

**Does Thomas Scanlon's Theory of Blame Resolve the Problem  
Presented by Moral Luck?**

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## Abstract

Moral luck describes the peculiar process of appraisal that occurs when someone is praised or blamed for actions or traits stemming from factors beyond her control. The reason that this phenomenon is philosophically problematic – rather than say, psychologically interesting – is because it is both common and resistant to change. Although we tend to see morality as something that is immune to luck, we find ourselves unable to form moral judgments in the absence of it. The focus of this thesis is on Thomas Scanlon's theory of blame and whether it successfully resolves luck's apparent paradox. Contrary to our general moral intuitions, Scanlon argues that an agent can and should be held responsible for actions that reveal something about her (either good or bad), regardless of whether it is the result of factors under her control. Despite its many insights, Scanlon's theory, I argue, neglects and confuses some of the more important features of impermissibility and blame. For this reason and others, Scanlon fails to resolve the problem presented by moral luck.

## **Acknowledgments**

The subject of my thesis is on luck and its relationship to responsibility. The influence of luck on morality is a complicated matter, the question of which I have devoted the following 110 pages to. The influence of luck on my thesis, however, is more straightforward: It is by sheer good fortune that I have found myself surrounded by a brilliant and immensely supportive group of individuals, who have motivated and aided me during this rewarding and, at times, trying academic journey. Any and all moments of insight in this thesis can be traced back to the encouragement and wisdom they provided.

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In what remains, I take a very critical stance on luck’s affect, but lest I come across as ungrateful, let me say this: I would be nothing without the luck of a family that loves me unconditionally, a group of close friends and allies whom I can always count on, and the many academics who inspire and challenge me each day.

## Introduction

There are many ways in which a person may be said to be lucky or unlucky. ‘Lucky in love,’ ‘beginners luck,’ ‘down on one’s luck’ are all common expressions used to describe a certain phenomena, but the term ‘moral luck’ is rarely heard outside of academic discourse. The reason for this most likely relates to our description of morality. We tend to see the choices we make – whether good or bad – as something under our control. So understood luck has no place in morality. In fact, when Bernard Williams first introduced the term, moral luck, he meant to suggest it as a kind of oxymoron.<sup>1</sup> But while we may not address this philosophical paradox by name, the problem presented by moral luck underlies many of our day-to-day discussions on matters of justice, responsibility and blame. Appeals to this idea can range from the trivial complaint of a student who groans about how unfair it is that he is always punished for speaking out of turn, while his savvier peer never gets caught to the more serious public debate of whether a mentally disturbed murderer should be excused from serving a prison sentence after being found to have a psychological disorder.

For Thomas Nagel, who – along with Bernard Williams – defined the dilemma, it is a problem without a solution. He suggests that we are unable to reconcile our idea of agency with our notion of responsibility and are, thus, doomed to be the victims of a certain moral arbitrariness.<sup>2</sup> Thomas Scanlon is not as skeptical as his contemporaries. In

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<sup>1</sup> Bernard Williams, “Moral Luck a Postscript,” in *Making Sense of Humanity and Other Philosophical Papers* (Cambridge: Cambridge University Press, 1995), 253.

<sup>2</sup> Thomas Nagel, “Moral Luck,” in *Mortal Questions*, (New York: Cambridge University Press, 1992), 37.

his book, "Moral Dimensions," he offers an account of blame that deems moral appraisal appropriate regardless of whether one's actions are freely chosen. Scanlon claims that to blame a person for an action is to take that action to indicate something about that person that impairs one's relationship with him or her and to understand that relationship in a way that reflects that impairment.<sup>3</sup> Free will is, according to Scanlon, beside the point. So long as the action under question correctly reflects something about the agent's attitudes that impairs the relationship he has with others, we are right to hold him accountable for it.<sup>4</sup> Although Scanlon offers important insights on the features of blame, his account, I argue, runs into problems with both defining impermissibility and with capturing all the dimensions of blame. The paradox of moral luck, consequently, remains unsolved.

This thesis is divided into three chapters. Chapter one explores in more detail the problem at hand and responds to a few epistemic arguments, which have been proposed in solution of it. The latter of which serves two useful functions: First, it offers context to the moral luck debate, thus, allowing the reader to better understand Scanlon's position in it. Second, it foreshadows some of the arguments – both Scanlon's and my own – that lie ahead. This brings us to the second chapter, which is dedicated to the moral theory Scanlon fathers – contractualism. In particular, I will be investigating the credibility of the reasonable rejection thesis. Putting into question both how an individual is supposed to decipher the morally right action from the morally wrong action and whether the reasonable rejection thesis actually places unreasonable demands

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<sup>3</sup> Thomas Scanlon, *Moral Dimensions*, (Cambridge: Belknap Press of Harvard University Press, 2008), 128.

<sup>4</sup> *Ibid*, 181.

upon the agent. Last but not least, the third chapter takes on Scanlon's account of blame directly. After providing a preliminary background on Scanlon's theory, I will address its limitations. The arguments I make in the final chapter take on different forms but fundamentally come back to the same basic issue; Scanlon's account of blame simply does not give reactive emotions their due weight. This makes moral luck less of an obstacle to get through but only by sacrificing the most important feature of blame: anger.

## **Chapter 1: Moral Luck**

Common sense suggests that one cannot be held responsible for that which lies outside of her control. It has been argued by Kantians and the like that it is the intention of the agent – *not* the act that follows from it – that is open to moral scrutiny. While intuitively appealing, the proposed framework is, nevertheless, problematic. The trouble with this view is that when we begin analyzing the notion of responsibility, we see that much of what we do, if not *all* of what we do, is determined by factors outside of us. This places us in the predicament of either judging individuals by factors beyond their control (by factors of luck) or, perhaps more implausibly, reserving judgment for only the small, if not non-existent, realm of morality that is immune to luck. While there are arguments to be made for both sides, neither leaves our ordinary picture of morality intact.

The following is divided into two sections: Section one serves as an introduction to the phenomenon specific to this thesis: moral luck. Through the use of examples and thought experiments, I will detail four types of luck Thomas Nagel outlines, which are common to our everyday experience but come into conflict with our ordinary moral intuitions (i.e., outcome luck, circumstantial luck, constitutive luck and casual luck). Section two examines a few of the challenges those who subscribe to an epistemic based theory of moral assessment have raised in response to moral luck, and I will in turn point out some of the weaknesses of their position. The objections that I raise are not necessarily knock-down arguments and the positions that they attack are by no means representative of all of the available oppositions. The purpose of this chapter, however,

is not to provide an exhaustive account of the debate but to raise the question of moral luck and present some reasons why, despite our preliminary thoughts on the subject, it is not so easy to dismiss.

### **Four Kinds of Luck**

Consider the following scenario: An otherwise good, taxpaying citizen and morally conscience man – let’s call him, Larry – is making his morning commute into work when a particularly bad song comes on the radio. Larry fiddles with the tuner for a few moments trying to find a station more to his liking, before realizing that he has not been paying attention to the road ahead. Now, there are two possible endings to this story. If Larry is lucky, after returning his eyes to the road, he finds a clear path ahead and breathes a certain sigh of relief that nothing became of his carelessness; perhaps noting to himself that he should be more attentive in the future. If Larry is unlucky, the path before him is not clear – a child is passing by the crosswalk, and he is unable to stop his car in time to avoid hitting her.

This is an example of the phenomenon Nagel describes as moral luck – “where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgment.”<sup>5</sup> If our general intuition about morality is correct, then it would seem that we have no reason to treat these two cases differently. After all, Larry’s fault or error remains the same regardless of the outcome. But, that does not seem to be the case. Even though the ending of the

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<sup>5</sup> Nagel, “Moral Luck,” 26.

story changes nothing about the agent himself, our feelings about him and his action are, in an important way, affected by it.

It's hard to deny the way in which outcome affects our moral judgment when we consider the many examples that act in support of this claim: the risky gambler is rarely chastised when her bet pays off; murder is punished more severely than attempted murder; the leader of a revolt is a hero if it is successful, but not if it fails. In-and-of-itself, however, this fact does not mean our ordinary intuition about moral judgment is mistaken, in the same way that, while people often lie, cheat, and betray each other, that does not mean we are mistaken in believing these actions to be wrong. Our ordinary conception of morality is only threatened by our practices of moral assessment if we are *right* to engage in them or if it would be unreasonable to request that we do otherwise. Unfortunately, for our concept of morality, a case can be made for both of these objections.

No matter what the outcome of the situation, we would hope and expect that Larry is concerned by his act of negligence. The question, however, is not merely *whether* he should feel badly about his action but *how* badly he should feel about it. If, as fate should have it, Larry is lucky, and no one was passing by his car during his moment of absentmindedness, but he, nevertheless, carried with him guilt, regret, and remorse for his actions for the rest of his days – constantly reminding himself of ‘the day I took my eyes off the road for just a little too long,’ we would surely think he was being too hard on himself. We have all faced situations of a similar sort in our lives; probably more often than we would care to admit, but to treat all of those close-calls with the same significance that we do their actual occurrences would be absurd. This same

response, however, would not seem so unreasonable were Larry not so lucky. In fact, we would think less of him if he was not deeply affected by the incident.

It may be responded that there is something seriously wrong with an individual who feels little or nothing about an action of devastating consequence. So, what the difference in our feelings in this case amounts to is not a judgment of blame but what any sympathetic person should feel in regards to a tragedy. Although it is true that we would expect anyone aware of a tragic situation to have certain attitudes and emotions about it, when it comes to the individual whose action led to the disastrous consequence more seems to be called for. This holds true even when the driver is not guilty of any wrongdoing.

Suppose then that the driver in this scenario was not absentminded-Larry, but a cautious person who, for all intents and purposes, was driving safely that day and nevertheless, had the misfortune of colliding with a child who ran onto oncoming traffic. Although she did not do anything wrong, the fact that *she* was driving the car that hit the child makes an important difference in how she is able to view the incident. Her relationship to the event, Williams argues, offers her the ability to feel a special form of regret, which others – even someone who watched it all unfold from the next car – cannot.<sup>6</sup>

Unlike regret of the general kind, which is open to anyone who may wish things had gone differently, the particular form of regret Williams refers to – which he calls – ‘*agent regret*’ can only be taken up by the individual responsible (either intentionally or casually) for the event. Agent regret expresses itself in the wish that *he* had acted

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<sup>6</sup> Bernard Williams, “Moral Luck,” in *Moral Luck*, (Cambridge: Cambridge University Press, 1981), 27.

otherwise and is accompanied by the desire to make things right.<sup>7</sup> Oftentimes, repair will not be possible or appropriate, however, what is important is not that the agent acts on this desire but that he has it. While we may try to move him from this state by reminding him that it was simply a freak accident, that sentiment, Williams notes, “coexists, indeed, presupposes, that there is something special about her relation to this happening, something which cannot be eliminated by the consideration that it is not her fault.”<sup>8</sup>

Emotional responses such as these are common to our everyday thoughts about morality but are left out of rationally dictated ethical systems, like Kantianism. While seemingly small, this point is actually quite significant:

It would be a kind of insanity to never experience sentiments of this kind toward anyone, and it would be an insane concept of rationality which insisted that a rational person never would. To insist on such a concept of rationality, moreover, would...suggest a large falsehood: that we might if we conduct ourselves clear-headedly enough, entirely detach ourselves from the unintentional aspects of our character... and yet still retain our identity as agents.<sup>9</sup>

Unless we are prepared to accept the bearing that outcome and – consequently – *luck* has on identity, then, Williams argues, we will be doomed to a vacant concept of morality that pays lip-service to our values without actually addressing them.<sup>10</sup>

This notion of agent regret and its relationship with luck is even more pronounced in decisions made under uncertainty. Take the example Williams presents of a creative type named, Gauguin, (loosely based on the real man) who abandons his family and moves to Tahiti with the expectation that his new home will offer him the

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<sup>7</sup> Ibid, 27.

<sup>8</sup> Ibid, 28.

<sup>9</sup> Ibid, 29.

<sup>10</sup> Ibid, 38.

environment and solitude he needs to develop his gift as a painter. Assuming that he has reason to think he has some responsibility toward the welfare of his family, what Gauguin embarks on is a risk. He cannot be certain that it is the right choice, for that will depend on the outcome of his action.

It is quite possible that after making the move to Tahiti and trying his hand at art, Gauguin will come to regret his decision in the particular way that only the agent responsible for the act can. What distinguishes Gauguin from the negligent driver in our example above is, unlike Larry, Gauguin only wishes that he had acted otherwise if his project fails.<sup>11</sup> This is, for Williams, where the problem of moral luck enters because our justification will depend on outcomes of which we are not in control.

It is easy to mistake Williams' claim as an argument about the moral justifiability of Gauguin's act. In fact, he does not think it is morally justifiable. Rather, his claim has to do with the internal justifiability of Gauguin's decision and the implication of that for morality.<sup>12</sup> Although, by most accounts Gauguin's action is morally wrong, that does not mean it lacks moral content. It is precisely the moral cost involved in his decision, which Williams thinks makes it so vexing.

Were Gauguin a cold man, unconcerned by what affect his abandonment might have on his family, then his choice would be simple, but that is not the type of man Williams is interested in: His is a Gauguin that loves his family and cares about morality but not to the exclusion of other things that provide his life with meaning. Establishing a successful career as an artist is for him something that outweighs his family's claim. So,

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<sup>11</sup> Ibid, 30.

<sup>12</sup> Ibid, 23.

if Gauguin becomes the great artist he believes himself to be, then although he still has reason to feel badly about the affect his abandonment will have had on his family, he may, nevertheless, see it – cost admitted – as justified.

What in particular Gauguin's dilemma proves is open to debate. Because of the already morally dubious nature of his decision, Nagel, for instance, denies that this is an example of moral luck.<sup>13</sup> Regardless, however, of which philosopher one sides with, Gauguin's choice is important for articulating a species of moral luck that may have previously been overlooked. Our political history is a rich source of examples of decisions made under uncertainty – from Chamberlain's decision to sign the Munich Agreement to the rebellion Malcolm X led during the civil rights movement – it is interesting to consider the way in which the outcome of an action changes our perspective of it. Or, take a more recent example, when George W. Bush decided to invade Iraq, claiming that they were hiding Weapons of Mass Destruction, he had his share of sceptics. But, supposing that he was right and WMD's were discovered in enemy territory, he would go down in history as a very different kind of president. A war, many now call unjustified, would seem more warranted, and those who supported it would feel vindicated by the result.

