of consideration that are relevant for thinking about moral problems. She may conclude that some of her views are mistaken, while coming to appreciate the relevance of kinds of considerations whose relevance she had been overlooking. A person may also develop a deeper understanding both of the interaction between morally relevant considerations and of why certain kinds of consideration are morally relevant at all. That a plausible characterization of moral reasoning have implications of this kind is a reasonable expectation to have of it, insofar as it wants to claim relevance for itself concerning how a person ought to deliberate about substantive moral questions.

Scanlonian contractualism offers a distinctive proposal for how best to characterize that aspect of moral reasoning concerned with principles that are to serve as standards of interpersonal criticism and as guides to deliberation to which persons are entitled to hold one another accountable. They are so entitled as a matter of respect for one another's value as a person. The proposal is that reasoning about such principles is best characterized by the question of whether or not a particular proposed principle for the general regulation of a certain kind of sit-

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uation is one that no one, suitably motivated, could reasonably reject as a basis for informed, unforced, general agreement.¹

This discussion explores the question of what the importance, if any, of the contractualist framework is for reasoning about what kinds of considerations are relevant for the assessment of whether or not a principle is reasonably rejectable.² Many have suggested that it is a serious failing of the view that, as a characterization of moral reasoning, it has no such import—that it is, in fact, epiphenomenal with respect to reasoning about substantive moral questions.³ As Thomas Pogge has forcefully put the point, “When Scanlon actually tries to settle substantive moral questions by reference to [the contractualist formula], he must invoke extraneous intuitions and considerations that (though he repeatedly assures the reader that they are not ad hoc) have no discernible basis in his formulas. Yes, Scanlon is right to caution us against the quest for a fully determinate algorithm. But one may surely expect something advertised as a ‘general criterion of wrongness’ to contribute more content than Scanlon manages to milk out of his formula.”⁴

That contractualism offers nothing like an algorithm for settling moral questions is not a threat to its plausibility as a characterization

1. What has generally come to be referred to as Scanlon’s formula, and which I refer to as a characterization of moral reasoning, was originally stated as follows: “An act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behavior which no one could reasonably reject as a basis for informed, unforced, general agreement.” See T. M. Scanlon’s “Contractualism and Utilitarianism” in *Utilitarianism and Beyond*, ed. Amartya Kumar Sen and Bernard A. O. Williams (Cambridge: Cambridge University Press, 1982). I discuss the interpretation of the formula at length in chap. 1 of my *Consensualism in Principle* (New York: Routledge, 2001).

2. Scanlon’s stated view is that assessing the reasonable rejectability of a proposed principle appeals to a background understanding of what he calls “generic reasons” (T. M. Scanlon, *What We Owe to Each Other* [Cambridge, Mass.: Harvard University Press, 1998], p. 204). This discussion takes up the question of how the categories of generic reasons are shaped along lines that are suggested, but not developed in detail, in *What We Owe to Each Other*.

3. The claim here is not that Scanlon does not make important suggestions throughout *What We Owe to Each Other* concerning how best to frame substantive moral questions for purposes of deliberation. The question is whether his suggestions are interestingly rooted in a commitment to contractualism. The concern is that there is no such connection. Any plausibility, then, that one might be prepared to attribute to Scanlon’s suggestions and conclusions in the sections of his book where he reflects upon how best to deliberate about particular kinds of moral problems ought not to have any bearing upon the plausibility of contractualism as a characterization of moral reasoning.

4. Thomas Pogge, “What We Can Reasonably Reject,” *Philosophical Issues* (annual supplement to *Noûs*) 11 (2001): 119–47. A similar concern is expressed by David Copp and David Sobel. See their review of Scanlon’s *What We Owe to Each Other* in *Economics and Philosophy* 16 (2000): 368–72.

of moral reasoning.⁵ The problem is that the view seems to offer no guidance at all, insofar as it appears to have nothing to say about what considerations are relevant for the assessment of the reasonable rejectability of proposed principles, nor does it offer any illumination as to why those considerations that do strike us as relevant may or may not in fact be relevant. This is a problem for the theory rather than just a fact about its ambitions. Questions concerning how we ought to frame a problem for purposes of moral deliberation—questions concerning what specific kinds of considerations ought and ought not to be morally relevant and how they should figure in correct deliberation with respect to one another—are just as much the appropriate subject of moral reasoning as what one ought to conclude on the basis of the relevant considerations. In fact, as I will later suggest, it is a mistake to think of concerns about whether or not one is seeing the situation correctly and the question of what one should conclude—all morally relevant considerations taken into account—as distinct processes of reasoning. Rather, individual reflection on substantive moral questions, as well as interpersonal discussions of such issues, moves seamlessly between concerns about how to correctly view a particular situation and what one ought to conclude. A plausible characterization of moral reasoning, then, cannot be one that is silent on deliberation concerned with whether or not it is correct to take certain kinds of considerations as relevant for coming to all-things-considered moral judgments concerning substantive moral questions. Such a view would at best be seriously incomplete and at worst just not plausible as a characterization of ordinary moral reasoning.

In the first part of the discussion, a case is presented for the claim that, though it is reasonable to expect contractualism to have something to say about how to characterize reasoning about both what kinds of consideration are morally relevant and why they are in fact relevant,

5. Offering a characterization of an aspect of moral reasoning is not, on my view, to offer a procedure for appropriate reasoning. I take a procedure to carry independent weight in establishing the validity of conclusions reached by following that procedure. That a conclusion was reached following a certain procedure, then, is meant to be, in itself, a reason for thinking the conclusion to be valid. As I read contractualism, it offers no such procedure. What it does do is make explicit various evaluative presuppositions of reasoning about what we owe to each other and the complex relations between these evaluative presuppositions. The importance of this kind of characterization has to do with its power to offer illuminating insights into the structure of ordinary moral deliberation and the normative commitments that are at its core. A characterization of this kind may influence standing judgments concerning the kinds of considerations that are relevant for assessing the validity of moral principles, but this does not amount to providing a procedure for reasoning about the validity of proposed principles. So understood, the classification of contractualism as a constructivist account of moral reasoning turns out, arguably, to be a mistake.

the view turns out to be largely silent on the matter.⁶ The second part of the discussion takes up this challenge on behalf of contractualism, offering the outlines of a contractualist account of deliberation concerning questions of moral relevance. The account that is sketched is both of general interest for understanding reasoning about issues concerning moral relevance and makes a specific contribution to the development of the contractualist characterization of moral reasoning on a matter about which the view, as it stands, remains murky.⁷

II

A

Contractualism is a characterization of moral reasoning associated with an important and intuitively familiar sense of moral wrongness, one that is operative in interpersonal contexts in which moral wrongs concern the way in which a person has, or stands to be, wronged by another. In particular, it characterizes reasoning concerning the minimal standards of consideration and conduct we must be disposed to comply with if we are to maintain relations with one another based on mutual respect for the value of one another as persons. The appeal to “persons” here should be understood to be an appeal to a specific normative ideal of the person, characterized by the capacity for rational self-governance

6. That this claim is certainly false can be argued on grounds other than those I consider in this discussion. As Scanlon presents it in *What We Owe to Each Other*, and as I have discussed elsewhere, contractualism is committed to what I call the “individual reasons restriction,” and what, roughly, Scanlon has in mind in claiming contractualist moral argument to be restricted to “personal reasons” (pp. 218–23). This restriction—which I take to be a structural feature of the contractualist characterization of moral reasoning—limits legitimate grounds for wanting to reasonably reject a principle to those implications of a proposed principle that a person may find objectionable because of their bearing upon her being able to live a rationally self-governed, meaningful life. One consequence of the restriction is that neither appeals to the aggregate value of outcomes, nor to the aggregate force of individual reasons, are valid grounds for wanting to reasonably reject a proposed principle. Contractualism, then, clearly does have substantive implications concerning the kinds of considerations that are relevant for the assessment of moral principles. For some further discussion, see my “Contractualism on Saving the Many,” *Analysis* 61 (2001): 165–70. Here, I set aside any discussion of contractualism and its anti-aggregative implications, in order to draw attention to the substantive implications for moral reasoning of the individual reasons constraint that are not as explicitly flagged by Scanlon in *What We Owe to Each Other*.