It should be obvious by now, the extent to which *outcome luck* influences our moral judgment. There are, nevertheless, those who maintain that the problem of moral luck can be dealt with if we deny that the consequences of what we have done are relevant for characterizing what we have done. We will explore some of those suggestions in the next section, so I will not say much about the merit of this objection

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<sup>13</sup> Ibid, 36.

now. However, even if a moral system did exist that could capture our most prominent moral judgments, while avoiding taking outcome into its calculation, there are still at least three other aspects of moral luck which it would have to answer to first.

Let us now turn to *circumstantial luck* – “the kind of problems and situations one faces.”<sup>14</sup> Moral character is revealed in one’s actions, but the opportunity one has to express that character and thus, our ability to morally assess an agent in terms of it, is dependent on the situations she faces. Many people after reading about the horrific acts of citizens in Nazi Germany say, with a sense of repugnance, “I would *never* have done that!” While their claim may be sincere, the truth of it is dubious because the situation for testing its validity is not available to us; it was only available to particular people at a particular time in history. What we do know is that while there were a few heroes that stood up against their nation, most did not. If the latter’s actions are in any way indicative of how the rest of us would act, had we been born of another nation and/or time, then there would seem something hypocritical about the indignation we express towards those involved.

But, whether it is opposing the Nazi regime, saving a drowning child from an unruly river, donating an extra kidney to a sickly friend, or any other scenario we might come up with that distinguishes character, our ability to morally appraise a person is restricted to the situation she faces. When we blame or praise an agent for acting heroically or cowardly for such an act, what we leave out from our judgment is everyone else who would have acted in the same way had the situation presented itself. If the object of our moral judgments were merely the rightness or wrongness of an agent’s

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<sup>14</sup> Nagel, “Moral Luck,” 37.

particular action, then we would not have as much reason to be concerned by who or what circumstantial luck leaves out of the picture. The fact that someone would act in a cold-hearted or cruel manner, however, seems significant, even if the situation in which she would display such conduct never arises.

Of course, what matters to us is not just *how* a person acts or *would* act on a particular occasion, but the character of the person behind it. If we know of a person, that he is usually good and kind-hearted but had an “off-day,” then we are more likely to excuse his behaviour or, at least, not blame him as harshly for it. However, even this seemingly base moral judgment gets called into question when we examine the way in which *constitutive luck* shapes character. The inclinations, capacities, and temperament that an individual has are determined in large part by their biology, upbringing, and environment – that is, by factors beyond their control. So, if we are committed to preserving morality’s immunity to luck, then it would seem we have no choice but to exclude from our moral judgment the constitutive features of a person.

Kant was well aware of the way in which constitutive factors of character may compromise morality. Consequently, in forming his ethical system he was cautious to steer clear of it. Instead, he suggests, we should focus our moral judgment on the only thing that is of real moral worth – the agent’s will. In this regard, a man who is naturally uncompassionate but, nevertheless, does the right thing out of respect for his moral obligations is, according to Kant, deserving of moral praise, while a person who does not act from a sense of duty but from the generous spirit he has been blessed with, is not.<sup>15</sup>

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<sup>15</sup> Immanuel Kant, *Groundwork of the Metaphysics of Morals*, ed. Lara Denis, trans. Thomas Abbott (Toronto: Broadview Editions, 2005), 59-60.

When stated in the abstract, Kant's proposal is rationally compelling, but it is more difficult to accept in practice. It is a simple matter of fact that we think differently about the person who must summon all of his will to act kindly than we think of the person who acts kindly without great efforts of the will because it is in his nature to do so.

Supposing, however, that we could – as Kant suggests – detach the traits of the agent from our moral judgment of him, there is still the question of whether we would be right to. In equating rationality with morality, Kantianism avoids some of the ambiguities and pitfalls that come up when we base moral judgments on our sentiments but not without sacrificing a key aspect of general moral thought – that we do not need a moral explanation before performing certain acts and to require one is to miss the point. As Williams notes, a man who first considers his moral obligations before saving his wife from drowning over a stranger, has “one thought too many.”<sup>16</sup> The occasions on which we actually consider the morality of an action are probably fewer than Kant would like us to believe; more often than not, our actions seem to reflect the sentiments we have and have given little thought to.

Kantianism and other deontological impartial theories, Williams argues, contrast the moral point of view with the non-moral point view by how the self enters into it. In the moral point view, the self is taken in abstraction; it remains impartial and indifferent to particular circumstances or persons. The non-moral point of view, on the other hand, is the self-interested one; it is where personal projects and attachments gain their

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<sup>16</sup> Bernard Williams, “Persons, Character and Morality,” in *Moral Luck*, (Cambridge: Cambridge University Press, 1981), 18.

meaning.<sup>17</sup> The moral point of view, followers of this line of thought argue, is for the most part, compatible with the non-moral point of view, but when the two conflict, the moral one should take precedence.<sup>18</sup> Williams disagrees. He argues that the pervasive and starkly different nature of the moral point of view makes it, at times, a very difficult view to hold while still maintaining a sense of self.<sup>19</sup> Our desires, projects, and concerns, Williams argues, are all attached and, in fact, make up our identity, so when we are asked, in the name of morality, to give up one or some of these things, we also sacrifice a part of what makes us, *us* and gives us purpose.<sup>20</sup>

Now this may seem like an all too dramatic presentation of what is at stake. It would, for instance, be absurd to argue that because morality may sometimes interfere with our personal interests, moral concerns, therefore, do not have bearing. People typically have not just one but a whole array of desires, concerns, and projects; so if one goes by the wayside, life will surely go on. Williams does agree that moral matters may at times legitimately compromise a non-moral interest. His argument is, rather, that they cannot and should not *always* take priority over non-moral ones. The fact is that while we may recover from the loss of and be able to replace many, if not most, of our desires or projects, some of our concerns are so deeply entrenched in us and primary to our character that it is not an exaggeration to say that, to give these up is, in a sense, to give up oneself.<sup>21</sup> When forced to let go of things integral to their person, some do come to

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<sup>17</sup> Ibid, 2.

<sup>18</sup> Ibid, 2.

<sup>19</sup> Ibid, 3.

<sup>20</sup> Ibid, 10.

<sup>21</sup> Ibid, 18.

have the feeling that, “life is no longer worth living.”<sup>22</sup> We cannot, therefore, be too flippant about what we are being asked to compromise.

This brings us to the last kind of moral luck – *casual luck* – which encompasses the previous ones. The choices one makes are influenced by a number of factors. An agent’s natural temperament – while he may at times defy it – will, undoubtedly, have bearing on the way he acts. The naturally lazy person is less likely to be productive than the naturally ambitious. Similarly, the circumstances one finds oneself in not only indicate character, they shape it. A soldier who goes to combat in a violent war will forever be changed by the experience and while she may one day resume her normal life, it would be absurd to deny the long-standing affect that this experience would have on her personality and subsequent choices. The outcome of one’s previous acts also contributes to her moral deliberations. If in act of desperation the student cheats on his exam and does well on it, then he will be more likely to do so again. So, the question arises:

If one cannot be held responsible for consequences of one’s acts due to factors beyond one’s control, or for the antecedents of one’s acts that are properties of one’s acts, or for the circumstances that pose one’s moral choices, then how can one be responsible for the stripped-down acts of the will itself, if *they* are the product of antecedent circumstances outside of the will’s control?<sup>23</sup>

It is open to debate whether, in the absence of the antecedent features that influence one’s will, whether, that ‘will’ is even possible. Yet, even if an act of will could occur spontaneously – that is, without reference to those features of deliberative thinking that have been influenced by outside causes – this will not be of much help to

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<sup>22</sup> Williams, “Moral Luck,” 27.

<sup>23</sup> Nagel, “Moral Luck,” 35

moral luck. Since it would seem a matter of luck whether the spontaneous spirit of the will results in a morally blameworthy or praiseworthy action.

This, Nagel believes, is the final blow to morality. When we are presented with the ways in which luck influences an action, it is tempting to simply cast the factor aside from our moral judgment, but this is a losing game. After eliminating from our judgment the outcome of a person's actions, the circumstances she encounters, and the character of agent, there is nowhere left to go. In banishing from our moral deliberations all of the features that are beyond an agent's control, not only do we eliminate our ability to properly assess her, we also eliminate the agent herself.

The force of this claim especially strikes us when we take on projects that are life defining. In the case of Gauguin, he is not simply gambling with outcomes; he is gambling with his life. Who he is, is contingent on the outcome of his act (an outcome he is not in control of), so if things do not turn out as he had hoped, he – in a way – loses himself. Setting aside the consequence of our acts from our moral judgment will not retrieve our identity, since the outcome of our acts is what we define ourselves by.

Williams and Nagel arrive at different conclusions about what luck means for morality. Unlike Nagel, Williams does not think the notion of morality is incoherent, but he does think it is superfluous. Contrary to popular belief, we are not – according to Williams – committed to the thought that morality reigns supreme.<sup>24</sup> Like Gauguin, we often allow other things – be it art, success, love or happiness – to take precedence over morality. In admitting this, however, we greatly compromise the scope of morality and

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<sup>24</sup> Williams, "Persons, Character and Morality," 18.

its combative power against luck. In place of morality, Williams recommends we practice ethics, which focuses on what is the best way to live.<sup>25</sup>

Of course, Williams' position relies on a controversial premise: If you disagree with him that Gauguin's choice can at the same time be both rationally justifiable and morally unjustifiable, then you are unlikely to find the rest of his argument convincing. Nagel, by contrast, argues that there is no solution to moral luck. Luck proves morality to be illogical, but, it is, nonetheless, a system we cannot do without.<sup>26</sup> While Nagel's conclusion is more severe than Williams', it is harder to refute. He offers enough examples of moral luck to put the naysayers in hot-water. The onus is upon those who disagree with moral luck to find fault with his argument. We will consider some such responses next.

### **The Epistemic Objection**

Do we actually regard the negligent driver with greater indignation in the event of an unfortunate outcome than a fortunate one? Nagel and Williams took it to be obvious that we do, but not everyone shares this belief. Although our moral intuitions and judgments do not always align, that does not mean they conflict. Proponents of the epistemic argument suggest that the difference between the two emerge as a result of the practical restraint knowledge places on our moral judgments. Since we are not omniscient, our ability to morally assess an act is restrained by what we know about it. This objection is perhaps best applied as a rebuttal to resultant luck.

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<sup>25</sup> Williams, "Moral Luck a Postscript," 242.

<sup>26</sup> Nagel, "Moral Luck," 37.

Norvin Richards argues that while outcome changes nothing about the praise or blame we deserve for an action, it does affect our right to engage in these forms of moral assessment.<sup>27</sup> In the case of Larry, it is quite possible that if nothing comes of the incident, he will tell no one of his brush with fate. We would, therefore, have no reason to think he was driving negligently that day (even though he was) and it would be inappropriate and, indeed, wrong to treat him with indignation (even though he is, in fact, deserving of it). Richards would then agree with Nagel and Williams that factors beyond our control influence our moral assessment but claims it is not in the way they propose.<sup>28</sup>

The epistemic argument captures nicely the intuition that outcome should not influence the response someone deserves and explains, without contradiction, why our response, nevertheless, must rely on it. Still, there appears to be something missing from the picture: The object of our judgment need not be some third party, whose intention of which we are ignorant, but is often ourselves. Although outcome may influence our knowledge of an agent's act and, consequently, our right to judge him; he is not subject to this same type of blindness. It would, therefore, seem strange, from the point of view of the epistemic, that Larry, as we have described him, would in the event of an unfortunate outcome, blame himself more severely for his negligence, then if luck were on his side, and yet, this is not an unusual type of response.

Susan Wolf acknowledges that outcome can affect an agent's feelings and attitudes about her actions and argues that they are, in fact, compatible with the

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<sup>27</sup> Norvin Richards, "Luck and Desert," *Mind*, 95, no. 378 (1986): 199.

<sup>28</sup> *Ibid*, 199.

epistemic argument. Although it is wrong, Wolf argues, to blame an unlucky person more for her crimes than a lucky one, when it comes to an agent's own assessment of her action, that is an altogether different story. To expect an agent to regard herself in the same way when her action results in a bad outcome, then if she had been more fortunate, Wolf argues, is not only, "unrealistic, but positively eerie."<sup>29</sup> Echoing Williams, Wolf suggests that there is an unnamed virtue in, "taking responsibility for one's actions and their consequences."<sup>30</sup> This virtue, Wolf believes, captures the sentiment of agent-regret which falsely led Nagel and others to a belief in moral luck, while upholding the correct intuition that it is inappropriate to blame others more for the unfortunate outcomes of their actions.<sup>31</sup>

If Wolf's distinction between self-blame and blaming others sounds odd, that, I believe, is because it is. Wolf's hesitation to name the 'virtue' that she is referring to or explain why we think it is 'eerie' if someone does not display said virtue is quite telling. She allows it to go unnamed, I believe, *not* because taking responsibility for the consequences of one's action is a novel or mysterious idea, but because it is so essential to our moral thought that someone who does not express it, is in fact, blameworthy. On this point, Darren Domsky notes, "we do not want them merely to blame themselves; we want them to recognize that they deserve to be blamed, even though we also believe that they cannot deserve to be."<sup>32</sup>

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<sup>29</sup> Susan Wolf, "The Moral of Moral Luck," *Philosophic Exchange*, 31 (2001): 16.

<sup>30</sup> *Ibid*, 14.

<sup>31</sup> *Ibid*, 14.

<sup>32</sup> Darren Domsky, "There is No Door: Finally Solving the Problem of Moral Luck," *The Journal of Philosophy*, 101 (2004): 455.