7. The account also serves a subsidiary purpose. Critics of contractualism often claim that contractualism is vague, because everything turns on what is meant by “cannot reasonably reject,” or just “reasonable rejection.” Exactly what critics who offer this objection are trying to get at is not obvious. One possibility is that the concern that is being gestured at is the one articulated by Pogge, in which case the discussion of reasoning about relevance should serve as the basis of a reply to their concerns.

in pursuit of a meaningful life.⁸

Following Scanlon, this normative ideal of the *rational self-governor* should be understood to comprise two distinct claims. First, that persons are creatures capable of recognizing, and acting upon, reasons. This places them among a select group of those animals capable of intentional action. Second, that persons “have the capacity to select among the various ways there is reason to want a life to go, and therefore to govern and live that life in an active sense.”⁹ The capacity to select among reasons is a specific way of exercising a general capacity to critically reflect upon one’s reasons, often referred to as the capacity to form *second-order* beliefs, or rational attitudes, about one’s beliefs and attitudes. In other words, a person has the capacity not only to be guided by her beliefs about reasons but also to reflect upon whether her beliefs are correct, select among her beliefs in ways that allow for the shaping of her life in distinctive ways, and reflect upon the quality of her selections. It is this general capacity, without which self-knowledge would not be possible, that distinguishes persons from other animals capable of intentional behavior. More importantly, it is in virtue of this capacity that there is the possibility of what Philippa Foot refers to as “second-order evil” in human life, which has to do with “the *consciousness* of being disregarded, lonely or oppressed.”¹⁰ The capacity to be conscious of reasons results, then, in a distinct kind of vulnerability, a vulnerability to what another’s reasons, or reasoning, concerning how it is appropriate to relate to oneself, says about oneself, or one’s value as a person.

Contractualism, as it is here understood, then, is a characterization of reasoning concerning moral principles which set out what persons may legitimately expect, and demand, of one another, concerning conduct and consideration, as a matter of basic mutual respect for one another’s value as rational self-governors. To be sure, this is not all of morality, but it covers much of what can be characterized as the morality of interpersonal accountability. Failures, or instances of wronging an-

8. In emphasizing the importance of the kind of life that is sought being meaningful for the person whose life it is, I do not mean to suggest that a person could not be mistaken in either her judgments concerning the reasons she has for living her life in certain ways, or her views about the kinds of commitments and cares that might constitute the basis of living a meaningful life. It is important, however, that there is a subjective aspect to leading a rationally self-governed, meaningful life. This consideration is particularly important for understanding, in particular cases, why it can be morally important that morality allow for the accommodation of a person’s judgments concerning what she takes to constitute the basis for leading a meaningful life, even though there is good reason to think her judgment mistaken. Relevant examples of this kind are considered in Sec. IV.

9. Scanlon, *What We Owe to Each Other*, p. 105.

10. Philippa Foot, “Rationality and Virtue,” in *Norms, Values, and Society*, ed. H. Pauer-Studer (Dordrecht: Kluwer, 1994), pp. 205-16, p. 210.

other, in this sphere of morality are failures of a kind—failures to be appropriately guided in one’s thinking and conduct by the recognition of the value of another as a person.

The validity of a principle, according to contractualism, depends on its being justified by reasons which it would be unreasonable for anyone, assessing the principle from her own point of view, to reject as constituting a sound justification of that principle. This presupposes that her assessment of the principle is conducted in light of the goal, common to all parties to the hypothetical discussion, of being able to justify her actions to others by appeal to principles that others, similarly motivated, would be unreasonable to reject.

In particular, the contractualist proposal is that in assessing a particular principle, what each assesses, from her own point of view, are the general implications of the incorporation of the proposed principle into the system of principles that any person can be legitimately expected to employ as part of the basis of her practical deliberations. Each is entitled to demand of other persons, as a matter of respect for her value as a person, that they incorporate such principles into the broader set of principles that structure their deliberations. In order to have at least a *prima facie* case for reasonably rejecting a principle, it must be the case that there are certain negative relevant implications of the proposed principle and that the objectionable implication is not an implication of some alternative principle, one that also satisfies the need whose satisfaction the objectionable principle was shaped to address. The appeal to reasonable rejectability does not, where questions concerning the validity of principles are concerned, function as a kind of primitive property that one somehow intuits.

Assessment of a proposed principle’s moral validity, then, requires an understanding of the kinds of considerations that any person (concerned that her understanding of how it is appropriate to relate to other persons be governed by interpersonally justifiable standards), assessing the implications of the adoption of the principle from her own point of view, has reason to take into account as relevant for the assessment of the proposed principle. Contractualism narrows the kinds of implications that are relevant for the assessment of a proposed principle to those that matter to a person because of their relevance for how her life might go. Scanlon refers to this as the class of “personal reasons.”¹¹

11. Limiting the relevant grounds for wanting to reasonably reject a proposed principle to the kinds of considerations that matter to a person because of their importance for how her life goes should not be confused with the thought that the grounds for rejection must always be agent-relative reasons. Whether or not a certain implication of a principle is one that a person can appeal to as grounds for wanting to reasonably reject that principle turns on whether or not the value at the basis of her objection is one that matters to her because of its bearing on her being able to pursue a rationally self-governed,

Contractualism does not specify in advance what kinds of considerations these might be in any determinate way, for example, by specifying a list of primary goods. Rather, the suggestion is that “we bring to moral argument a conception of generic points of view and the reasons associated with them which reflects our general experience of life, and that this conception is subject to modification under the pressures of moral thought and argument.”¹²

Scanlon does not go into detail concerning how a conception of morally relevant kinds of considerations is shaped. Impartiality in moral deliberation, however, goes all the way down, so it is reasonable to expect that the categories of kinds of consideration that are relevant for assessing the validity of moral principles themselves be impartially justifiable. That is, a justification of a principle as one that no one can reasonably reject needs to appeal to the kinds of considerations whose relevance to the justification are not reasonably rejectable. What is unclear about the contractualist account is how moral argument concerning the relevance of various kinds of substantive considerations is to proceed. The standard examples of contractualist moral argument are not obviously of much use here, as they tend to concern principles and so presuppose an understanding of the categories of relevant kinds of considerations, whose standing as categories of relevant kinds of considerations is what needs to be better understood.

B

The problem for contractualism here is not just that the theory, in its current stage of articulation, appears to be incomplete in an important way. Rather, there is reason to think that there is in fact nothing contractualism can say about reasoning about moral relevance. Why this is so will be clearer if we consider why consequentialist views do not appear to have a problem in this respect. Consequentialism, in its most plausible form as a distinctive view, tells us that moral evaluations, fundamentally, appeal to comparative claims about the promotion of aggregate well-being.¹³ So if there is a dispute about the moral relevance of a certain

meaningful life. This is a distinct question from whether or not the value at stake is agent-neutral or agent-relative; a value may, for instance, be agent-relative, yet its importance for her may not rest in its importance for being able to live a rationally self-governed, meaningful life. Here I disagree with Michael Ridge’s discussion of grounds for reasonable rejection; see his “Saving Scanlon: Contractualism and Agent-Relativity,” *Journal of Political Philosophy* 9 (2001): 472–81.

12. Scanlon, *What We Owe to Each Other*, p. 206; cf. p. 176.

13. There are consequentialists who would dispute this claim. I put the claim about consequentialism in this form on the grounds that only forms of consequentialism that fit this broadly welfarist characterization of the view appear to me clearly to embody what is appealing about consequentialism as a distinct theory about moral reasoning.

substantive consideration, consequentialism says that the dispute should be settled by considering the importance of the consideration for matters concerning the promotion of aggregate well-being.

Contractualism rejects the idea that considerations of well-being, or welfarist considerations, constitute a fundamental class of morally relevant considerations, in whose terms the moral relevance of any intuitively relevant nonwelfarist considerations must be explicable. Rejecting any fundamental asymmetry between considerations of well-being and other considerations, it claims that the moral relevance of considerations of well-being should be understood to be a product, not a presupposition, of moral argument. The rejection of the asymmetry has important implications for contractualism's credentials as a non-consequentialist moral theory, but this has a cost when it comes to explaining how reasoning about questions of relevance ought to proceed. For it is not obvious that there is anything substantive, like a conception of well-being, that is suitably independent of individual judgment, to which participants in the contractualist hypothetical conversation can appeal in disputes about the reasonable rejectability of a particular kind of consideration. Lacking a shared substantive commitment that can be appealed to in explicating grounds for taking a certain kind of consideration to be morally relevant, all that individual hypothetical discussants appear to be able to do is appeal to their intuitions that a certain kind of consideration is relevant for moral argument.

It seems, then, that contractualism is unable to provide much by way of illumination as to why, in considering the validity of a particular principle, certain kinds of consideration are relevant for the assessment of the reasonable rejectability of that principle. This is not to say that the judgments concerning the relevance of certain kinds of considerations for the assessment of a proposed principle cannot be further explicated. It is just that how best to explicate the relevance of particular kinds of considerations is a matter to which there is no reason to think that an understanding of the contractualist framework will contribute.

A conclusion of this kind would certainly put into doubt the claim to plausibility of any characterization of moral reasoning. This is particularly true in the case of contractualism, if one takes part of the appeal of the framework to be its ability to make better sense than consequentialist accounts allow for of certain important nonconsequentialist features of commonsense moral reasoning.¹⁴ A good reason for doubting this claim would be the suspicion that the development of rationales for these features in contractualist terms is driven by plausible intuitions about relevant reasons that are ad hoc, insofar as they are not in any

14. See my "Defending the Moral Moderate: Contractualism and Common Sense," *Philosophy & Public Affairs* 28 (1999): 275–309.

way connected to a commitment to the contractualist framework of moral reasoning. The appropriate reply to this concern is that the general commitments concerning moral reasoning embodied in the contractualist characterization both usefully illuminate why we take certain kinds of considerations to be relevant and help focus our attention on them as morally relevant. What is now in question is whether or not this avenue of response is one that is open to the defender of contractualism as an appropriate framework for illuminating the nonconsequentialist structure of reasoning about the conduct and consideration we owe one another as a matter of respect for the value of one another as persons.

III

A

The line of response to the challenge of the previous section that I want to explore is one that exploits an evaluative idealization that is central to the contractualist characterization of moral reasoning: that all those within the moral domain value relating to one another on terms that are mutually respectful of one another's value as persons. Scanlon refers to this evaluative commitment, one that is central to the general contractualist account of morality's authority, as the value of mutual recognition.¹⁵ The presupposed understanding here of the value of persons is one that locates the distinctive value of persons in the capacity for rational self-governance in pursuit of a meaningful life.

This is just the kind of categorical evaluative commitment that contractualism requires in order to rebut the charge that what it counts as a morally relevant kind of consideration is objectionably dependent on what individuals happen to be willing to accept. For though persons might have conflicting substantive views both about what is valuable and about the kinds of considerations that matter for moral argument, there are some kinds of consideration whose importance for moral argument anyone can uncontroversially agree with, as they appeal to the kinds of goods that virtually anyone capable of living a rationally self-directed worthwhile life has at least *prima facie* reason to care about.¹⁶

The elements of this list will consist of items such as "not experiencing chronic pain," "not being hungry," "being healthy," "being safe from attack," "having shelter from the elements," and so on. The list of what can be uncontroversially agreed upon will be influenced by

15. Scanlon, *What We Owe to Each Other*, p. 162.

16. The idea behind such a list is a familiar one. Mill, for instance, appeals to something like this in *Utilitarianism* V in the discussion of the kind of goods that are protected by principles of justice. Mill refers to protection of these goods, mainly security and physical nourishment, as the making safe of the very "grounds of our existence."

prevailing social and natural conditions. The importance of these values for moral argument lies in the fact that, first, they are values that it is reasonable to expect anyone to acknowledge as morally important (assuming certain natural and social conditions), from her own point of view, whether or not that person is concerned with being able to justify herself to others and whether or not she herself values them.¹⁷ That is, certain items on this list may not be important to a person in light of the kinds of pursuits that give her life meaning. It need not follow, though, that she has grounds for denying that the list of items is largely uncontroversial. She may, for instance, be living an unconventional, though successful and fulfilling, life, for which many of the items on the list are not necessary. Such a life may suit very few, and so she need not deny, in order to make sense of her own indifference to much of what may be on the list, that goods on the list are, for most, important for their living rationally self-governed, worthwhile lives.

Because the elements on this list consist of items that most concerned with leading a rationally self-governed, meaningful life have reason to judge to be important, they form the basis of a premoral consensus that can be taken to be the basis for taking them to be categories of relevant reasons in moral argument that cannot be reasonably rejected.¹⁸ In speaking here of “categories of relevant reasons,” what is meant is that they play an initial role in moral argument as general classes of relevant consideration, through which specific details of the situation to be assessed can be filtered. For example, the relevance of a family of four having a monthly income of only five hundred dollars can be explained by appealing to general categories of “having adequate nutrition,” “having shelter from the elements,” and so on. And because the moral relevance of these categories is to be explicated in terms of the general importance of the values they identify for living a rationally self-directed, meaningful life, the relevance of a specific consideration that can be situated under one of these basic categories is only relevant insofar as it has a bearing upon a person’s being able to lead a rationally self-governed, meaningful life.

What this line of thought does not appear to be able to adequately explain, however, is the moral relevance of many kinds of considerations

17. This ought not be read as a statistical generalization. One could come up with this list just by reflecting on the sorts of things it is plausible to take as necessary for pursuing a wide variety of recognizably worthwhile ways of living in the world as we know it.

18. It is no objection to contractualism that the best account of individual well-being be something that is determined independently of the contractualist framework. What matters is that the moral relevance of those aspects of individual well-being that do come to have a role in moral argument be explicable by reference to the evaluative ideas embodied in the contractualist characterization of moral reasoning.

that are intuitively relevant to moral argument, but are hardly so uncontroversial that their value could plausibly be understood to be the object of the kind of premoral consensus to which the account of relevant reasons, as it stands, appeals. If, for example, a person adheres to a particular religion, then, within limits, whether or not she is able to freely practice her faith is a dimension of her life in which things can go better or worse for her which ought to be taken into account in moral argument. However, the importance of some kind of religious dimension in a rationally self-governed, meaningful life is anything but uncontroversial; it is certainly not something that could be claimed to be part of a premoral consensus on what generally matters to individuals insofar as they are concerned with living rationally self-governed, meaningful lives. The same can be said of many other values that play an important role in the lives of many—such as the value of having, and raising, children, which might play a role in moral argument, but whose relevance cannot be explained by appealing to what anyone, insofar as they care about leading a rationally self-governed, worthwhile life, is likely, with good reason, to care about.

B

Though this is an apt concern, it is arguably not an objection to the proposed contractualist approach to characterizing reasoning about relevance. The suggestion is that for a kind of consideration to be morally relevant, it must be one whose relevance anyone, motivated by the commitment to the value of mutual recognition, and assessing the matter from her own point of view, has reason to endorse as relevant for moral argument, in virtue of her commitment to living with others on terms of mutual recognition of one another's value as persons. What matters, then, is that the reasons for endorsing a certain kind of consideration as morally relevant be such that anyone, in virtue of her commitment to the value of mutual recognition, has reason, arguably, to recognize that kind of consideration as relevant for moral argument.

There is no inconsistency, therefore, in its being the case that a person has reason to take a certain kind of consideration into account in reflecting upon the validity of a principle but does not have reason to take that kind of consideration into account in the same way, if at all, in other contexts where questions of what morality requires of each of us is not at issue.¹⁹ That is, all that the account is committed to is

19. The suggestion that there are certain categories of morally relevant considerations that each has reason to take into account for purposes of the assessment of the moral validity of a proposed principle does not, therefore, stand in tension with Scanlon's claims concerning the concept of well-being not having a natural home in general first-person practical deliberation.

making sense of how the value of certain kinds of considerations, and how they should figure in one's reasoning, is to be rationalized, in contractualist terms, for purposes of the assessment of the validity of moral principles.

Note that, in suggesting that the kinds of considerations that are identified as morally relevant for moral reasoning and argument may not retain the same relevance outside that context, it is not being suggested that relevant considerations count as good reasons because of their relevance for moral argument. Whether or not a certain kind of consideration is one that is a good reason, in the standard normative sense, is a matter that is wholly independent of contractualism.²⁰ All that is being suggested is that what can be justified by appeal to a certain kind of consideration will vary depending on why it is that the consideration is judged to be relevant in the first place.

Deliberating about whether or not a particular kind of consideration is one whose relevance for moral argument can or cannot be reasonably rejected, then, is not just a matter of ad hoc intuition mongering. Rather, one addresses oneself to a particular question, namely, "Can this kind of consideration be considered to be important for being able to live a rationally self-governed, meaningful life?" If so, it is the kind of consideration that those who are morally motivated have reason, in virtue of being so motivated, to recognize as relevant in their assessments of proposed principles.