While Wolf's account of self-blame seems dubious, Richards offers another reason why an undesirable outcome may cause an agent to be harder on himself than a desirable one. Just as we are often unaware of the risky behaviour in which an agent engages until things go badly, so too might the agent think that his action was permissible:

Sometimes, if a driver harms no one, there is room for the belief that his speed and degree of attention are adequate: that he is sufficiently alert to avoid accidents if the need arises, that his speed is safe for a person of his skills, and so on. Even if these contentions are quite false, so that in fact his driving enacts a very dangerous level of unconcern and his behaviour deserves a very harsh response, the matter may be debatable so long as he does no actual harm. For such a driver, it is only when he hits someone that it becomes plain he is not sufficiently attentive, that his speed is too fast, for him, that he is not giving sufficient weight to the risk of harm to others when he drives as he does. It is only when his luck-and his victim's-runs out, that we have sufficient grounds for treating him in the way he has deserved to be treated all along.<sup>33</sup>

The term 'room for belief' is ambiguous here. It is unclear whether Richards means by it that 'there is some merit to the belief' or more simply that 'one might believe.' In the case of the latter, one might read Richards as speaking about an agent who, for whatever reason – perhaps arrogance, short-sightedness, or stupidity – could not see, prior to the devastating consequence of his act, that his driving was dangerous, even though any reasonable person could have. I, however, do not think that is the type of agent to whom Richards is referring.<sup>34</sup>

Richards instead contrasts the above passage with one in which, "common sense about human reaction time, the limitations of human eyesight, and the nature of local conditions is enough" to conclude that the agent's driving is reckless, so "we need not

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<sup>33</sup> Ibid, 202.

<sup>34</sup> Although it does raise the interesting question of whether we would be right to blame an agent for the character defect which prevents him from seeing the danger that to everyone else is obvious.

wait for the tragic impact, to be entitled to treat him as he deserves.”<sup>35</sup> It would, thus, appear that Richards is describing an agent of the former kind – one who believes, for reasons which others recognize and might even agree with that his driving is safe, when, in fact, it is not. The unfortunate outcome of an accident not only proves that the *agent* was driving recklessly but that the agent’s *driving* was reckless. And what’s more, Richards argues, that outcome shows that the agent *deserves* to be blamed for his reckless driving.<sup>36</sup>

The difference between this example and our former one of a driver who keeps his bad driving a secret is that, in this case, the driver’s negligence is as much a surprise to him as it is to us. But, if the limits of our knowledge make the safety of the agent’s driving unclear in such a way that, failing a tragic outcome, it would be inappropriate to blame him for reckless driving, then it would seem strange that the outcome should change this. Morality’s allure, Williams suggests, is that it offers “solace to a sense of the world’s unfairness,” so that one could conduct themselves in such a way as to avoid blame. When it comes to the uncertain, however, Richards’ conception of morality offers no such comfort.<sup>37</sup>

Like Richards, Michael Zimmerman cites the epistemic argument as his reason for denying moral luck, but while Richards leaves many questions about his conception of morality unanswered, Zimmerman offers an alternative account of morality which leaves luck out of the picture. Zimmerman uses the parallel cases of George and Georg as his starting off point:

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<sup>35</sup> Ibid, 203.

<sup>36</sup> Ibid, 203.

<sup>37</sup> Williams, “Moral Luck,” 21.

Suppose that George shot at Henry and killed him. Suppose that Georg shot at Henrik in circumstances which were, to the extent possible, exactly like those of George (by which I mean to include what went on "inside" the protagonists' heads as well as what happened in the "outside" world), except for the fact that Georg's bullet was intercepted by a passing bird (a rather large and solid bird) and Henrik escaped injury. Inasmuch as the bird's flight was not in Georg's control, the thesis that luck is irrelevant to moral responsibility implies that George and Georg are equally morally responsible.<sup>38</sup>

Zimmerman, of course, does not deny that George is responsible for killing Henry nor is he making the claim that Georg is somehow responsible for killing Henrik.<sup>39</sup> To be sure, George is accountable for more things than Georg – namely, Henry's death.<sup>40</sup> When it comes to moral responsibility, however, Georg's moral record is affected in precisely the same way that George's is: both made an attempt at a man's life and are blameworthy because of it.<sup>41</sup>

Having dealt with outcome luck, Zimmerman now turns his attention to circumstantial luck. Suppose that Georg's plans to kill Henrik are once again spoiled; only this time it is not a bird which intercepts his shot but a passing truck which blocks his aim. If Georg is as morally culpable for his above attempt at Henrik as George is for his attempt at Henry, then the fact that factors beyond his control prevented Georg from actually pulling the trigger should not change this. Georg "would have freely chosen to shoot him, had he had the cooperation of certain features," and as such, Zimmerman argues, is as blameworthy as George is.<sup>42</sup>

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<sup>38</sup> Michael Zimmerman, "Taking Luck Seriously," *The Journal of Philosophy*, 99 (2002):, 560.

<sup>39</sup> Which would hardly make sense, considering Henrik is alive.

<sup>40</sup> Ibid, 560.

<sup>41</sup> Ibid, 561.

<sup>42</sup> Ibid, 564.

While similar to the above scenario, there is an important difference between the two. In the example first described Georg did *something* – he shot, albeit with bad aim, at Henrik; in the present example, however, Georg did not have that same privilege. Which raises the question: If he did not do anything, what could Georg possibly be held accountable for? Zimmerman’s answer is somewhat peculiar – Georg is responsible, he argues, “He is just not responsible for anything. He is, as I shall put it, ‘responsible tout court.’”<sup>43</sup>

Setting aside the rather large problem of how anyone could be responsible for nothing, let us first consider the implications of Zimmerman’s argument. If Zimmerman is right that our moral record is as equally affected by these counterfactuals as their actual occurrences, then our practices are at best hugely incomplete and at worst deeply flawed. For this reason, Zimmerman suggests that, “many of our common practices, in particular, the practice of punishment, are in dire need of revision.”<sup>44</sup> Although Zimmerman is aware of the problem, the restriction he suggests knowledge places on moral judgment leaves us little room for improvement. It is difficult enough to come up with a fair assessment of the agent even in the clearest of scenarios without adding to this the ambiguity and endless possibilities that counterfactuals bring up. Even Zimmerman, himself, concedes that including counterfactuals in morality means we are responsible in ways we “cannot even imagine.” Adding “an indefinite number of counterfactuals about what one would do, if one were differently situated, can be true at

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<sup>43</sup> Ibid, 564.

<sup>44</sup> Ibid, 575.

once, one can be morally responsible tout court — both positively and negatively — to an indefinite number of degrees at once.”<sup>45</sup>

It seems to me a regrettable fact about morality that our immense ignorance on such matters should make it virtually impossible to form an assessment that resembles or even comes close to resembling what the agent actually deserves. Indeed, I am not sure what to make of moral records which are supposedly unaffected by luck but can neither protect us from unfair treatment nor are available for us to know when we have been treated unfairly. Zimmerman may not be overly bothered by this consequence since his thesis does not depend on our knowing the truth about such counterfactuals but rather, “on their being true.”<sup>46</sup> There, however, exists a further problem that casts this into doubt. The problem first comes to light when we consider constitutive luck.

Not surprisingly, when it comes to blame, Zimmerman treats factors of luck involving constitution, like that involving outcomes or circumstances, as fair game. Speaking on the constitutive feature of timidity in particular, he argues, that even if Georg was simply too timid to shoot Henrik, “if it is nonetheless true that Georg would have freely shot and killed Henrik but for some such feature of the case over which he had no control,” then he is still open to blame.<sup>47</sup> That said, Zimmerman does recognize that some qualities are essential to a person – in which case, it would be false to say of an agent, that he could have freely acted otherwise. When it comes to these essential qualities, Zimmerman begrudgingly admits, that we may still hold the agent responsible even if it is by luck that one possesses them. However, even with that concession, he

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<sup>45</sup> Ibid, 570.

<sup>46</sup> Ibid, 572.

<sup>47</sup> Ibid, 569.

maintains that the role luck plays in morality has been greatly exaggerated by moral luck theorists.<sup>48</sup>

Although Zimmerman is quick to point out qualities which he does not think are essential – timidity being one of them – he does not provide much of an explanation as to why they are not, nor does he offer an example of an essential quality with which to contrast. If Zimmerman means the defining characteristic of a person, then I think it is quite obvious that he is wrong to discount timidity. Timidity or some variation of it (i.e., shyness, introversion, nervousness) is among the first characteristics used to describe a particular type of person and for good reason – it contributes to the actions and choices a person takes and is essential to her perspective of and relation to the world.

My suspicion, however, is that Zimmerman's reason for doubting the merit timidity has in undermining moral responsibility has less to do with how important it is to a person's personality and more to do with its moral relevance. Under the current example, I think Zimmerman is right to point out that, the fact that Georg would have freely killed Henrik if he were more courageous seems important to our assessment of Georg, even if it does not make him, as Zimmerman suggests, as blameworthy as George – but what if we consider a moral scenario of a different kind?

Imagine an alternative universe where George, Henry, Georg and Henrik all get along. The unfortunate Henry and Henrik get trapped in a burning building. George, being the courageous person that he is, runs in to rescue his friends but has only the strength and time to save Henry. Georg, on the other hand, being the timid person that he is, watches from a safe distance as the building goes up in flame. Would we say of

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<sup>48</sup> Ibid, 571.

Georg, “Even though he did not risk his life to save Henrik, if he were more courageous, then he would have; therefore, he is as deserving of praise as George”? I doubt that we would.

Zimmerman’s suggestion that essential qualities limit responsibility is, I believe, a much larger concession than he acknowledges. Beyond timidity there are a number of other qualities which are both essential to character and our moral assessment of the agent – courage, kindness, cruelty honesty, patience, loyalty, compassion, jealousy, anger, greed, arrogance, selfishness, vanity – just to name a few. Insofar as luck is responsible for the essential qualities that a person possesses, we are responsible for a great deal of what is beyond our control.

Last but not least, Zimmerman considers casual luck. Casual luck is rarely discussed without reference to free will – a topic even more controversial than the present. When it comes to free will, most tend to fall into one of two categories: compatibilism or incompatibilism. Depending on where one sides on this issue usually affects one’s thoughts on moral luck. To be brief, incompatibilists argue that freedom requires choice, and choice requires options. Determinism, however, outlaws options. So if determinism is true, then, according to the incompatibilists, we are not free. Compatibilists, on the other hand, deny this. As the name suggests, they believe determinism and freedom are compatible. The fact that we lack the ability to choose otherwise does not mean we act unwillingly says the compatibilist.<sup>49</sup>

Zimmerman does not take a side on the free will debate. Instead he claims that we can, for the most part, avoid the problem by simply adopting the same schema for

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<sup>49</sup> Ibid, 567.

approaching moral responsibility in casual luck as we did with the first two types of luck. Imagine, if you will, that Georg was, “deterministically caused not to” kill Henrik.<sup>50</sup> The incompatibilist might argue that because Georg lacked free will, he is not to blame for his actions, but Zimmerman claims this too a rash a conclusion. Even if the incompatibilist is right that freedom requires options, Zimmerman argues that nothing about their position goes against saying, “Georg is still as responsible as George, if he would have freely killed Henrik, had his causal history cooperated.”<sup>51</sup> According to Zimmerman then, determinism does not, as it might appear to, absolve one from blame.

But whether Georg would have acted freely had his casual history cooperated is precisely what is up for debate. For the incompatibilist there is no universe in which Georg’s casual history – if that is what shapes his decision-making process, as determinism posits – would have cooperated as such because to have one is to rule out freedom. Compatibilists, on the other hand, are likely to agree with Zimmerman, but that’s because they already believe, determinism is consistent with freedom. The conditional is for them a frivolous addition.

There is, however, I believe, a deeper issue with Zimmerman’s claim, which goes beyond the free will debate. Georg’s plot to kill Henrik and subsequent actions are strong evidence to suggest that he would have shot at Henrik if the truck had not obstructed his aim, but most counterfactuals are not as clear as this. Would Georg still have plotted to kill Henrik if he had more attentive parents growing up? Came from a higher socio-economic bracket? Lived in a more peaceful nation? Had a strong male role

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<sup>50</sup> Ibid, 567.

<sup>51</sup> Ibid, 567.

model in his life? Was surrounded by less violent media images? Or was hugged more as a child? The answers to these questions are far from obvious.

While it is likely that some of these circumstances/causal-determiners might have changed Georg such that he would have never grown up to be the type capable of murder, others might not. Suppose then that after consulting a very trustworthy oracle, we could say with certainty that while Georg's socio-economic status had no bearing on his plot to kill Henrik, his parental upbringing did. After years of neglect, poor Georg learned that the only way to gain attention was through acting out. Had he more attentive parents, however, he would not have formed such a destructive habit. The result being, Georg is both responsible for being such that he *would* have freely killed Henrik, had his casual history cooperated and responsible for being such that he *would not* have killed Henrik had his casual history cooperated.

One might object that rather than blaming Georg for the action he took or the action he would have taken had the right factors cooperated, we should blame Georg for the character traits that led him astray. The fact that Georg would have made an attempt at Henrik's life had he a little more courage is importantly telling. It reveals other undesirable traits of Georg – that he is cruel, vindictive or lacks empathy, perhaps – which we think blameworthy. This is the type of argument Scanlon invokes when offering his account of blame. I will speak more to it in the following chapters. Suffice it to say for now that while there are problems with this line of defense, one advantage of it, is it does not fall into the contradictory trap that an account purely based in counterfactuals does.

Yet, Zimmerman does not have the luxury of this appeal. He remains firm in his belief that we cannot be blamed for factors of luck, and it is matter of luck, he argues, that we have the constitutive features that we possess – unless, of course, it is an essential quality, in which we can hold the agent responsible, but that he already admits is a matter of moral luck.<sup>52</sup> Blame then is only properly directed at the acts of the agent or the acts he would have done, given the hypothetical of a counterfactual. So, there is no hope for salvaging the contradictory results that Zimmerman’s account leads to because, as already noted, the inclusion of counterfactuals opens us up to blame for an infinite number of things – things that cannot possibly be accounted for and things that are bound to conflict.

When it comes down to it, the overarching problem with Zimmerman’s argument and, for that matter, the epistemic argument is that, while it offers a robust account of what an agent is not open to blamed for – outcome, circumstantial, constitutive or causal luck – it fails to provide a positive answer of what an agent is to be blamed for. Granted, Zimmerman does offer the vapid response that an agent is blameworthy for what he would have freely done, had he the cooperation of a certain feature, but in the absence of all the features that go into shaping that action, decision, and person, I do not see how this is any better than blaming the gun, rather than the gunman, for the injury it inflicts.

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<sup>52</sup> Ibid, 571.

## **Conclusion**

We began this chapter with an inquiry into the subject of moral luck. Though the phrase is uncommon, luck's experience is not: Luck affects everything from the outcome and circumstances upon which we base our moral judgements to the character that those judgments are supposed to indicate. This presents a problem for ordinary intuitions about morality as they presuppose an aspect of agent control that we appear to be lacking.