Reflecting upon this kind of question is a matter of considering different ways of framing potential grounds for objecting to a proposed principle, the task being one of considering whether or not there are ways of looking at the proposed grounds of complaint such that it can be justified as relevant, under that description, for moral argument. Nagel characterizes reasoning of this kind with exceptional clarity: "It is really a problem about the interpretation of the familiar role-reversal argument in ethics: 'How would you like it if someone did that to you?' The answer that has to be dealt with is 'How would I like it if someone did *what* to me?' There is often more than one way of describing a proposed course of action, and much depends on which description is regarded as relevant for the purpose of moral argument."²¹ In contractualist moral argument, a relevant description of a person's grounds for wanting to reasonably reject a proposed principle would be one that makes explicit why it is that a person could be justified in demanding, as a matter of respect for her value as a person, that the considerations

20. Contractualism, then, is not theory about the normativity of reasons. I am grateful to Ulrike Heuer for impressing upon me the importance of being clear about this point.

21. Thomas Nagel, "Moral Conflict and Political Legitimacy," in *Authority*, ed. Joseph Raz (Oxford: Blackwell, 1990), pp. 300–324, p. 309.

to which she appeals be taken into account in moral argument.²² Note, however, that it may turn out to be the case that, though a particular implication of a proposed principle is one that a person would normally have good reason for finding objectionable, there are other features of the proposed principle such that the consideration in question proves not relevant to the proper assessment of the proposed principle. The notion of moral relevance at work here, then, is one that is always presumptive and defeasible.

IV

A

The complexity of contractualist reasoning about relevant reasons can be usefully clarified by considering some specific examples. In order not to be misled by the examples, however, it is important to keep two points in mind. First, contractualism characterizes moral reasoning as incorporating two important idealizations: all those within the moral domain are characterized as holding the view that to respect the value of a person is to respect her as capable of rational self-government in pursuit of a meaningful life and that the authority of the standards that constitute the morality of mutual respect for one another's value as persons is rooted in the value of mutual recognition of the value of one another as persons.²³ Together, these commitments constitute what it is to be committed to the standards by which one is guided being justifiable, to anyone suitably motivated, on terms no one can reasonably reject.

This point is important if the central aim of this part of the discussion is not to be seriously misunderstood. That aim is to illumine the process of moral reasoning that is operative when those who share a commitment to the evaluative claims that are at the core of the contractualist account but who otherwise may differ widely on a number of evaluative matters, come to appreciate the kinds of reasons others may have for finding objectionable a proposed principle concerning the regulation of some aspect of how persons relate to one another. An all-too-common reading of contractualism emphasizes only the idea that legitimate principles are those that no one can reasonably reject ("the

22. Presupposed here is a substantive understanding of a "good" or "flourishing" life that has enough content that is independent of what people happen to want, to support objective judgments concerning what may be of importance for enabling a person to realize her capacity for rational self-governance in pursuit of a meaningful life, and the kinds of goods or activities that might figure in the content of such a life. The defense of such an understanding is a matter that Scanlon undertakes in chap. 2 of *What We Owe to Each Other*; the defensibility of this view is presupposed by contractualism, but its defense is not a matter that is distinctively contractualist.

23. Scanlon, *What We Owe to Each Other*, p. 162.

formula”). The significance of the evaluative commitments that contractualism posits as driving those who are party to the contractualist hypothetical discussion to seek convergence on principles no one can reasonably reject is given no recognition.

So understood, concerns about the account being devoid of content, and questions about the significance of the appeal to reasonableness, make sense as natural, and sensible, doubts. Reasoning about relevant reasons is importantly tied to how morality’s authority—or the concern that drives parties to the discussion toward consensus—is understood. If the centrality for contractualism of its account of moral authority, and the assumed understanding of the value of persons, is not appropriately taken into account, it is easy to see how it is that reasoning about relevant reasons comes to be understood as a matter that is outside the ambit of the contractualist account.

The examples which follow, then, ought not to be read as examples of how actual individuals with divergent points of view might reason together. Rather, they aim to illumine, using the device of a hypothetical discussion, the reasoning of a person whose evaluation of a principle is informed by the general evaluative commitments that contractualism embodies, as she reflects upon questions of both whether or not her views concerning the kinds of general considerations that are morally relevant are justifiable, and whether or not there are relevant considerations that she is failing to take account of in her assessment of a principle’s validity. Attention to this latter concern, in particular, requires sensitivity to the kinds of legitimate concerns about a proposed principle that could be advanced by others, also concerned to relate to others on terms that are not reasonably rejectable, but whose general points of view are structured by evaluative commitments quite different from one’s own. The concern with the justifiability of a proposed principle from points of view whose evaluative commitments may differ greatly from one’s own, then, is rooted in a concern to try to take into account all relevant considerations in one’s evaluations of proposed principles.

It may, in fact, be the case that those whose evaluative points of view differ greatly from one’s own do not share the normative ideals that animate the contractualist characterization of moral reasoning, resulting in their having a very different understanding of what it is for persons to relate to one another on terms respectful of one another’s status as persons. Or, it could be that there is reasonable disagreement concerning general evaluative matters having nothing in particular to do with the contractualist framework or the sphere of morality it is concerned with characterizing. General evaluative matters of this kind, though they are exogenous to the contractualist framework, may nevertheless play an important role in shaping the assessments that different

individuals make concerning the reasonable rejectability of a proposed principle. A person may therefore be justified in taking how she has related to another to be justifiable by appeal to a principle no one can reasonably reject, without it being the case that the other will in fact, or is likely to, understand one to have given her the kind of consideration to which she is entitled in one's thinking about how it is appropriate to relate to another. Contractualism does not recognize this as a difficulty, as what matters is that one be justified, from one's own point of view, in assessing the principles that structure one's practical deliberations to be justifiable to other persons as respectful of their value as persons.²⁴

The examples may also be misleading if they are read as being more than just examples that characterize reasoning about relevant reasons that ought to be taken into account in reaching an all-things-considered moral conclusion about the reasonable rejectability of a principle. The issues the examples take up are complex; the discussions of them are in no way meant to provide an exhaustive survey of the relevant considerations in each case, let alone suggest tentative all-things-considered conclusions. They are only meant to clarify the grounds for claiming that certain considerations ought to be recognized as relevant in the cases that are considered.

B

In this spirit, then, consider, first, the case of Joel, in whose society having done military service has a similar importance for the opportunities available to a person that a university degree does in North American society, that is, that of playing the role of a signaling device that opens many doors in the society, both socially and in the labor market, that would otherwise be closed. Joel is barred from participation in military service because he refuses to cut his hair. He refuses because his religious beliefs are such that not cutting one's hair is a public symbol

24. Contractualist reasoning, at least in this respect, is not analogous to the problem to which Rawlsian discussions of public reason are addressed. One of the motivations for reasoning publicly in Rawls's political liberalism is that citizens with divergent comprehensive moral views (e.g., views concerning morality's authority) can interact on terms of respect for one another as citizens and know themselves to have been respected as citizens, despite their divergent comprehensive views. The last condition is important if public reason is to play a role in securing the values of political stability and democratic legitimacy. Concerns about stability, etc., do not, however, have a role to play in contractualism, as it is a comprehensive moral view and not a political view in the sense that Rawls casts his own view as political. Contractualist reasoning about how to relate to another with respect for her value as a person will guide one in how to relate to that person so as to be seen in one's own eyes as having related to her with the respect she is owed. One cannot, however, expect to be seen to have done so by the other if that person's own comprehensive view is not contractualist or is a view that embodies similar evaluative commitments.

of one's respect for divine authority, and, more importantly, it is a symbol of respect that his faith, as he understands it, demands of him. As he understands the matter, then, how he wears his hair is not a matter over which he has control, insofar as it does not present itself to him as a choice. To fail to wear his hair in the prescribed manner is to fail to adhere to the requirements of his faith.

The military's grounds for excluding Joel from service is that there are strong reasons why a military unit needs to discourage individuality and emphasize uniformity. Soldiers, it is claimed, in order to perform their functions properly, need to think in terms of "we," not "I," and a lack of uniformity among the ranks is inimical to that kind of thinking. The justification for Joel's exclusion, then, appeals to the principle that public organizations are entitled to insist that members comply with certain standards that may exclude some members of the society, to the extent that the standards are justified by the legitimate purposes of the organization.

Joel believes that his case should be an exception to the rule, as his inability to fully comply with the military code's requirement of uniformity in appearance is that doing so would require him to act against his faith. His reason for wearing his hair as he does is not because of fashion or laziness, and his refusal to cut it in order to conform with military discipline is not a case of his refusing to adjust his preferences in light of what is required of him in order to succeed in the kind of life he has chosen for himself. In fact, to characterize the basis of his appeal as having anything to do with any kind of preference is to seriously mischaracterize it, as his refusal is motivated (as he sees it) by a demand of divine authority. From Joel's point of view, he has strong grounds for demanding that his case be accommodated as an exception to the general rule; a reluctance to do so can only be based, he believes, on a failure to properly understand the grounds of his demand that his case be accommodated.

Max is a secular defender of the military's point of view. He vacillates between agnosticism and a somewhat vituperative atheism. He wonders why anyone should take Joel's appeals to his faith any more seriously than someone who claims that the military has no right to impose any kind of conformity on its members. The military, in Max's thinking, has good reason for its demands, and Joel is simply refusing to recognize that, if he wants to be part of the military, he has to change his ways. In other words, though Joel claims that his refusal to cut his hair goes much deeper than a preference or lifestyle choice, Max can see no reason for treating his refusal as other than an expression of something like a preference or lifestyle choice. Joel's appeals to the demands of his faith have no other significance for him, and he sees no reason why

he should adjust his thinking about the moral significance of such appeals.

Are there reasons for its being unreasonable of Max, given his commitment to relating to others on terms that no one can reasonably reject, not to attach a greater significance to Joel's appeals to faith than that of a mere expression of preference? The contractualist claim is that there are, if one understands Joel's appeal to his faith as an appeal to what he takes to be an important truth that is central to his understanding of what makes his life meaningful. The value for a person, given her status as capable of rational self-government in pursuit of a meaningful life, of being able to guide her life in light of what she takes to be important truths that are central to her understanding of what makes life meaningful is a value the moral relevance of which it would certainly be unreasonable for Max to deny. Seen in this light, Joel's appeal to his faith gives him a much stronger case than he would have were he appealing to just a strong preference, for claiming that the principle under which he is excluded from military service needs to be revised in order to accommodate the needs of the religious who wish to pursue a military life.

Notice that it is important to this defense that the truths in question must have important consequences for a person's understanding of what it is to live a meaningful life. For example, certain North American indigenous peoples were known to believe that if their picture were taken, they would lose their immortal soul. One does not have to believe what they believe to be true, or even believe in immortal souls, to accept that, in photographing a person who holds such views, one would clearly be wronging her. It does not require much imagination to conceive of how she would see her life if she thought her immortal soul had been taken from her. Other controversial beliefs this person may have, however, that are important for her understanding of how she should live her life, but are not central to her understanding of what gives life its meaning, are unlikely candidates for recognition as having a moral relevance that counts in favor of their accommodation. She may, for instance, believe that the earth is flat, but this is not a reason that counts in favor of a moral prohibition that would underwrite a case for her being wronged by the display of globes in public places where she is bound to encounter them. This is because her belief in a flat earth is not one that informs, in any significant way, her understanding of what gives life its meaning.²⁵

25. If, on the other hand, her belief in the flat earth were to be cast as part of a web of general spiritual or religious views that underpin her understanding of life's meaning, her aversion to the display of globes in public places would be correctly understood to count against the moral permissibility of displaying globes in public places. Note, though,

This is not to deny that a person's belief that the earth is flat may have moral significance. It may be relevant as a belief that threatens to derail rational self-government. For example, if a person believes that fluoride is a deadly poison, this would be a consideration that ought to be taken account of as morally relevant. Beliefs about what is poisonous have an important role to play in directing how one lives one's life, and this would be especially true if one thought that a deadly toxin was pouring out of the taps. Note, though, that this is not a reason for not putting fluoride in the water supply; it is more likely to be grounds for taking measures to placate the fears of those who do hold these beliefs. In this respect, the case is importantly asymmetrical with that of Joel's faith. For the person's belief about the water supply, in virtue of its being just a belief about the way the world is, is the kind of belief that ought to be sensitive to verification and falsification by recognized methods of scientific inquiry. An individual's rational self-governance is better respected by placation and correction, rather than the accommodation, of such beliefs.

Now, the significance of the proposed characterization of Joel's appeal to his faith may be that it provides grounds for Joel having a case for at least a *pro tanto* rejection of the principle invoked to defend his exclusion from the military, in favor of a principle which accommodates the needs of his faith in a way that does not require sacrificing the legitimate interests of a well-functioning military organization.²⁶ From Joel's point of view, though, the contractualist characterization of his appeal to the importance of his faith may strike him as not so much a matter of offering a characterization of his appeal, but of just substituting his appeal with something else. The basis of Joel's complaint,

that the case would still be asymmetric to that of Joel. Military service not being an option in life available to Joel has a general importance for the options available to him in life that gives the conflict between his participation in the military and his religious convictions a moral gravity it would not otherwise have. In the absence of such a connection, Joel's faith debarring him from participating in military service would not be as great a burden for him. Note also that, if the globe example is revised such that the belief in a flat earth ought to be recognized as a reason that counts in favor of its accommodation, there is still no reason to think that it would be a decisive consideration. A determination that the person is wronged by the display of globes in public places requires taking into account many other considerations, especially the costs to others of their not being so displayed. Such considerations would all have to be taken account of as part of all relevant considerations considered judgment as to whether or not a prohibition of the public display of globes is justifiable. See Sec. VI for further discussion of this point.

26. Notice that what matters here is that Joel's complaint is characterized in a way that clarifies its import for rational self-governance. It does not matter whether or not this characterization involves a more abstract, or general, characterization of the initial basis of the complaint, or a more specific, less general characterization of the complaint. The issue is not one of abstraction or specificity, but of focusing on the relevant aspect of the basis of the claim. Thanks to Leif Wenar for helpful discussion of this point.

from his point of view, is that complying with the requirements of military service, as they currently stand, requires that he disobey what is required of him by what he understands to be divine authority. It is because he thinks it is unreasonable to ask anyone to disregard divine authority that he thinks the military must alter its demands. Though respect for a person's value does provide grounds for a person's being entitled to be able to live her life in light of her convictions concerning what gives life its meaning, this is a consideration that strikes Joel as just being beside the point.

What this draws attention to is that, on the contractualist characterization of moral reasoning, there is always a potential gap between a person's understanding of her grounds for wanting to reasonably reject a principle, and how those grounds end up being represented for purposes of moral argument.²⁷ Moral argument is only concerned with one's complaint against a principle insofar as that complaint draws attention to the implications of the principle for meaningful self-government. It is always possible, then, that one's initial grounds for wanting to reasonably reject a principle will be transformed, in the course of moral argument, into something quite different. This isn't to raise doubts about the importance of the kind of consideration that emerges. Rather it is just a recognition that there will often be a gap between the sense of what is important that one draws upon in general practical deliberations, and the understanding of what is morally relevant that one develops through reflecting on whether or not different kinds of considerations can, in some way, be understood to be relevant for moral argument.

Two things are worth noting here. First, recall that all Joel and Max are committed to on this account of reasoning about relevance is recognizing religious faith as the kind of consideration that can be relevant for thinking about what legitimate claims persons have against one another, insofar as all are committed to living on terms of mutual recognition of one another's value as persons. But the kinds of considerations they recognize as relevant as the basis of the importance of those considerations *for purposes of moral argument* need not have general implications for how each of them values, and understands the value of,

27. In some cases, the gap may be so large that it is questionable as to whether there are in fact people like Joel who are both devoutly religious and whose understanding of moral authority is roughly as contractualism characterizes the basis of morality's authority. It is no part of contractualism to suggest, however, that there are such people. The suggestion here is only that, in order to take into account all legitimate objections to a proposed principle, one must consider the kinds of considerations that others, whose points of view differ from one's own to varying degrees, could advance on their own behalf were they to evaluate the proposed principle, in contractualist terms, from the point of view of their own beliefs and evaluative commitments.

religion in contexts outside that of reflection and debate concerning the requirements of morality. Max may continue to believe that religion is not important, for all that is required of him is that he recognize that others take it to be a source of important truths concerning what gives their lives meaning. For this reason, many kinds of considerations having to do with religion will be considerations whose significance for moral argument cannot be reasonably rejected. Joel, on the other hand, may continue to believe that the importance of religious claims, as they are understood in moral argument, does not do justice to the importance of the values in question.²⁸ For purposes of evaluating the justifiability of the principles which guide how one regulates oneself in how one relates to other persons, this is not important. What matters is that the proposed way of understanding the moral importance of Joel's appeals to his faith is one that is justifiable as respectful of the importance it could have for him in light of his status as a person.