Next we considered one of the most popular arguments proposed in solution to luck's paradox – the epistemic argument. While the argument takes on a variety of different forms, in general, it claims that, although our lack of knowledge sometimes confuses moral judgment, it does not change what we are in fact blameworthy or praiseworthy for. One might disagree with those advocating for the epistemic position, but I think it is interesting to note why they arrive at this position. Given our initial moral intuitions, it is natural to resist and even attempt to reject the existence of moral luck, but luck inevitably finds its way back into our moral judgment despite this struggle. The fact that we can predict from a hypothetical standpoint (as we have been doing) the different ways in which an agent will be blamed or praised for an action, depending on how things turn out, proves that outcome not only tells us what an agent has done but also determines what the agent has done.

The remainder of this thesis is dedicated the theory of a philosopher only mentioned in passing so far – Thomas Scanlon. Like the philosophers we have explored in this section, Scanlon rejects the arguments of moral luck; however, unlike them, he

does not make any allusions to moral codes or records that exist outside of our everyday reality. His theory is more practically restricted to relationships and the expectations surrounding them. While unique in its approach, Scanlon's offering falls victim to many of the same problems as the epistemic argument. Still, the richness of its insight is deserving of further scrutiny.

## **Chapter 2: Contractualism on Permissibility**

As noted in the introduction, the purpose of this thesis is to examine Thomas Scanlon's theory of blame and whether it successfully accounts for the problem presented by moral luck. Before we address this important inquiry, however, there is a subsidiary one which is deserving of our attention first – that is, permissibility. Scanlon's theory of blame evolves naturally from the moral theory he fathered – contractualism – which locates permissibility in the principles found in mutual agreement. In the first section of this chapter I will detail Scanlon's theory of permissibility, note the distinction he draws between it and blame, and explain the role he provides to intentions in our ethical evaluations. This will serve to provide background for the second and foremost section of this chapter, which inquires into a concept Scanlon employs to test the permissibility of an action – 'reasonable rejection.' The issue I take with the reasonable rejection thesis is two-fold: 1) What constitutes reasonability in our ethical decision making is far from obvious and to that end subject to moral luck; 2) the impartial and objective demands placed by it are at times unrealistic, given our diverging relations; not to mention, less open-minded and tolerant than Scanlon would like us to believe.

### **Permissibility, Blame, and Intention**

Moral appraisal is often described in terms of permissibility. An agent is blameworthy, it is said, if his action is wrong. This is why, for example, when asked why a certain agent is being scolded or punished, a sufficient reply will likely have

something to do with what the agent did and why it was wrong. It would, however, be a mistake to infer from this that the blameworthiness of an agent is somehow contingent on the permissibility of his act. On the contrary, an agent may find himself to be the object of blame despite the permissibility of his act but because he has the wrong kind of reasons. Scanlon offers the example of a person who believes in voodoo, sticking pins into a doll with the hope of bringing about the agonizing death of his ex-girlfriend's new lover.<sup>53</sup> While the act itself is by most accounts a harmless – albeit – useless endeavour, something about this man's reasons for doing it raises concern unrelated to the actual consequences of his actions.

Those who are committed to the casual relationship that they see permissibility and blame as having, may respond that it is the intention of the agent and *not* what becomes of those intentions which makes the moral difference. That seems a difficult and misleading standard to apply if not because the permissibility of each act would vary for each agent, depending on their particular reasons for acting, then because it often leads to the wrong conclusion. If George saved Henry from a burning building solely for the glory of being labelled a 'hero,' we may justifiably be upset with him for acting on the wrong reasons. He ought, we may think, to have acted out of sympathy, compassion or the obligation to help his fellow man. It is, however, one thing to say that because of this, he is blameworthy and another to say that what he did was wrong. It would thus appear that there is something more to an agent's blameworthiness than what can be explained by the definition of the act.

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<sup>53</sup> Scanlon, *Moral Dimensions*, 46.

Thankfully, we need not find that the act to be wrong to know what is wrong with it. Despite the opposite direction these moral judgments take, Scanlon argues, they are not in contradiction with one another but emerge as a separate answer to two distinct questions. The first is the *deliberative question* of whether it is permissible for an agent to perform a certain act.<sup>54</sup> Returning to our earlier example, the act of sticking needles into an inanimate object, when bracketed from this particular man's reasons for doing it, does not itself seem wrong.<sup>55</sup> The second is the *critical question* of whether in deciding to perform a certain action the agent took the proper considerations into account and in the proper way. This will partly depend on the reasons the agent saw in support of his act.<sup>56</sup> For the spiteful ex, his reasons for acting go beyond just the passing of time; rather, he erroneously believes that doing so will bring about the suffering and death of his intended target. He is blameworthy then, not because his act is impermissible (which it is not) but because he should, based on his beliefs, see it as impermissible. This distinction also helps to explain why we may fail to blame someone for an act that seemingly goes against her character. An agent's reasons for acting may absolve her of blame or at least diminish the severity of the response that she would otherwise face for her action if she had the best intentions at heart or if she was not in the right state of mind.<sup>57</sup> Thus, I may employ your compassion by saying something along the lines of, "Yes, what she did was wrong, but you shouldn't blame her for it. She was under a lot of

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<sup>54</sup> Ibid, 22.

<sup>55</sup> In fact, a young child who did the same thing to one of her dolls while pretending to be a doctor rather than being scolded or punished for her 'wrongful' act, might actually be praised for her playtime ingenuity.

<sup>56</sup> Ibid, 22.

<sup>57</sup> Ibid, 124.

stress.” The condition of the agent and her intention at the time of the act are important elements in our evaluation of her but not necessarily of the act.

That is not to say the intention of the agent has no bearing on the permissibility of the act. On the contrary, the intention of an agent may influence the permissibility of the act if it is *predictively significant* or *conferring of meaning*. Predictive significance takes into account the agent’s plan, expectation of outcome, evaluation of the situation and reasons for acting.<sup>58</sup> These are all important in determining the permissibility of an action because they tell us something about the outcome of the act – whether for example, it was an act of murder, manslaughter or self-defence. Intention also helps determine the meaning of the action – a term Scanlon uses to describe, “the significance, for the agent and others, of the agent’s willingness to perform the action for the reason he or she does.”<sup>59</sup> The meaning of an act is important to *expression cases* – where the permissibility of an act depends on the reasons one presents herself as having and *expectation cases* – where someone enters into a certain kind of relationship with an agent because he assumes that the agent has certain intentions and not others.<sup>60</sup> In the case of the former, if my reason for calling my sick aunt during her stay at the hospital is *not* – as I present it to be – out of genuine concern for her health but an attempt to silence my nagging mother’s complaints, then this may count as reason against calling her at all.<sup>61</sup> In the case of the latter, if I invite you to be my date at a wedding, you may accept my offer under the justifiable assumption that I have some sort of romantic

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<sup>58</sup> Ibid, 13.

<sup>59</sup> Ibid, 4.

<sup>60</sup> Ibid, 40.

<sup>61</sup> Ibid, 40.

interest in you, so you may reasonably be upset with me if you find out later that the *real* reason I invited you was to make my crush jealous.<sup>62</sup> Although these examples prove intent to be related to permissibility, they do not show it to be the deciding factor. Rather, in each case intent factors, Scanlon argues, only in a derivative way – “as a consequence of a more basic moral requirement to not mislead others or take advantage of their mistaken beliefs about one’s intentions.”<sup>63</sup> Similarly, Scanlon claims that the meaning of an action can also vary independently from the permissibility of it, noting – “injuring you intentionally and negligently inflicting the same injury are both impermissible but have different meanings: the former reflects outright hostility to your interests, the latter only a lack of sufficient care.”<sup>64</sup>

To summarize, judgments regarding the permissibility of an action are guided by the deliberation question and focus on the reasonability of that act while taking into consideration the surrounding circumstances, which are sometimes – although not necessarily – affected by the meaning of the act. The critical question begins where the deliberative question leaves off, concentrating on the agent’s specific reasons for acting and what that reveals about him – in particular, whether he is blameworthy. Despite their differences, however, the deliberative and critical questions do share some common ground, as one cannot answer the critical question of whether an agent acted reasonably without answering the deliberative question of what counts as a reasonable action. For this reason, it is important to examine in more detail how contractualism defines impermissibility and what constitutes reasonability.

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<sup>62</sup> Ibid, 40.

<sup>63</sup> Ibid, 40.

<sup>64</sup> Ibid, 55.

## Reasonable Rejection

According to Scanlon, an act is wrong if:

[I]ts performance under the circumstances would be disallowed by any set of principles for the general regulation of behavior that no one could reasonably reject as a basis for informed, unforced, general agreement.<sup>65</sup>

That is to say, an action is wrong if someone has reason to reject to it, and an action is right, or at least, permissible, if no one can reasonably reject to it. So, what constitutes a claim of reasonable rejection? A simple example here, should serve to illuminate what is at the foreground of contractualist's thought. Let us suppose that a drummer – who is often up late at night, having performed at a local venue earlier in the evening – enjoys practicing her craft between two and three in the morning when no one is around to distract her, and while the mistakes she made during the performance are still fresh in her mind, but she asks herself whether her action is morally permissible. If she follows Scanlon's proposal, then to get her answer all she has to do is consider whether anyone has reason to reject it and if someone does, then she cannot in good conscience carry through with it.

Now, one objection that might arise is that the noise is likely to awaken some of her neighbours, whom she can expect to be asleep. Suppose, however, that she lives among a mild-mannered group, and although her drums do cause her neighbours trouble sleeping, none of them complain, as they do not want to cause conflict. Is her action validated by their silence? Scanlon's answer is, no. Her action is impermissible just in

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<sup>65</sup> Thomas Scanlon, *What We Owe to Each Other*, (Cambridge: Belknap Press of Harvard University Press, 1998), 153.

case someone has reason to reject to it.<sup>66</sup> The fact that no one actually does is beside the point. Against the claims of her neighbours, she may offer own set of reasons for drumming at that time, but since contractualism is an impartial moral theory, she cannot give these reasons preference simply because those are the ones which would serve her the best. Instead, she must weigh the two opposing claims based solely on their merit and if her claim comes up short, then she must withdraw it.

This suggests a difference between contractualism and other social contract theories based in mutual advantage. Whereas the latter takes the self-interest of agents as the motivation for agreement, contractualism is not as concerned with the practical advantage of co-operation as it is with the mutual recognition of others derived in the “ideal of hypothetical agreement.”<sup>67</sup> Contractualism draws an obvious comparison to the motivation behind Immanuel Kant’s Categorical Imperative, in which, rational agents, out of respect for humanity, are moved to find moral laws everyone can agree to. In contrast with Kant, however, acting morally, according to Scanlon, is not important because it is a prerequisite for rational agency. Rather, morality is important because “other aspects of our lives and relations with others involve this ideal.”<sup>68</sup>

Another way in which contractualism distinguishes itself from other ethical theories is in how it describes a wrongful action. A utilitarian may explain the wrongness of an action in terms of the greater suffering it would cause, while a Hobbesian may make an appeal to a disruption of social order, and a Rawlsian in reference to what is fair. Contractualism, by contrast, offers no one criterion for

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<sup>66</sup> Ibid, 341.

<sup>67</sup> Ibid, 155.

<sup>68</sup> Ibid, 6.

measuring the merits of a claim: Certainly, well-being is something we value, so claims of this kind have their place in our ethical deliberation, but fairness and social order are also things we have reason to promote. Scanlon does not provide a hierarchy of values, instead he suggests that they should be considered within the context of the case.<sup>69</sup>

Our drummer might object that it is unfair that she cannot practice her drums when her neighbours are asleep, but they are free to mow their lawns, play their radios, and engage in other noisy activities in the morning when she is trying to rest. Nevertheless, if her drumming is highly disruptive to them and practicing at another time would only be a minor setback to her, then this may constitute as a reasonable rejection against her performing during those preferred hours. Other times a claim of fairness may trump one of well-being. Suppose that Environment Canada ran a report that determined that if 90% of people practiced good recycling habits, then no environmental damage would result if the remaining 10% never did. Despite this statistic, we may have reason to reject a principle that provided a privilege class of people the right not to recycle, while the rest of us were taxed with the extra burden of sorting through our waste.

#### **I) Objection One: Is the Reasonable Rejection Thesis Too Vague?**

It may seem that by framing the permissibility of an action in a different way, the reasonable rejection standard is able to avoid some of the absurd consequences that threaten doctrines that recognize only one form of value, such as utilitarianism. In a certain way this is true, but in another way, false. Unlike utilitarians, contractualists do

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<sup>69</sup> Ibid, 80.

not judge the permissibility of an act by the consequences that ensue but what it was reasonable for the agent to have thought when she adopted that end.<sup>70</sup> Thus, if some unexpected harm occurs from what would have seemed to most everyone to be a harmless or benefiting act, this would not mean that the act suddenly becomes impermissible – if it was permissible prior to the consequences of the act than it is permissible after them. This puts contractualists on more stable grounds for making moral declarations than their utilitarian counterparts, whose judgment may be negated by an unexpected outcome – by an outcome they were not in control of. Nevertheless, the pragmatic concerns that the utilitarian calculation does raise, also spells trouble for contractualists.

In deciding whether an action is permissible, a utilitarian must consider whether it is likely to bring about a greater amount of happiness or suffering. This is by no means an easy task. There are many factors that may influence their conclusion, including the likelihood of the act bringing about happiness, the intensity and duration of that happiness, and whether it is in proportion to the suffering that may result. All this would make for a very complicated process if there existed reliable figures to back-up our claims, but the fact that no such figures exist or, in any case, that the happiness that one derives from a particular activity is far from obvious makes it a matter of much guesswork whether the conclusion reached about it takes into consideration the right variables for predicting happiness and provides them their due weight.