That moral reasoning should be associated with this kind of cognitive dissonance may at first seem odd. It is, however, a reasonable way of understanding an intuitive sense—one that influences a great deal of moral theorizing—that there is something distinctive about moral reasoning that sharply distinguishes it from practical reasoning addressed to other kinds of concerns. This sometimes leads to talk of moral reasoning being a matter of occupying a distinctive point of view. A familiar gloss on this idea is one that Sidgwick offers, characterizing the moral point of view as one in which the only relevant considerations for purposes of moral deliberation are those of concerning general human welfare, impersonally considered. This is sharply contrasted with a nonmoral point of view, characterized as that of the rational egoist. Contractualism's understanding of the moral point of view is comparatively deflationary, characterizing it in terms of how it is that a schema of morally relevant values develops out of attempts to understand how one must relate to others in order to respect their commitments whether or not one shares them. Part of what makes this schema distinctive is that, though it is the basis of a shared understanding that informs co-deliberation concerning the legitimacy of proposed moral principles for the general regulation of behavior, it in fact need not correspond to anyone's particular point of view. In this sense, it is an impersonal way of thinking about the kind

28. This is not incompatible with his acceptance of the proposed understanding of the importance of religion for purposes of interpersonal political justification in a democratic and pluralistic society.

of consideration and conduct persons may legitimately expect, and demand, of one another.²⁹

Second, the discussion of the moral relevance of appeals to faith has suggested one way in which the importance of such appeals, for purposes of moral argument, can be understood. There are, however, often several legitimate ways of understanding the moral importance of a kind of consideration, and those having to do with religion are no exception. The way in which it proves to be appropriate to understand the relevance—out of a range of legitimate possibilities—of a particular consideration is a matter that depends on the principle in question. For instance, what may be in question is whether justice demands the closing of institutions devoted to organized religious worship, on the grounds that organized religion is often a vehicle for the transmission of harmful prejudices, resulting in the stigmatization of those who are not affiliated with it in some way, or who do not share the religion's values. One might argue that respect for meaningful individual self-government demands the elimination of such socially pernicious institutions.

The objections of the religious to this proposal focus, let us say, on appeals to the importance of their being able to gather together in a public place to worship God, simply because this is what God demands of the faithful. One way the significance of such appeals may be understood in contractualist moral reasoning will build upon the fact that individuals do strongly identify with religious communities, such that a person's religious identity, one associated with group membership, forms an important part of her individual practical identity. It is perfectly reasonable for a person, as part of leading a meaningful, self-governed life, to attach importance to being able to shape her practical identity through identification with different kinds of respected communities in her society, without experiencing public political disapprobation. Once again, this way of understanding the importance of being allowed to participate in public religious worship may correspond to no one's particular self-understanding of its importance outside the context of moral deliberation and justification. That is not important. What matters is that it brings to the forefront grounds for thinking that being able to engage in public religious worship has a moral importance that no one, suitably motivated, can reasonably reject.

Now, the discussion thus far has focused on examples concerning

29. As Scanlon elegantly puts the point, "our different individual points of view, taken as they are, may in general be simply irreconcilable. 'Judgmental harmony' requires the construction of a genuinely interpersonal form of justification, which is nonetheless something that each individual could agree to. From this interpersonal standpoint, a certain amount of how things look from another person's point of view, like a certain amount of how they look from my own, will be counted as bias" ("Contractualism and Utilitarianism," p. 117).

religion, but this should not be taken to be grounds for thinking of the contractualist approach as in some way exclusively concerned with matters of political morality. Consider, for example, the case of Simon, who believes that he has been wronged because he is not allowed to enroll in a class on gender issues that is exclusively aimed at women. Simon believes that it is wrong to exclude another person on the basis of race, gender, age, and so on, so he should be allowed to take the class. He is told by the instructor that he ought not to take his exclusion personally, but that it is important that there be opportunities open for women at college to discuss things freely, without the presence of men.

Simon's response to this is that, if he decided to run a class that was closed to women, on the grounds that it is important that there be opportunities for men to gather together and discuss things freely, without the presence of women, his suggestion would be met with ridicule and judged offensive. Why should wanting to gather together exclusively with one's own justify anything, let alone the violation of a basic moral principle like the prohibition of discrimination based on age, race, gender, or physical handicap? As far as Simon is concerned, no relevant reason, let alone a full justification, has yet been given for the asymmetry between the moral status of offering classes that are gender exclusive.

One reason that suggests itself on the contractualist approach to moral reasoning is that, given the history of the power imbalances that have long characterized gender relations, there is at least some reason to think that provision of forums for academic research and discussion that are exclusive to women is something that a woman may have reason to value as something that is important for enabling meaningful rational self-governance. Further, there is no obvious reason to think that the exclusion of men from such forums is intended to be expressive of any kind of contempt or general disrespect for men that a male would have reason to object to on the grounds that the activity in some way constitutes a denial of the capacity of men to pursue, or of the value of their pursuing, meaningful, self-governed lives. If that is so, then it is unclear that Simon is even justified at the outset of claiming himself to have been wronged on the basis of discrimination.

Simon, however, could point out that however good the intentions behind the policy of exclusion may be, and though they are not intended to express the view that the opinions of men on the topics with which the class deals are not of any value, or are of lesser value, it is important to distinguish between what is intended and what it is reasonable to take as having been expressed. What matters for the moral evaluation of the policy is whether or not it would be unreasonable for a male to take the message of the policy to be that his views on the relevant questions are of no value. It is far from clear that a male student would be unreasonable to take the policy to be expressive of a devaluation of

his views on certain matters, or perhaps skepticism about his ability to make helpful contributions to fruitful discussions of them. The dismissal of Simon's having legitimate moral grounds for objecting to the policy of exclusion is simply too hasty.

The issues touched upon in these examples are complex, and the discussion in no way intends to suggest that the competing reasons have been properly vetted, let alone that enough has been said about them to draw any conclusions about what principles can or cannot be reasonably rejected. The important point is that the normative commitments embodied in the contractualist characterization of moral reasoning do lead one to consider, as relevant for the assessment of whether or not a proposed principle can or cannot be reasonably rejected, various kinds of considerations whose moral relevance is intuitively plausible. And this is so not just of the considerations themselves but also of the contractualist rationales of their intuitive relevance.

Admittedly, nothing said so far dispels the thought that the kinds of considerations that are marshaled as relevant in contractualist discussions concerning the content of a defensible morality are other than the product of careful reflection and intuition of an ordinary kind, such that one could come to see these considerations as relevant through noncontractualist lines of reasoning. That, however, is not a concern, as doing so is not the aim of this discussion. What it does aim to do is show that the contractualist apparatus and the kinds of considerations that are identified as relevant for the assessment of principles are not wholly unrelated to one another. What should be clear by now is that the contractualist apparatus acts as a lens that focuses attention both on what kinds of considerations are relevant for moral reasoning about the validity of particular principles and the kinds of considerations that are relevant for making sense of the salience of those kinds of considerations. Coming to see certain kinds of considerations as relevant on the contractualist account, then, is an intuitive exercise but certainly not one that amounts to an ad hoc appeal to intuition.

V

A

A frequent objection to this account of reasoning about moral relevance is that it doesn't seem to exclude many kinds of considerations as not morally relevant. For instance, one might think that all kinds of ways of interacting with others, as well as forms of relationships, that are thought to be inconsistent with relations of mutual respect, might prove to be justifiable on this view, as there are ways in which such relationships can be positively characterized in terms of their value for a person's leading a rationally self-governed, meaningful life. For instance, one

might characterize sexual relationships between faculty and undergraduates as having an importance for rational self-governance by appealing to the value of being free to explore and develop one's sexual identity by engaging in sexual relationships with persons whose maturity is greater than one's own.³⁰

It is certainly true that the view is quite ecumenical, insofar as it often leads to the identification of morally relevant considerations that count in favor of relationships and conduct that intuitively seem unjustifiable. This should be taken to be a positive implication of the view, rather than one that detracts from its plausibility. Seeing it as a negative implication may be the result of not distinguishing between (a) kinds of considerations that are generally relevant for assessing proposed principles, (b) particular considerations that are relevant for assessing a proposed principle, and (c) the judgment that, all relevant particular considerations considered, a principle is one that no one, suitably motivated, could reasonably reject. In discussing the issue of relevant reasons, the concern here has been with *a* and *b*, not *c*.³¹ That is, being able to identify features, say, of a particular activity that count in favor of its being morally justified should not be taken as grounds for thinking that the activity is morally justified. For instance, in the faculty-student example, because the proposed understanding of morally relevant reasons lends itself to identification of aspects of that kind of relationship that may count in favor of it, it in no way follows that such relationships would be defensible on the basis of a principle no one can reasonably reject. To so conclude is to ignore the many valid considerations that count against such relationships being compatible with the requirements of relating to others on a basis of mutual respect, considerations

30. This is not a fanciful suggestion. Something very much like this was suggested in a *Harper's* discussion forum devoted to sexual relationships between teachers and students. It was also suggested to me at a presentation of an early version of this material as a possible justification for certain kinds of homosexual relationships between young boys and much older men. Note that it does not matter whether or not the proffered characterization captures what usually attracts individuals to relationships of this kind. It is enough that the characterization identify a valid aspect of the activity that a person could legitimately cite as valid grounds for caring about that kind of activity.