Consider, for example, Gauguin's dilemma from the perspective of a utilitarian: If our hypothetical Gauguin achieves the same level of success as the historical figure

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<sup>70</sup> Ibid, 80.

did, then there is no doubt that his art will inspire and, in turn, offer happiness to a great number of people, but is that happiness in balance with the neglect his family and loved ones will endure? That is more difficult to say. Given the sheer number of art enthusiasts around the world and the many generations yet to be born, the odds are that his artwork will generate happiness for more people than the small number of people affected by his absence. That said, the intensity of their suffering is likely to be deeper and more encompassing than the pleasure provided to those that are fans of his art. Moreover, while the life of an artist may seem to Gauguin his calling, we cannot discount the possibility that in lieu of becoming a world famous painter in Tahiti, Gauguin may have pursued a different career path of even more social value. Of course, this is all under the presumption that the hypothetical Gauguin has the same talent as the real man and that moving to Tahiti is a necessary step for harnessing his artistic abilities; neither of which are things we (nor he) can know.

With regards to contractualism, well-being is still a significant contributor to the reasonable rejection thesis, so all the above variables are still relevant to the permissibility of an act under the present standard, but besides factors of utility, a host of other values and variables come into play. When compared to Scanlon's proposal, the utilitarian formula appears remarkably straightforward. Sure, I may mistakenly assign a certain activity more or less happiness than I ought to, but at least the formula is there to protect me from veering too far from course. The reasonable rejection standard, on the other hand, offers no such insurance. In addition to having to form an assessment about the amount of utility a certain act will generate, or how fair it is, or whether it will create or disturb social order, I now have the extra burden of having to place these values in

order. Thus, I may wrongly assume that in a certain case fairness is imperative, when, in fact, well-being is of most importance.

It may be responded, however, that rather than complicating moral decision-making, the reasonable rejection standard actually simplifies it, by offering safeguards against the torturous calculation of an ever-changing set of variables and possibilities. To see how this argument works, we must first divert the discussion to an argument Judith Thomson raises in regard to the “objective ought.” In contrast with contractualists, Thomson claims that permissibility should be understood in an objective manner and not necessarily as something that entails fault. In illustration of this position, Thomson asks us to consider our feelings regarding the following scenario:

Day’s End: B always comes home at 9:00 pm, and the first thing he does is to flip the light switch in his hallway. He did so this evening. B’s flipping the switch caused a circuit to close. By virtue of an extraordinary series of coincidences, unpredictable in advance by anyone, the circuit’s being closed caused a release of electricity (a small lightning flash) in A’s house next door. Unluckily, A was in its path and was therefore badly burned.<sup>71</sup>

Since B was not aware of the malfunctioning circuit, nor given the unpredictable nature of the event, was it something he could reasonably be expected to have known, Scanlon would describe B’s action here as permissible, but Thomson believes this is a mistake. The strangeness of the contractualist description comes out more clearly when we imagine what we would say to B if we knew about the short circuit: Would we say, “Look B, we know something you don’t know. If we tell you then it will be true to say you ought not to have flipped the switch, but not if we don’t tell you.”? Thomson has her

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<sup>71</sup> Judith Jarvis Thomson, *The Realm of Rights*, (Cambridge: Harvard University Press, 1990), 229.

doubts.<sup>72</sup> The permissibility of B's action does not have to do with B's psychological state but with the harm done to A. Scanlon, on the other hand, argues that if it is true that B ought not to have flipped the switch, it is true only in the sense of 'ought not' that lacks the moral content that the idea of permissibility has. The problem with Thomson's characterization of our response to the scenario, Scanlon argues, is that it wrongly suggests that it is B's knowledge rather than the harm done to A which makes it the case that B makes the difference in permissibility. "If B knows about the harm, then he should count it as a reason against turning on the light. But it is still true that his knowing about it makes an important moral difference."<sup>73</sup> For this reason Scanlon concludes, "permissibility is not merely a matter of what a particular agent believes the facts to be. It depends on what it is reasonable for the agent to believe in that situation, and whether the agent has done those things."<sup>74</sup>

The reasonable rejection standard does not expect nor reprimand anyone for lacking the knowledge or probability calculus of an omnipotent or fully rational being. In fact, Scanlon goes to some lengths to distinguish the reasonable rejection standard – which he advocates for – from a rational rejection standard – which would be more demanding. Rationality, according to Scanlon, appeals to a broader sense of knowledge and understanding than we may generally be privy to. Thus the most rational course of action would be one "that is best supported by all the relevant reasons given a full and accurate account of the agent's actual situation."<sup>75</sup> In contrast with this, claims to do

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<sup>72</sup> Ibid, 233.

<sup>73</sup> Scanlon, *Moral Dimensions*, 51.

<sup>74</sup> Ibid, 51-52.

<sup>75</sup> Scanlon, *What We Owe*, 32.

with reasonability are “relative to a specified body of information and a specified range of reasons, both of which may be less than complete.”<sup>76</sup> Sometimes these reasons may concern only those specific to the agent’s belief and aim, whether for example his decision to have a third piece of cake is in harmony with his decision to lose weight. Other times these reasons, however, will appeal to a class of claims other people have. Thus, Scanlon notes, if a friend exclaims to you, “That was not a reasonable thing to do. You should have realized that telling that joke was quite out of place at a funeral,” what she is expressing is not an obscure sense of etiquette exclusive only to the most knowledgeable and rational of our species, but what would seem common sense to most any adult of normal cognitive abilities.<sup>77</sup> Perhaps then our accusations against Scanlon’s permissibility framework are misdirected, since in many cases they appeal to ideas or notions so widely understood and accepted they require no further articulation or defence.

Suspecting that some moral theorist aware of the importance individuals place on personal achievements might attempt to accommodate such values into their moral framework by forming “a subsidiary rule which could, before the outcome, justify that choice,”<sup>78</sup> Williams responds:

What could that rule be? It could not be that one is morally justified in deciding to neglect others’ claims if one is a great creative artist: apart from doubts about its content, the saving clause begs the question which at the relevant time no one is in a position to answer. On the one hand, ‘...if one is convinced that one is a great creative artist’ will serve to make obstinacy and fatuous self-delusion conditions of justification, while ‘if one is reasonably convinced one is a great artist’ is, if anything, worse. What is a reasonable conviction supposed to be in

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<sup>76</sup> Ibid, 32.

<sup>77</sup> Ibid, 33.

<sup>78</sup> Williams, “Moral Luck,” 24.

such a case? Should Gauguin consult a professor of art? The absurdity of such riders surely expresses an absurdity in the whole enterprise in trying to find a place for such cases within rules.<sup>79</sup>

Williams' denial that reasonable conviction garners justification is not in direct response to Scanlon, who would not present his theory of contractualism until 17 years after Williams wrote on the subject. Furthermore, given the trivial nature of Gauguin's dilemma, Scanlon would more than likely claim that the probability of his making it as an artist is neither here nor there – Gauguin's family have reason to reject to his choice to abandon them regardless of the final outcome. But even if Scanlon were able to escape the absurdities of justification in the present scenario, there is no reason for thinking that this same defence could be employed against all such probabilistic quandaries.

Tweaking the example to fit with our present concerns, suppose that Gauguin was not a struggling artist but a scientist dedicated to finding a cure against the common cold. After some investigation, Gauguin has come to believe that a rare flower, which exists only in Tahiti, contains a chemical that if carefully extracted could be the missing ingredient needed to develop a vaccine against the common cold. To test this hypothesis Gauguin would have to move to the flower's native land, where he would, over the course of five years, conduct a variety of trials. Needless to say, the ramifications of Gauguin's experiment should his hypothesis prove to be correct are huge: Not only would he have found a cure against an ailment which plagues even the healthy among us an average of one to three times a year but would decrease the mortality rate of the sick and elderly, who pass away due to complications brought on by this infectious virus.

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<sup>79</sup> Ibid, 24.

Does this revision to our thought experiment provide Gauguin the moral justification he needs to move to Tahiti? Well, that all depends on the probability of Gauguin's hypothesis. On the one hand, if he was a renowned scientist, already credited for a variety of other scientific breakthroughs, whose current research had been closely reviewed and approved by many of the world's top scientists, then his hypothesis would seem plausible and this would seem to offer him the merit he needs in order to travel. On the other hand, if he were not a highly-regarded scientist but considered something of a joke among the small scientific community aware of him, whose current hypothesis is based on a 'revelation' that came to him after taking some powerful hallucinogens; there would seem little plausibility to his hypothesis and certainly not enough to justify his choice to leave his family. Williams, of course, is not claiming that actions only ever gain justification in the future; as the examples above illustrate, there are better and worse reasons for embarking on something. Still, insofar as an action is 1) agent defining and 2) uncertain in outcome, justification will come after *not* before it is adopted.<sup>80</sup> Between these two extremes are all the other counterfactuals the reasonability of which becomes less clear and more ambiguous the closer they are to the middle. What if Gauguin was neither a renowned scientist nor a mockery to the profession? His research has been reviewed by his colleagues with mixed results – some believe there is some credence to his claim, while other think it to be highly dubious – but most agree that the data available is so limited it is hard to say either way. Would this count as reasonable claim for moving to Tahiti? One that would outweigh the claim his loved ones have on him? The answer to this, I suspect, can only be positively provided if and

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<sup>80</sup> Ibid, 35.

when Gauguin chooses to leave to Tahiti. If Gauguin's experiment succeeds, then his decision would appear justified and he can credit his choice to remaining faithful to his intuition and research, despite what his critics said about him. If his experiment fails, however, he will have little choice but to see his decision as unjustified, and he will have to live with the fact that by arrogantly ignoring all opinion to the contrary, he neglected his family on a questionable hunch and has nothing to show for it.

## **II) Objection Two: Is the Reasonable Rejection Thesis Too Demanding?**

For Søren Kierkegaard, the father of existentialism, this is the crux of the human condition because the choices we make in the past are narrated from the future:

Life must be understood backwards. But then one forgets the other principle: that it must be lived forwards. Which principle, the more one thinks it through ends exactly with the thought that temporal life can never properly be understood precisely because I can at no instant find complete rest in which to adopt a position: backwards.<sup>81</sup>

What Kierkegaard speaks to is a phenomenon explained by modern psychologists as “hindsight bias.” Hindsight bias (also, referred to as the ‘I knew it all along’ effect) is the tendency for humans to overestimate their ability to predict the outcome of a situation when considering it retroactively. In one well known experiment testing this effect, researchers Kim Kamin and Jeffery Rachlinski explained to their subjects that a city had recently constructed a drawbridge and needed to know whether there was sufficient risk of the drawbridge causing a blockage, which would result in a flood. If by the participants' estimation there was more than a 10% chance of a flood occurring, they were told that the city should hire an operator to make sure the water level below the

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<sup>81</sup> Søren Kierkegaard, *Papers and Journals: a selection*, ed. and trans. Alastair Hannay, 1996.

bridge did not get too high. Otherwise, if the city chose to ignore the risk and not hire an operator they will have acted negligently.<sup>82</sup> Both the controlled and experimental groups in the experiment were given the same background information known to city officials when they first erected the drawbridge; however, the experimental group was given an additional piece of information the control group was not: The set-up was based on an actual legal case, and a flood actually *did* occur. Intriguingly, although 76% of participants in the control group believed the chances of flood damage actually occurring were so minuscule, no precautions were necessary; 57% of the experimental group believed the opposite to be true: The risk of a flood occurring was high enough to raise concern and by failing to hire an operator to mitigate that risk, the city acted negligently.<sup>83</sup> The results of this experiment present an interesting problem for contractualists as our susceptibility to such probabilistic fallacies means our assessment of reasonability might not be quite as reasonable as first presumed. One response is to try to overcome this error by reminding ourselves of our tendency toward such mistakes of reasoning and resolving to view the action from the standpoint of what was known at the time. Such was the tactic the researchers in this experiment used to test the reaction of a third group of participants who, like the second group, were told the details of the situation and the outcome of the case but unlike them, were also educated on hindsight bias and instructed to avoid it as best they could. This additional caution made little if

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<sup>82</sup> Kim Kamin and Jeffery Rachlinski, "Ex Post  $\neq$  Ex Ante: Determining Liability in Hindsight," *Law and Human Behavior*, 19, no. 1 (1995): 93.

<sup>83</sup> *Ibid*, 98.

any difference to their conclusion and 56% of them found the city to be legally negligent.<sup>84</sup>

The nature of knowledge is such that, although one can forget something they once knew, the decision to not know it anymore is not up to us. This makes discounting information we have from our judgment of a situation very difficult, and while there exist better and worse strategies for minimizing the hindsight bias, the suggestion that one could, if they so chose, competently rid themselves of that bias relies on an overly naïve understanding of the human psyche. A person whose action results in fortunate outcome will be judged, by herself and others, as more reasonable and more justified than a person whose same action results in an unfortunate outcome.

In addition to being able to accommodate a wide variety values, contractualism also offers some lenience for things like cultural custom and personal values to influence the permissibility of a claim. Culture affects the acceptability of a practice in at least two ways: First, it affects the way in which values are expressed – whereas in Japan failing to bow before the person one is addressing is disrespectful, in Canada it holds no such significance. Second, culture shapes the weight we assign certain values – although Canadians celebrate individuality and uniqueness, the Japanese tend to place a greater emphasis on unity and conformity. This in turn affects our thoughts and opinions on things like, privacy; which is to say, the acts one has reason to accept or reject in one culture are not necessarily the same as the acts one has reason to accept or reject in another.<sup>85</sup>

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<sup>84</sup> Ibid, 98.

<sup>85</sup> Scanlon, *What We Owe*, 340.

But while Scanlon is permitting of a certain degree of relativism he is by no means a relativist. To be sure, certain practices, such as honour killings, virgin sacrifices, and genital mutilation are wrong regardless of cultural practice. With each of these practices, the affected agents have reason to reject the act, even if they (perhaps because they have grown accustomed to such harsh treatment) do not see it as unreasonable.

A relativism which fails to take these reasons seriously may be put forward as broad-minded and tolerant, but it in fact shows a lack of respect for the people in question. The view that I am defending allows for this counterargument, because what it takes as fundamental is not what people actually want, but what they have reason to want.<sup>86</sup>

Insofar as the values and beliefs of a culture are important to a person, however, we have reason to take tradition and customs into consideration when deciding on the reasonability of a certain standard. The trick then for morality is to allow personal culture to influence our values without being indifferent to what it says about them.

A similar balancing act is called for when it comes to matters of personal preference. As is the case with different cultures, no one individual expresses or weighs their values in the exact same way and an ethics that required that they do, would be highly oppressive if not impossible to follow. A proper account of morality then should be able to accommodate various individual differences and explain why they are worth preserving. There are a few strategies one may invoke in pursuit of this goal. Kant starts with the claim that our rational nature confers reason-giving status to our own ends and from there argues that the rational nature of others provides us with reason to treat their ends in the same way. Scanlon, however, approaches the matter from the opposite

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<sup>86</sup> Ibid, 341.

direction. He agrees with Kant that to see something as one's end is to see it as something one has reason to promote but warns – it does not follow from this that one has reason to promote it *because* it is one's end. "The reasons we have to promote our ends are just the features that gave us reason to make it an end in the first place."<sup>87</sup> Thus, if I judge my own end to be risky or foolhardy then this would count as a reason against pursuing it at all. When it comes to the ends of another agent, however, respect for their individual autonomy offers me reason to help promote or at least not interfere with their ends, even if it is something I myself do not view as worth pursuing.<sup>88</sup>

Williams maintains that one's judgment of the justifiability of an action is to some degree dependent on how she is situated in relation to it. This is not merely an empirical claim about how we tend to act. Rather, Williams thinks that we are right to judge the act differently on these grounds. He admits that those who believe that if an action is morally justified, then no one can justifiably complain about it, will take issue with this but rebukes that this relies upon an all too simplistic understanding of morally costly acts.<sup>89</sup> War is a prime example of this phenomenon. A nation that is under attack, most would argue, has the right to defend itself by use of military force, even if that means, while not directly targeted – inevitably and regrettably – there will be civilian casualties. Even Scanlon, himself, concedes that in certain circumstances it may be permissible to allow one person to die if that means more lives will be saved in the process.<sup>90</sup> The controversy surrounding high cost moral acts is not, of course, exclusive

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<sup>87</sup> Scanlon, *Moral Dimensions*, 93.

<sup>88</sup> *Ibid*, 94.

<sup>89</sup> Williams, "Moral Luck," 37.

<sup>90</sup> Scanlon, *What We Owe*, 232.

to contractualism but a problem to which every ethical theory has to answer. What is interesting about these conundrums from a contractualist perspective is that in order for it to be justified, it should be something the victims themselves see it as something, all things considered, they do not have reason to reject. Williams, however, claims that this is too high a demand:

It is not reasonable in such cases to expect those particular people who have been cheated, used or injured to approve of the agent's action, nor should they be subjected to the patronizing thought that while their complaints are not justified in terms of the whole picture, they are too closely involved to be able to see that truth. Their complaints are justified, and they may quite properly refuse to accept the agent's justification which the rest of us may properly accept. The idea that there has been a moral cost implies that something bad has been done, and very often that somebody has been wronged, and if the people who have been wronged do not accept the justification, then no one can demand that they should.<sup>91</sup>

Scanlon would argue that this misses the point of justification. The whole business of justification seems to be driven by the fact that there are costs to an act. If there were no costs, one would have no reason for justifying it. In the case of Gauguin, while it is true that his family may understandably be upset by his departure, the strength of their complaint is only justified if their reasons for wanting him to stay outweigh his reasons for wanting to go. Thus, if Gauguin's wife thought it would be reasonable for her to leave her family if in doing so she would become a successful artist, then we would think her position to be hypocritical. This is not to say Gauguin should not be concerned with the hardships he causes his family, unless they view his actions as personally unjustified. He should see the cost to them as having weight in his decision

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<sup>91</sup> Williams, "Moral Luck," 37.

regardless, but the degree to which he thinks he was justified in his decision, he should think, that they too should see him as justified in it.

For reasons already outlined by Williams, I have difficulty accepting Scanlon's position. Admittedly, from a theoretical perspective Scanlon's description of justification appears more plausible than Williams', which runs the risk of relativism. The fact of the matter remains that while tough decisions need to be made that does not mean those who have been deceived, abused or sacrificed for the purpose of some greater end should – lest they be accused of not being fair minded enough – see it that way. Morality serves to protect those values that make life worth living, so when an individual is made to give up those values for the sake of morality, at least part of the justificatory reasons for that action, will be lost.

Working, however, on the assumption that Scanlon is correct and that an act that is morally justified, is an act that is justified to all, suggests something about the credibility of varying perspectives that is in want of further exploration. Take the example Rahul Kumar offers of Joel – a devotedly religious young man, interested in military service. Military service in Joel's society, serves a similar function to what a university education offers North Americans – it is both highly regarded and a necessary credential for many of the more competitive jobs available in the labor market. As such, Joel regards enrollment in the military as an essential step in furthering his career path and life plan. But there is a problem: The military requires all enlisted soldiers sport a buzz cut – an act that is prohibited by Joel's faith. For Joel, cutting his hair would symbolize a renouncement of God; something he has no intention of doing. Given the

unique restrictions placed on him by his faith, Joel believes that he should be pardoned from this military requirement.<sup>92</sup>

Max is the military official responsible for reviewing Joel's case. As someone who wavers between agnosticism and atheism, Max has difficulty viewing Joel's objection as anything more than a personal preference or style choice. Moreover, the military, by his way of thinking, has good reason for making this demand on their soldiers. Fashioning their soldiers in the same manner instills uniformity – a crucial value for any successful squadron. Max views the limit imposed on Joel and other prospective soldiers by restricting their hairstyle choice as providing only a minor imposition when compared to the military's high need for a well-functioning and coordinated army. Consequently, Max does not give Joel's claim much weight.<sup>93</sup> Is Max being unfair in his consideration of Joel's objection? From the contractualist point of view, Kumar argues that he is.

Regardless of what Max makes of the religion, he should recognize it as something that holds a great deal of significance for Joel. Joel's objection relies on what he takes to be an important truth, shaping his understanding of what makes a meaningful life. Beyond the simple matter of personal preference, this puts into question the extent of claims of autonomy. As Kumar rightly points out, it is not simply a case of personal preference but of Joel's rights as an autonomous agent, and to present it as anything less is to make a serious mistake about his claim:

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

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<sup>92</sup> Rahul Kumar, "Reasonable Reasons in Contractualist Moral Argument," *Ethics*, 114 (2003): 20-21.

<sup>93</sup> *Ibid*, 21-22.

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.<sup>94</sup>

This is not meant to put an end to the debate. When all of the relevant factors are taken into deliberation, it may turn out that Joel's claim comes up shy in comparison to the military's need to enforce compliance, but in order to arrive at this conclusion, Max must give Joel's objection the consideration it warrants. Otherwise, while he may arrive at the right answer, he will have gone about it in the wrong way and in doing so, neglected the most important contractualist value – the mutual recognition of others as rational, self-governing agents.

In offering additional considerations which may have been glossed over by Max, Kumar provides us with a better starting point for approaching Joel's claim; nevertheless he overlooks an aspect of Max's understanding of the case that, I believe, is just as important. As you will recall, the reasons a person has for rejection are not necessarily the same as the ones she provides. A discrepancy may result if the agent fails to voice the concerns that she has – as was the case with the quiet neighbours from our earlier example – or if the agent fails to see the adequacy of her reasons. Be that as it may, the drummer is still bound by the requirement of mutual agreement, and this means considering any and all objections that may reasonably be brought up against the action, including those that the affected agents do not themselves see. But there is another way in which an agent may misjudge her claim: she may mistake herself for having reasons that she does not, in fact, have or otherwise assign this objection more weight than she ought to. Such would be the case if I were upset with my friends for being so cavalier

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<sup>94</sup> Ibid, 22.

about my birthday, when, unbeknownst to me, they were actually throwing a surprise party. Here again, the reasons that an agent provides take a backseat to those reasons that she actually has.

Guided by the contractualist ideal of mutual agreement, Max – we may assume – is driven by the need to justify himself to Joel and the rest of the military personnel on grounds that he could reasonably expect them to accept. The operative word here being, ‘reasonably.’ Max views Joel’s religious conviction in much the same way that we might view another agent’s belief that the world is flat – as seriously mistaken, if not completely irrational. The question is whether making this judgment bars Max from giving ethical consideration to Joel’s claim, as he, himself, would see it as something that fails the reasonability standard. Kumar does not think so, noting that while Joel’s religious beliefs are intimately connected with his ideas of self and purpose, a person’s understanding (or misunderstanding) of geography is unlikely to hold the same importance.<sup>95</sup> I, however, have my doubts about the feasibility of this defence.

Kumar concedes that, “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.”<sup>96</sup> Thus, while Joel will understand his claim as an appeal to the orders given by divine authority, Max, Kumar argues, “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

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<sup>95</sup> Ibid, 23.

<sup>96</sup> Ibid, 24.

truths.”<sup>97</sup> Now granted, Joel’s religious beliefs carry personal significance for him and as such, should be addressed with sensitivity and compassion, but that does not mean they rely on strictly personal reasons. In contrast with decisions concerning subjective states, such as Joel’s decision to pour himself a glass of water when he is thirsty; Joel’s faith, we may presume, is rooted not in facts about his tastes, desires or skill-set – it is not because he wants there to be a god that forbids certain acts such as cutting one’s hair that he practices his religion but because he believes that, that god exists that he refuses to cut his hair. It is on this fundamental point that he and Max disagree because Max thinks this belief is unfounded and, therefore, unable to support Joel’s religious practices. The internal conflict that this offers is that even if Max can and should take Joel’s beliefs seriously, he can only do so by bracketing from his judgment the reasonability of a claim that he deems dubious.

In fact, Max may even use the absurdity of Joel’s belief as a point of criticism against him in other moral matters. If, for example, based on his faith, Joel believed that homosexuality was a sin and consequently, ignored and shunned homosexual people, Max, instead of defending Joel’s claim, may actually blame Joel for believing he had one. His criticism of Joel would not be based on a discrepancy between Joel’s beliefs and his actions – it is not out of a weakness of will or ill intentions that Joel acts with disdain, but a belief system that is important to him and to which he adheres. It is rather the fault and illogicality of Joel’s beliefs that makes him (at least by Max’s estimate) both wrong and blameworthy. The point is not that Max should not give Joel’s claim to

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<sup>97</sup> Ibid, 25.

enlist in the military without cutting his hair due consideration.<sup>98</sup> The point is that the reasonable rejection standard if applied consistently cannot get us there. If on the one hand, Max only takes into consideration those claims that he believes Joel has reason to have, he will have to dismiss both of Joel's claims (Joel's claim not to cut his hair and Joel's claim to shun homosexual people) based on what he takes to be a mistake in Joel's belief system. If on the other hand, he ignores the fault of Joel's judgment and attends only to the personal importance the act offer's Joel, he will have left out what is essential to our assessment: It is not that Joel's claim to practice his faith is less important than another person's claim not to be ignored, but that Joel's treatment of homosexuals lacks rational basis that his act is both misguided and blameworthy.

## **Conclusion**

With the start of this second chapter I had two aims: 1) to elucidate Scanlon's theory of permissibility, specifically the reasonable rejection thesis 2) to address concerns of moral luck in terms of it. The brilliance of contractualism cannot be overstated, Scanlon has developed a moral theory that captures much of the same idealism found in Kantianism and other deontological theories, while maintaining the sense of realism utilitarian and other consequentialist theories provide. But it is not without fault. While remaining unrestrictive in definition offers some advantages to the reasonable rejection thesis, the ambiguity of the metric also leaves more opportunity for error. One would hope that if an agent is properly motivated by the concern for mutual agreement and considers from various standpoints reasons that may be brought up

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<sup>98</sup> Personally, I believe that he should.

against a certain action, then he could avoid acting impermissibly, but when we consider the many ways in which a judgment may err— I may put too much weight in a certain value, leave out an important variable, place the values in the wrong order, mistake the probability of something occurring, etc. — is it any wonder how one could come by a claim that even approximates the truth? This problem is only exaggerated by our natural tendency toward biases that distort reason. Moreover, the differences between our relations to an act and the moral costs involved in such acts, cast doubt on the impartiality demanded by the moral perspective. Scanlon’s attempt to reconcile moral objectivity with a variety of different perspectives offers similar difficulties because in the end, the universality of reasons precludes any (even frivolous) mistakes in judgment. The arguments made in this chapter, however, are secondary to our main purpose, which is to see how Scanlon’s theory of blame holds up against moral luck. We will turn our attention to this next.

### Chapter 3: Scanlonian Blame

Central to the problem of moral luck is blame. At first blush it seems wrong to blame someone for actions that are beyond his control, but our investigation in chapter one pointed us in a different direction. If we followed our initial moral intuition to its logical conclusion, then there would be little if anything left to blame an agent for, since little if anything can be said to be within an agent's control. Those who accept the control principle as a condition of moral responsibility but want to deny the paradox of moral luck are in the difficult position of having to show that control is not restricted to the extent that Nagel and Williams suggest. However, as we have seen from our examination of the empiricist arguments, that is no easy task. An alternative and, perhaps, more viable way of getting around moral luck, is to deny that it is a problem. Of this thought is Thomas Scanlon, who offers an account of blame that deems moral appraisal appropriate regardless of whether one's actions are freely chosen. After differentiating Scanlon's theory from more popular accounts of blame, I will examine its merit. Scanlon situates his account of blame around relationships, arguing that an action is blameworthy if it violates the standards of that relationship. Scanlon's description of blame has many redeeming features. By placing relationships at the centre of his analysis, he is able to explain how and why outcome may influence our response. His account, nevertheless, seems to be missing something of central importance – that is, the presence of reactive attitudes. Without these features the question becomes, is what we are doing blaming? It is my contention that we are not. Scanlon offers us the machinery of moral appraisal but leaves out the fuel by which it operates. The last section of this

chapter brings us full circle with a moral luck scenario similar to the one in the opening of the first chapter – the luck of a driver. This will allow us the opportunity to, once again, challenge our moral intuitions and test how successful Scanlon’s theory is at settling the quandaries they provide.

### **Between an Evaluative and Punitive Account of Blame**

While we have yet to address the definition of blame directly, our discussion on the subject so far may have already been coloured by the assumptions of the authors considered. Underlying some of Williams’ and Nagel’s more persuasive arguments on moral luck is a concept of blame, which if mistaken, may undermine the conclusions they reach. Both Williams and Nagel tend toward an evaluative description of blame – where to blame someone is to arrive at a negative assessment of his or her character.<sup>99</sup> This idea of blame comes out best in their discussions of consequence and its connection to character. Indeed, at least part of the reason that I think we feel uncomfortable with the difference between our reaction to a driver in the face of an unfortunate event and a fortunate one has to do with the connection that we see blame and evaluation as having. It seems unfair that we should allow the outcome of an event – that is, something beyond our control – to shape our evaluation of the agent’s character, which remains the same throughout.