31. Though *a* and *b* are clearly related to one another, not least because a sense of the kinds of considerations that are generally relevant for the assessment of proposed principles is something that develops from the consideration of particular cases. I am inclined to classify the consequences of interactive effects between relevant considerations as having to do with *c*, coming to an all-things-considered judgment about a proposed principle. What this suggests is that all-things-considered judgments in contractualism, concerning the reasonable rejectability of proposed principles, ought not to be understood as a matter of simply weighing up the relevant reasons. This is a matter that cannot be pursued here. Compare Shelly Kagan, "The Additive Fallacy," *Ethics* 99 (1988): 5–31.

that would be taken into account in a proper assessment of their moral status.

Note also that it is part of the view that whether or not there is good reason to value a particular activity or good under a description that draws attention to a particular aspect of that good activity is a matter about which a person could be mistaken. This alone is a significant source of constraint on the kinds of considerations that can even be considered as candidates for having relevance for moral reasoning.

The real importance of the faculty-student example, and examples like it, is not that they show the proposed characterization of reasoning about relevance to be flawed but that they draw attention to the degree to which thinking about relevance in the proposed terms is helpful for sharpening awareness of the complexity involved in judgments of moral justifiability or unjustifiability, even in cases about which we may intuitively be very confident of our all-things-considered moral judgments.

B

A further advantage of the proposed approach to understanding reasoning about relevance is that it is consistent with contractualism's rejection of the notion of well-being having any particular special status in the theory. The view sketched here vindicates what Scanlon suggests in the original discussion of contractualism: considerations of the implications of proposed principles for individual well-being have obvious relevance in contractualism. They matter, however, not because the promotion and protection of welfare constitute a distinctive and foundational class of morally relevant considerations but because such considerations matter for a person being able to lead a rationally self-governed, meaningful life.

The rejection of the idea that all morally relevant considerations need to be understood, in some way, as constituting a kind of setback for a person's interests, allows for a clearer understanding of the moral relevance of various considerations concerning aspects of how persons might relate to one another that have nothing obviously to do with a person's welfare or well-being. For instance, having another interfere with one's life in ways that involve the subversion or supplanting of one's judgment, especially in matters concerning how one's life goes over which there are reasons for a person having sole authority—for example, paternalistic treatment—is morally objectionable. It is not obvious, though, that what is objectionable in having another relate to oneself in such a way is principally rooted in considerations having to do with how well one fares as a consequence of being related to in this way. Something closer to the failure of the other to adequately recognize one's value in her deliberations by not attaching the appropriate importance, with respect to certain matters, of one's leading a life that,

to the extent it is intentionally directed, is self-directed, is closer to the heart of the matter.

A similar point can be made about what accounts for various kinds of insult and social stereotyping being objectionable. Though being insulted or stereotyped may result in negative implications for one's well-being, they are not central to what makes such conduct objectionable. The way in which such behavior constitutes a denial of the value of one's exercising one's capacity for leading a self-governed life is more central, arguably, to what makes such behavior a way in which persons can be seriously wronged. And though the matter cannot be adequately discussed here, the identification as relevant, and the explanation of their relevance, of certain non-well-being considerations having to do with the importance of appropriately recognizing another's value as a person in one's deliberations arguably plays an important role in the contractualist analysis of the rationales for various nonconsequentialist aspects of moral reasoning.³²

C

Finally, the discussion so far might lead one to believe that moral reasoning, as contractualism portrays it, proceeds in stages. First, a consensus is reached on categories of relevant values, which form the basis of a common language for moral argument over the rejectability or nonrejectability of principles. In the second stage, this common language is put to use in considering the validity of potential principles for the general regulation of behavior. Such a view is certainly suggested by an understanding of the role of categories of relevant values in contractualist moral argument as analogous with that of the primary goods in Rawls's original position construction.

The analogy, however, can be misleading. Rawlsian primary goods are meant to be used to address principles for a specific problem: that of reaching agreement on principles of justice for application to the basic structure of society. They are, in themselves, a complex piece of moral theory, presupposing both a view of society as a cooperative venture and a view about the division of responsibility between the individual and the state.³³ There is no problem analogous to principles for the regulation of the basic structure to which contractualism addresses itself and no set of situations, which can be defined on a priori grounds, that call for moral argument. As a result, there is no fixed list of cate-

32. See Kumar, "Defending the Moral Moderate," and R. Kumar and D. Silver, "The Legacy of Injustice: Wronging the Future, Responsibility for the Past," in *Historical Justice*, ed. Lukas H. Meyer (Baden-Baden: Nomos, forthcoming).

33. See Rawls's "Social Unity and Primary Goods," in *Collected Papers*, ed. S. Freeman (Cambridge, Mass.: Harvard University Press, 1999), pp. 359–87.

gories of relevant values, analogous to Rawlsian primary goods, which have a role to play in contractualist moral argument.

Rather than being two separate processes, the development of categories of values and the consideration of the validity of different principles proceed together. The fundamental question in contractualism is, "Which principles for the general regulation of behavior can no one reasonably reject?" As we encounter new situations—which require either the formulation of new principles for respectful deliberative regulation or the further specification of familiar principles—we gain new insight into the moral relevance of certain kinds of considerations whose relevance is not in question, and come to recognize the relevance of other considerations that we have not been taking into account. Some of these may be subsumed under familiar categories of relevant kinds of considerations, while others will lead to the development of new categories. The categories of morally relevant considerations that are central to contractualist moral argument turn out, in fact, to be quite fluid and open-ended.

VI

The original objection asks: What role does the contractualist framework play in reaching the kinds of substantive conclusions concerning the reasonable rejectability of specific proposed principles that Scanlon offers us in the later chapters of *What We Owe to Each Other*?³⁴ One possibility is that there is no relation between the two at all. Many of the discussions of particular principles in the book are sensible and persuasive. This, however, only speaks to Scanlon's being a sensitive and imaginative moral philosopher. There is no reason to think that sensitivity to be either informed or helpfully illumined by the contractualist framework.

The discussion thus far has aimed at making clear that this position is an untenable one. The contractualist framework embodies important normative views that play a significant role in fixing the kinds of considerations that are at least potentially morally relevant for the assessment of proposed principles and what the grounds are for their being relevant. It is not obvious, though, that in dispatching the possibility of there being no relation whatsoever, the original objection has been adequately addressed. What that objection draws attention to are the specific all-things-considered judgments that Scanlon makes concerning the reasonable rejectability of particular proposed principles. All that has been thus far argued for is that the general domain of potentially relevant considerations that Scanlon draws upon in discussing the reasonable rejectability of specific principles is one that is largely shaped

34. I am here grateful to two anonymous referees for *Ethics*, whose questions prompted this section as a response.

by certain normative commitments that animate the contractualist framework. This still leaves open the question of what the relation is between the framework and a great deal of the reasoning that informs the specific all-things-considered judgments concerning reasonable rejectability that are put forward.

Specifically, one might wonder what guidance the framework provides, if any, in the move between the set of potentially relevant considerations to the specific considerations that are taken to be in fact relevant, in particular ways, for the assessment of a proposed principle. Further, each of these specific considerations needs to be assigned a certain importance with respect to one another; this is necessary if they are to be combined in an all-things-considered judgment. Do the normative considerations embodied in the contractualist framework have a role to play in determining how the various relevant considerations are to be combined for purposes of arriving at an all-things-considered judgment concerning the validity of a proposed principle?