Those opposed to moral luck also seem to acknowledge blame and evaluation’s apparent connection, which is why much of their rebuttals are focused around either explaining or explaining away this phenomenon. Wolf, for instance, attempts to get

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<sup>99</sup> Scanlon, *Moral Dimensions*, 123.

around the problem by arguing that while outcome may influence evaluation, regret – particularly, agent regret – of this kind, is different from blame. Richards and Zimmerman, on the other hand, are more accepting of this human folly, but instead of painting outcome as an unavoidable obstacle getting in the way of our otherwise fair assessment of an agent and thus, blame of her, they offer an ethical guideline for blame which endeavours to rise above it.

Despite its popularity, Scanlon has some reservations with evaluative accounts of blame. While an evaluative interpretation of blame gives credence to the thought that it is wrong to blame a negligent driver more severely for an unfortunate outcome, it cannot explain the simultaneous and contradictory belief that a negligent driver who runs over a child is more to blame than a negligent driver who is lucky enough to escape the same devastating consequence. Similarly, Scanlon argues that the evaluative interpretation cannot make sense of our ambivalent attitude toward constitutive factors of luck. For “if blame is just a form of evaluation, there is no reason why casual explanations of our character undermine blame.”<sup>100</sup> Like any other attribute an agent may have – be it intelligence, athleticism, or beauty – luck may influence character and, in turn, our assessment of the agent, but that does not change the fact that it is *his* character that we are assessing (or blaming) when we say of an agent that he is good or bad, right or wrong, just as it is *his* intelligence, *his* athleticism, *his* beauty that we are appraising when we say that his he is smart, sporty, or attractive. Unless more of an explanation is

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<sup>100</sup> Thomas Scanlon, “Interpreting Blame,” *Blame: Its Nature and Norms*, ed. Justin Coates and Neal A. Tognazzini (New York: Oxford University Press, 2013), 85.

provided as to why we form these character assessments and what purpose these character assessments serve, the whole enterprise is at risk of being arbitrary.

Although Scanlon's criticisms against evaluative forms of blame have a certain utilitarian ring to them, he is equally critical of their punitive counterparts. On a punitive account of blame, blame is understood as a milder form of punishment or sanction offering of some social advantage (for example, instilling social order). This might explain why we are more inclined to blame Larry if he has the misfortune of running over a child, as his action carries more negative social consequences. It, however, does not account for those other times when we continue to blame someone even when we are certain they will not serve such punitive measures (for example, when we know the agent will never have the opportunity to repeat the action) or when blame does not involve punishment, penalty, or sanction.<sup>101</sup> As for himself, Scanlon offers an account of blame that keeps the evaluative component of blame but explains it in terms of the function it serves in a relationship. In this way, Scanlon hopes to capture what is right about both the evaluative and punitive accounts of blame without getting trapped down the same road that led some other philosophers astray.

### **Personal Relationships and Blame**

Scanlon's account of blame is perhaps most aptly compared to Peter Strawson's. In his widely discussed paper, "Freedom & Resentment," Strawson attempted to get around the problem presented by determinism by offering a practical explanation for reactive attitudes linked to blame. For Strawson, we do not need a metaphysical

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<sup>101</sup> Ibid, 86.

justification for resentment, indignation, or anger; rather, we come by these reactive attitudes naturally in response to behaviour that we have a right to be bothered by.<sup>102</sup> Following Strawson's footsteps, Scanlon presents blame as a natural and functional aspect of relationships. In contrast with Strawson, however, Scanlon's account of blame does not revolve around reactive attitudes but an adjustment of attitudes and dispositions linked to those relationships.

According to Scanlon, someone's action reveals them to be blameworthy if that "action shows something about that agent's attitudes towards others that impairs the relations that others can have with him or her."<sup>103</sup> This raises a variety of questions regarding relationships, impairment, and the appropriateness of various attitudes. Before we address them, however, it might be useful to consider an example Scanlon provides of a blameworthy action.

In this imagined scenario, Tom has learned that his good friend, Joe – while attending a social gathering last week – happened upon a conversation in which a few of their mutual acquaintances were making some rather mean jokes about Tom. Joe, instead of coming to the defence of Tom or politely excusing himself from the conversation, as we might expect a good friend would do, laughed enthusiastically at the jokes and even contributed some of his own favourite barbs about Tom.<sup>104</sup>

Those who subscribe to an evaluative definition of blame might argue that Joe is blameworthy because his actions reveal that he has the negative trait of being disloyal.

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<sup>102</sup> P. F. Strawson, "Freedom and Resentment," in *Freedom and Resentment and Other Essays*, (Oxford: Oxford University Press, 2003) 78.

<sup>103</sup> Scanlon, *Moral Dimensions*, 128.

<sup>104</sup> *Ibid*, 129.

In contrast with this account, Scanlon would argue that it is not the quality of disloyalty itself that makes Joe blameworthy, but the meaning that it has for his relationship that leaves him open to blame. There is a subtle but important distinction to be made here: Whereas, in an evaluative account of blame, an agent can be blamed for any negative characteristic she possess, on Scanlon's account of blame, it is only those characteristics affecting the relationships we have with another which is the proper object of blame. This explains why we might think a person who scolds her friend for choosing unhealthy snack foods, procrastinating on an assignment, or failing to clean-up his room is out of place. While these traits undoubtedly reveal character weaknesses, they are not, normally speaking, the type that impair a friendship. So long as these personal vices of an individual have no bearing on the relationship he has with another person he is not the proper object of blame, and a friend who proceeds to do so anyways opens herself up to blame.<sup>105</sup>

So we have established that Joe is by Scanlon's account blameworthy and we have noted that this has to do with what his actions reveal about his attitudes towards Tom, but we have yet to explain why Joe's attitudes are inconsistent with standards introduced by friendship. To help us with this question and others like it, Scanlon offers the "normative ideal" of a relationship, which lays out the standards of a relationship and how an attitude or action can be said to have violated it:

The normative ideal of a particular kind of relationship specifies what must be true in order for individuals to have relationships of this kind and specifies how individuals in that relationship should, ideally, behave toward one another. It sets

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<sup>105</sup> Ibid, 155.

the standards to which relationships of this kind can exist and by which it can be judged to be better, worse or impaired.<sup>106</sup>

Reflecting on the normative ideal tells us two things: First, the lower or ‘constitutive’ norms of a relationship inform us of whether the parties involved have a connection that meets the minimum standards of a particular kind of relationship. Harry Adamson compares these standards to the rules of a game, “Unless you abide by these minimal norms, you are not in the relationship just as, were you to deviate enough from the rules of chess, you would no longer be playing chess.”<sup>107</sup> The constitutive norms of friendship then might set the minimum amount of interactions, affection, or trust you must have with another in order to qualify as ‘friends.’ Second, the higher or, to borrow another one of Adamson’s terms, ‘full-blooded’ norms of a relationship, specify the higher ideals or standards by which a relationship can be said to be going well or going badly.<sup>108</sup>

Applying the normative ideal of a relationship to our present example offers a clearer understanding of what in particular Joe is blameworthy for. At the foundation of every relationship are expectations: Expectations about how the parties will behave toward one another and expectations about how the parties will feel about one another. Being a good friend involves, among other things, helping your friend move out of her house when she asks for a second set of hands, aiding her through a difficult breakup when she seeks your counsel, and being disposed to do these things even when no such request is made. In addition, we expect our friends to have certain feelings about us – to

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<sup>106</sup> Ibid, 134.

<sup>107</sup> Harry Adamson, “What Does Blame do to Relationships?,” *Praxis*, vol. 3, no. 1 (Spring 2011): 22

<sup>108</sup> Ibid, 23.

take pleasure in our company and to hope for good things for us. The constitutive norms of friendship do not require one to hope that her friend gets the job she is after or be pleased when she does get it; nonetheless, it would be disloyal of her not to.<sup>109</sup> Joe, Scanlon argues, is guilty of violating both these expectations. First, by engaging in and contributing to a mean-spirited conversation about Tom, he behaved in a manner inconsistent with the full-blooded ideals of friendship. Second, Joe's ability to mock his friend with such ease is quite telling; it suggests that he may not have the same affection for Tom that one may expect of a friend.<sup>110</sup>

It is, however, not our assessment of an agent's blameworthiness but our response to them which constitutes the act of blame. In Scanlon's own words, to blame someone is to "take your relationship with him or her to be modified in a way that this judgment of impaired relations holds to be appropriate."<sup>111</sup> Informing our reaction is our assessment of the agent's blameworthiness. This will take into consideration certain practical concerns, such as how remorseful the agent was and how likely the agent is to repeat the action. These details are significant, however, only insofar as they provide insight into the nature of the impairment; not because they tell us the severity of the reaction most befitting of the blameworthy agent.<sup>112</sup> So, although it may have been an isolated incident for which Joe feels quite badly, the fact that Joe has learned his lesson and is unlikely to repeat the act again does not settle the matter of blame. Joe's action

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<sup>109</sup> Scanlon, *Moral Dimensions*, 132.

<sup>110</sup> *Ibid*, 130.

<sup>111</sup> *Ibid*, 128.

<sup>112</sup> *Ibid*, 129.

still suggests attitudes incompatible with the standards of friendship and Tom would be wise to adjust his attitudes in response.

At the forefront of Scanlon's theory are four factors determining the most appropriate response to a blameworthy agent:

- 1) *The ground relationship*: It is only in considering the type of relationship that the parties involved have with one another that an act can be said to be in violation of the standards that constitute that relationship. For Tom and Joe, theirs would be one of a close friendship.
- 2) *The impairment*: As already noted, this occurs when an agent while standing in a certain kind of relationship with one another, reveals himself as having an inappropriate attitude for that relationship. With regards to Joe, his action, among other things, suggests an attitude of disloyalty incompatible with the standards of friendship.
- 3) *The position of the responder*: This is the person doing the blaming. Up until now we have been considering blame from the perspective of the wounded party (i.e., Tom), but the responder can be any number of people – Joe's friend, Tom's mother, Joe himself, or, even, impartial third parties, such as ourselves.
- 4) *The significance of the impairment for the responder*: The significance of the impairment for the responder is at the mercy of a few variables: The responder's position in relation to the blameworthy agent, the responder's position in relation to the act of impairment, and the act of impairment itself.<sup>113</sup>

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<sup>113</sup> Ibid, 138.

It is only once all the above factors of blame are taken into consideration that one is in a proper position to respond to an act. The number of responses available to an agent are as unique and plentiful as the number of ways in which an agent can be said to have undertaken a wrongful act. Accordingly, a response of blame may range anywhere from the responding party putting an end to the relationship<sup>114</sup> to the more typical case, in which the responding party will continue on in the relationship but adjust his attitude and intentions in a way that reflects this impairment.<sup>115</sup> In the case of the latter, the relationship will exist in an impaired state until someone or something is done to restore the relationship, if it is ever restored.<sup>116</sup>

The nature of our relationship to the perpetrator and the act is thus of central importance to blame. If the agent is removed from both the perpetrator and the act, then even if an adjustment of attitudes is called for, it will be less than what it is appropriate for the affected agent to display. This means that while I may judge an agent as blameworthy, my ability to blame him is limited. If I found out, for instance, that my co-worker – whom I engage in small talk from time-to-time but usually stick to business matters with – is having an affair, then my distance from her, her partner, and the act is such that – while interesting water cooler gossip – this personal anecdote is, for the most part, none of my business. It would, for example, be quite rash for me to, upon learning about her indiscretion, refuse to engage in any further conversations with her or to

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<sup>114</sup> Such might be the case if Joe's remarks were particularly cruel and Tom decided to not keep up the charade of friendship.

<sup>115</sup> Thus, Tom may decide that while Joe's wrong was not enough to put an end to their relationship, he can no longer view Joe as the same trustworthy friend he once regarded him as, and he may choose to exercise more caution in the future when confiding in Joe.

<sup>116</sup> In many cases this "something" may simply be time. Joe might not do anything in particular to regain Tom's trust but over time prove himself to be, once again, a trustworthy friend.

confront her with an emotionally charged speech about how her wrong has impacted me. Naturally, it would be quite reasonable for her partner to do these things. Consequently, Scanlon argues that although a third party responder can judge an agent as blameworthy for holding attitudes ruled out by the standards of that relationship, her position as an outsider to the relationship means she cannot adjust her attitudes in the way deemed appropriate by blame.<sup>117</sup>

My standing to the act, however, is not merely a function of my relationship to the incident but the meaning of the act and the significance it has for me. If I, as a mutual acquaintance of both Tom and Joe, decide that Joe's jokes, while in poor taste, are specific to his and Tom's friendship, then I may be best served by leaving them to sort out their issues on their own. If, on the other hand, Joe's remarks were not just 'jokes' about the idiosyncratic tendencies of his friend but discriminatory slurs against a class of people to which I belong, then I may not be able to simply dismiss the act as a mere petty debacle. Joe's jokes, although not, strictly speaking, about me, imply something about me which affects my standing to the act. I am no longer a mere bystander to Joe's cruelty but rather a victim of it. I, consequently, have good reason to blame Joe.

At other times, our distance from the blameworthy agent, rather than restricting or removing our ability to blame, actually offers us greater opportunity to blame than those closest to him actually have. Those close to the victim have more reason to sever ties with the wrongdoer, than those close to the wrongdoer. Thus, while everyone else in the neighbourhood may shun the rowdy alcoholic for engaging in risky behaviour and placing their own welfare at risk, it would be unreasonable for them to expect his mother

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<sup>117</sup> Ibid, 138.

to do the same. Although the parental bond between a mother and child does not excuse her from blaming him, it does affect the reaction that is appropriate. For her, a proper response is more likely to involve confronting him with her disappointment, cutting him off from financial support, disallowing access to her car, and other similar behaviours that suggests she does not have the same trusting and reciprocal type of relationship one would expect a mother and adult son to have.