Contractualism characterizes moral reasoning as always taking place in the context of the consideration of a principle proposed for the regulation of interpersonal conduct and consideration in a certain kind of situation. The rationale for any particular principle as one of the principles that constitute the moral system is the value of that principle for securing a basis upon which individuals may relate to one another on a basis of mutual respect for one another's value as persons. The particular rationales for specific principles appeal, of course, to more specific goods, the common thread that unites them being their importance for individuals being able to live rationally self-governed, meaningful lives on terms of mutual respect for one another's value as persons. For instance, the principles that govern what persons may legitimately expect from one another when they are bound by a promise appeal, Scanlon argues, to the value of assurance for their authority.

In assessing the reasonable rejectability of a particular proposed principle, the general contractualist maxim is that a valid principle is one that is most acceptable to the person to whom it is least acceptable. Any principle requiring that persons regulate their deliberations in certain ways will be found, at least by some, to be potentially burdensome. How burdensome will vary with the kinds of commitments that constitute the point of view one can be characterized as occupying. The contractualist suggestion is that, in assessing the proposed principle, one needs, first, to assess what the relevant burdens are that may potentially result from the adoption of the proposed principle as part of the moral system. Reasoning about potentially relevant ways of being burdened has thus far been the principle focus of the discussion. What the relevant burdens in fact turn out to be, in the context of assessing a particular proposed principle, depends on the character of the good(s) to be

secured by the proposed principle's adoption as a valid element in the moral system. Relevant burdens, in the context of assessing a particular principle, then, are burdens of comparative importance to the good that the proposed principle is meant to secure.

Similarly, the importance of a relevant consideration in the assessment of a proposed principle rests on judgments in which relevant considerations are ranked with respect to one another in some kind of rough ordinal ranking. The final, all-things-considered judgment of whether or not a principle is one to be reasonably rejected must also take into account the distributions of relevant burdens that would result from the adoption of possible alternative principles to the proposed principle. A principle may turn out to be potentially very burdensome for those assessing it from a particular point of view; that will not be enough, though, to justify the reasonable rejection of the proposed principle. If all the alternatives create similar or more significant burdens for those assessing matters from a different point of view, or the potential burden is not as significant as the burdens on some that will result if no principle is adopted for the regulation of the kind of situation that is of concern, the principle cannot be assessed as reasonably rejectable.³⁵

Assessing whether or not a principle can be reasonably rejected, then, depends heavily on good judgment. In particular, good judgment is required concerning what particular considerations are relevant for assessing a proposed principle, and how these considerations are to be ranked with respect to one another for purposes of assessing the proposed principle. The contractualist framework is helpful for clarifying the character of the required judgments, in at least two ways. First, judgments of relevance and comparative importance are to be assessed in a context of persons concerned with leading rationally self-directed, meaningful lives, who also care about interacting with others on terms of mutual respect, or recognition, of another's value as persons.

Second, because what is of concern are principles of a moral system, one must take into account not just the way in which individuals may be burdened in a particular situation, but what it would be like to have to live a life in compliance with the requirements of that principle, in the context of the moral system of which it is a part.³⁶

One may realize, for example, that, in the circumstances one finds

35. Frances Kamm notes that it is a significant feature of the contractualist account that there is no threshold complaint, such that, if someone raises it, it is sufficient to judge the principle reasonably rejectable, without having to take into account relevant considerations that count in favor of it. This is explained by both the relevance and the seriousness of a burden, in the context of assessing a particular principle, resting on comparative judgments. See "Owing, Justifying, and Rejecting," *Mind* 111 (2002): 323–54.

36. See the discussion of this point in my "Defending the Moral Moderate."

oneself in, a particular principle authorizes another to proceed with a course of conduct that will result in one's being seriously harmed. In thinking about whether or not the principle which authorizes the relevant conduct is indeed valid, contractualism requires one to consider the comparative burdensomeness for a person in one's position having to live with the risk of being seriously harmed, to what the costs might be for others of alternatives which do not require one to have to live with the relevant risk. Essential here is that the others are those whose self-directed lives may be structured by commitments significantly different than one's own. Assessing the reasonable rejectability of a principle, then, really does require that one think of oneself as legislating not just for oneself, but for other persons, whose status as such one is committed to respecting.

Note, however, that though the contractualist framework does focus the question to which judgment must address itself in assessing the reasonable rejectability of a particular principle, it does not eliminate the need for an individual, reflecting upon the validity of a particular principle, to rely on her own general evaluative commitments in making basic judgments concerning the relevance and relative importance of different considerations that are to be combined in an all-things-considered judgment of the reasonable rejectability of that principle. The normative commitments embodied in the contractualist framework suggest important constraints that sharpen one's sense of both what kinds of considerations may be relevant for assessing a proposed principle, as well as the basis for their relevance. They do not, however, eliminate the need, when it comes to evaluating particular principles, for individuals to rely on general normative commitments external to contractualism.

As long as these commitments do not concern conclusions about right and wrong in the sense contractualism is meant to illumine, the fact that they are relied upon in assessing particular principles does not deprive the contractualist framework of its claim to helpfully clarify an important aspect of moral reasoning. They are commitments, though, over which there may be extensive and serious disagreement among those who are otherwise committed to reasoning in contractualist terms. This suggests, then, that finding oneself disagreeing with, for example, some of the conclusions Scanlon draws in *What We Owe to Each Other* concerning the rejectability of certain principles does not show a failure to reason in contractualist terms about that principle. One may just disagree with Scanlon about the relative importance of certain goods for rational self-governance, while not disputing that they are relevant sources of potential burden to which there is reason to be attentive in assessing the validity of the principle. How such disputes are to be resolved is a matter about which contractualism provides no guidance.

Its value as a tool for the resolution of many kinds of moral disagreements, then, is rather limited.

Whether this is to concede an important objection to contractualism depends on what one expects of a moral theory. Scanlon's own expectations, which underlie the contractualist account, are explicitly modest.³⁷ Distinguishing among various possibilities for what one might hope for from a moral theory, he rejects the view that a plausible account should aspire to characterize a fundamental form of moral argument that can be utilized to develop arguments that can then be deployed to rationally resolve moral disagreements. The importance of moral theory is to be located, he suggests, in the importance of theorizing about morality as a form of self-clarification concerning the character of a kind of reasoning with which we are already familiar. So understood, its principal aim is to provide an illuminating characterization of the subject matter of a certain kind of moral judgment and an account of that sphere of morality's widely recognized claim of authority over us.

Clarification of these matters, through philosophical analysis and redescription, is not without consequence for how one thinks about interpersonal disagreements. The prospects for resolving a disagreement, as opposed to finding terms that allow individuals to interact on terms of mutual respect despite deep disagreement over fundamental matters, may turn on what one takes to be driving the disagreement. Disagreement rooted in different views concerning morality's authority and subject matter are more likely to result in disagreement at the level of the kinds of considerations that are relevant for moral argument. A consensus, on the other hand, on the kinds of considerations that are relevant for moral argument, one rooted in a shared understanding of the subject matter of moral judgment and morality's authority, would suggest that the roots of the disagreements are to be located in disagreements about the relative importance of various relevant considerations with respect to one another. Disagreements of the former kind are more likely to strike one as intractable than the type of disagreements of the later kind. In the later case, there is always the possibility that a general investigation into the nature and importance of the values in question may result in an improved shared understanding of their importance and how they should be ranked in relative importance, for purposes of moral argument, with respect to certain other values. In neither kind of dispute, though, does contractualism provide, nor does it aspire to provide, guidance concerning how the arbitration of a disagreement ought to proceed.

37. Scanlon discusses these issues in detail in "The Aims and Authority of Moral Theory," *Oxford Journal of Legal Studies* 12 (1992): 1–23, and "Moral Theory: Understanding and Disagreement," *Philosophy and Phenomenological Research* 55 (1995): 343–56.

One may, then, take the importance of evaluative judgments that are not fixed by the contractualist framework, and for which it provides no guidance, in reaching particular conclusions concerning the reasonable rejectability of particular principles, as grounds for an objection to the account. The objection, though, will not just be an objection to contractualism. Rather, it is to an understanding of the appropriate aims of a plausible moral theory that informs the contractualist account, but is certainly not unique to it. A proper vetting of this issue is a matter that deserves attention, but it ought to be discussed as a general dispute concerning what the appropriate aims of moral theory ought to be, not as a specific objection to contractualism.