While Scanlon's theory lends itself well to larger wrongs or betrayals, it does not apply as easily to those of a lesser kind. Susan Wolf makes this point in reference to the everyday sins of her family: Her daughter persistently raids her closet without permission, her husband constantly underestimates how much time it takes for him to get ready, and she, herself, has the tendency to neglect her daughter's tribulations when more serious matters come up. Wolf notes that, "If you heard the slammed doors and raised voices or saw the dirty looks and tight jaws that accompanied the discussion of these events, you would not think twice about whether to describe these as episodes of blame."<sup>118</sup> But however obvious these instances of blame are to us, they present a challenge for Scanlon. To count as instances of blame by his theory, these actions cannot simply be wrongs or vices that the responding party deems blameworthy or even, wrongs or vices that the responding party deems blameworthy and reacts negatively to; they have to be wrongs or vices that reveal attitudes that impair the relationship the wrongful party has with the responding party and which the responding party cites as a reason to adjust his/her own attitudes in turn. So, are these the type of actions that impair

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<sup>118</sup> Susan Wolf, "Blame, Italian Style," in *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, eds. R. Jay Wallace, Rahul Kumar, and Samuel Freeman (New York: Oxford University Press, 2011), 334.

relationships and the type of responses that reflect impairment? On the one hand, these are not simply personal vices; they affect others. Because of her daughter's bad habit, Susan may have nothing to wear; because of her husband's, she may be late; and because of her own, her daughter will be left on her own to figure out the day's pressing issue. Moreover, the hostile reactions and closed doors are a marked contrast from the light hearted and loving spirit these relationships usually consist. On the other hand, the trivial nature of these examples, if they do, in fact, classify as acts of impairments, suggests something peculiar about relationships – it suggests that relationships are fragile and intemperate, “that a good relationship can be impaired for a few hours, and then repaired or even strengthened by the end of the day.”<sup>119</sup>

Beyond just the harshness of the classification of ‘impairment,’ Wolf's example raises a further question regarding the high standards set by the normative ideal. Responding to the implied accusation that her family's vices welcome impairment, Wolf retorts, “I have a very close family, with deeply gratifying relationships, which I cannot imagine having anything like their actual character in the absence of episodes like these.”<sup>120</sup> It is easy to dismiss Wolf's insightful reply as a mere anecdote or, worse, a defensive response to an idea she finds aversive, but what she speaks to is something often lost in academia – the agent to which normative theories are meant to apply are not ideal actors but real people, who are as much defined by their weaknesses as they are their strengths.

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<sup>119</sup> Ibid, 337.

<sup>120</sup> Ibid, 334.

This relates back to a criticism Williams makes against the supposed objectivity of reasons assumed by virtue ethics. Aristotle equates right action with what the virtuous person would do. Virtue is the moral character of an agent, and good virtue is found in the mean between excess and deficiency in that agent. By the aid of our intellectual faculties, Aristotle argues that we should target the right action first by considering in abstraction what the virtuous person would do, and then by correcting in ourselves excesses and deficiencies. But considering what the perfectly virtuous person would do in a certain scenario, Williams responds, only tells me what I would have reason to do if I were perfectly virtuous, not what I – with my many imperfections and vices – have reason to do as I am.<sup>121</sup> Williams would agree with Aristotle that morality involves both self-scrutiny and self-reflection. Knowing oneself, however, involves more than just identifying deficiencies and excesses of character and compensating for those when targeting the ideal. The morally responsible person ought also to use her insight into her weaknesses to temper her moral expectations and goals in a way that is realistic for her.

Taking a cue from Williams, Adamson argues that the normative ideal proposed by Scanlon as a guideline for relationship impairment is equally problematic in a world where no one is ideal.<sup>122</sup> In addition to setting the constitutive norms of a particular type of relationship, the normative ideal, you will recall, also “specifies how individuals in that relationship should, ideally, behave toward one another.” It is on the basis of these that Scanlon argues that a relationship can be “judged to be better, worse or impaired,” but the ambiguous language of Scanlon’s formulation begs the question: Better or worse

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<sup>121</sup> Bernard Williams, “Internal and External Reasons,” in *Moral Luck*, (Cambridge: Cambridge University Press, 1981), 110.

<sup>122</sup> Adamson, “What Does Blame do to Relationships?,” 26.

than what? A relationship cannot be going better than the ideal relationship; it can only be going worse, so the full-blooded norms offer a vacant response. Moreover, all the constitutive norms tell us is whether we meet the minimum requirements for relationship specification. Fall short of the constitutive norms and you are not in a relationship; exceed the constitutive norms and you are in a relationship, but whether it is going well or badly is beyond its scope.

More importantly, it is unclear under the current formulation where impairment is located. It is true that an agent who violates the constitutive norms of a friendship falsifies that relationship and in this sense ‘impairs’ that friendship.<sup>123</sup> Regardless, Scanlon makes it clear that an agent who meets the requirements of a relationship but lacks some of the other dispositions and intentions expected in that relationship still impairs that relationship and opens herself up to blame.<sup>124</sup> This suggests, as Adamson likewise concludes, that impairment can be found at the higher level of the normative ideal.

Not every relationship that ends or falters does so because one or another party acted wrongfully. Friendship, Scanlon quite rightly observes, would be an oppressive institution if it were never ending. For this reason, Scanlon notes, the standard of friendship must allow friends to drift apart blamelessly.<sup>125</sup> The ideal friendship, however, would never disintegrate because the ideal friendship is never anything less than ideal; so, the full-blooded norms that relationship standards are supposedly

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<sup>123</sup> Although there is a peculiarity with the term ‘impairment’ here because if the affected party puts an end to that friendship, as Scanlon suggests she should, then there is no ‘friendship’ to speak of.

<sup>124</sup> Scanlon, *Moral Dimensions*, 132.

<sup>125</sup> *Ibid*, 135.

modeled after cannot support such a claim. The problem is not solved by taking an ideal agent, “moving them from heaven into the real world and imagining what they would do and how they would feel” because that only encapsulates one kind of impairment and not the kind of impairment Scanlon is interested in.<sup>126</sup> The kind of impairment that Scanlon is interested in – the kind that makes blame appropriate – includes not only the external situation of the agent but the internal emotions and attitudes of them.

Even if, however, we permitted the contradictory concept of an ‘ideal’ agent who occupies the non-ideal emotions and attitudes necessary for reflecting impairment, this still leaves open the question of whether they would offer the right normative advice. It seems to me that at least in some cases they would not. As Adamson points out, “if at least one partner has non-ideal attitudes, adopting attitudes constitutive of the best relationship with someone (the attitudes that one ideal partner has to another) does not always result in the best possible relationship in the circumstances.”<sup>127</sup> Thus, while the ideal agent would accept an invitation to his ex-partner’s engagement party, bring champagne, exchange pleasantries with her new fiancé, and congratulate the bride-to-be; a non-ideal agent – who is not quite over their failed relationship – rather than attempting to live up to the ideal, may be wiser to stay home; consequently, avoiding the risk of an emotional outburst altogether.

The full-blooded norms set by the normative ideal offer irrelevant or misleading advice in terms of impairment but the constitutive norms do not fare much better. The constitutive norms of a relationship serve as a kind of relationship checklist, determining

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<sup>126</sup> Adamson, “What Does Blame do to Relationships?,” 26.

<sup>127</sup> Ibid, 25.

whether we meet the standards of a particular kind of relationship. There is some truth to this. It is true that, for example, two individuals who lack the affection, commonalities, and reciprocity characteristic of a friendship are unlikely candidates for a relationship of that kind. That said, there is a danger in being too stringent with what the constitutive norms tell us about relationships, as the minimum standards necessary to qualify for a relationship with one person are not necessarily the same as the minimum standards necessary for a relationship with another person. Adamson uses the example of jealousy, arguing that while in some relationships jealousy is a deal breaker as it indicates distrust; in other relationships, a certain amount of jealousy is expected and encouraged and a lack of it would imply a lack of attraction.<sup>128</sup> The constitutive norms of a romantic relationship do not tell us which relationship is preferable, and they certainly do not tell us whether jealousy or a lack of jealousy is blameworthy. Friendships based in humour offer another example of this phenomenon. If Tom and Joe had the type of relationship that not only permitted a certain amount of humour and rousing but was actually built around these concepts, then what Joe did may not have been an affront to their friendship but actually in its spirit. In fact, Tom, if he were to act in a manner that suggested that he blamed Joe, he might be accused of taking himself too seriously or being a poor sport.

One possible response to this argument is that in addition to relationship types there are relationship subtypes. If you and your partner happen to value a certain amount of jealousy, then you would fall under the ‘jealousy partnership’ subtype, under the larger ‘romantic partnership’ archetype; thus, by the terms of your relationship

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<sup>128</sup> Ibid, 23.

arrangement, you may be blamed for not displaying a sufficient amount of jealousy. Conversely, if you and your partner fall under the ‘non-jealousy partnership’ subtype, then you might be blamed for impairing the relationship if you displayed jealousy. Deciding on impairment then need only be a matter of identifying the relationship subtype pertaining to you and following its instructions of permissibility. I, however, question the feasibility of such a metric. The problem is not simply that there are more relationship types than we use in our ordinary discourse.<sup>129</sup> I am, more generally, suspicious of relationship concepts and the normative guidance they provide.

This follows an argument Ludwig Wittgenstein makes in regards to language. It is often assumed in philosophical discourse, as Wittgenstein, himself, assumed in his early work, that meaning of a word can be found in theoretical generalizations or definitions conforming to necessary and sufficient conditionals, but Wittgenstein rejects this idea, claiming, “the meaning of a word is its use in the language.”<sup>130</sup> Take the word, ‘game,’ it is one of the most basic terms in the English language and we generally have no trouble identifying the activities to which it refers, but providing a definition for ‘game’ which is satisfactory to all cases is more difficult than one might expect. Some games are physical, while others are mental; some require team work, while others are individual; some are played for recreation, while others are played professionally.

Although it is tempting to think that there must be something at the core of games –

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<sup>129</sup> Although it does raise some practical concerns: On the one hand, if we do not allow relationship subtypes to guide our conception of impairment, we run into the problem of attempting to offer a ‘one size fits all’ solution to relationships that come in many different shapes and sizes. On the other hand, if we allow too many relationship subtypes to influence our normative model, then we run risk of particularity to the point of uselessness.

<sup>130</sup> Ludwig Wittgenstein, *Philosophical Investigations*, trans. G.E.M. Anscombe, reissued German-English ed., reissued 2nd ed. (Oxford: Blackwell, 1963) 43.

something which is essential to all of them – Wittgenstein implores us not to think, but look – “for if you look at them you will not see something that is common to all.”<sup>131</sup> As an alternative to the traditional concept of meaning, Wittgenstein argues that there is a family resemblance to language not dissimilar to that which may be found between actual family members. Although we often speak of family resemblances, it is rare to find a family where each member bears the same list of similar attributes. Likewise, Wittgenstein argues, language follows a similar pattern of “overlapping and criss-crossing similarities without any overarching commonality.”<sup>132</sup>

Extending this thought to our present query offers an objection to Scanlon’s theory. Contrary to what the normative ideal would have us believe, people do not spend a certain amount of time with each other, share a certain amount of personal details, gain a certain level of trust, and then sign the dotted line of friendship. Relationships, unfortunately, are much more complicated than that. In the first place, we often do not know the parameters of a relationship nor the category to which we belong until we have had the chance to test the water a bit. It is only after cracking a few jokes at each other’s expense that Joe and Tom learn whether they have the type of relationship that allows for such things. It is only after jealousy displayed in a relationship that you learn whether you prefer relationships with or without it. It is only after making that first move on your crush that you learn whether she holds similar feelings for you or thinks of you simply as a friend. This shows something about moral luck because while there is something appealing about the idea that we can know whether an action is right or

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<sup>131</sup> Ibid, 66.

<sup>132</sup> Ibid, 66.

wrong and praiseworthy or blameworthy before we adopt it as an end, experience suggests otherwise. Not only would it be bizarre if before taking on a more particular relationship with someone, we detailed all of our expectations for that relationship but also false because our expectations are informed and confirmed by experiences – many of which we have not yet had.

### **Other Types of Relationships and Blame**

Thus far we have considered blame within the context of ‘personal relationships’ – that is, relationships that involve love and/or friendship, and I have argued that Scanlon’s account explains certain instances of blame – namely, more severe impeachments of trust – better than it does others. It would be a mistake, however, to interpret the term ‘relationship’ as Scanlon uses it, to mean the same thing as it does in its everyday usage. Whereas, the latter is only meant to denote those with whom we have familiar bonds, for Scanlon the term applies to everyone to whom we are morally obligated – which is to say, all of humanity.<sup>133</sup>

The idea that we have a relationship with every other human being in the world may sound a bit strange, but Scanlon argues that the obligations we have to and expectations we have of strangers is not dissimilar to the obligations we have to and expectations we have of loved ones and friends. Among other things, we have an obligation to respect the sanctity of life – to refrain from murder and to help someone who is struggling when we can easily do so. As well, we have an obligation to respect other peoples’ rational faculties – not to force or coerce someone into activities to which

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<sup>133</sup> Scanlon, *Moral Dimensions*, 139.

they do not consent and to allow them the freedom to make their own decisions.<sup>134</sup> Our expectations within the moral relationship, however, extend beyond just respecting a person's basic moral rights. Although we are not morally obligated to say 'please' and 'thank you' to servers in restaurants, respond in a welcoming manner to strangers trying to make conversation, or provide directions to lost tourists, most of our interactions are governed by these ideals.

Moral relationships, nevertheless, follow a different model than friendships do. Unlike our friends or romantic partners, we cannot choose to whom we are morally bound; rather, this relationship exists, "in virtue of the fact that we stand in the relation of 'fellow rational beings.'"<sup>135</sup> In this way, the moral relationship is closer in shape to the relationship of a parent to their child. A father's obligation to his daughter exists not because they share similar attitudes or have similar interests but, more simply, because she is *his* child and depends on *his* care.<sup>136</sup> Friendships and romantic partnerships are more vulnerable to breaking apart than familial relationships because their bonds are conditional in ways the latter is not. When the attitudes or interests that attracted us to a friend or partner change, the reasons that we have for continuing on with that relationship become obscure. The bond between a father and daughter is indifferent to these factors and is, therefore, more difficult to break. Likewise, since the moral

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<sup>134</sup> Ibid, 140.

<sup>135</sup> Ibid, 140.

<sup>136</sup> Ibid, 139.

relationship is grounded in our shared nature as fellow rational beings,<sup>137</sup> it applies regardless of all other commonalities or differences.

It may be suggested that an amoral person, who fails to display the attitudes and concern constitutive of the moral relationship, revokes their standing in that relationship. Scanlon, however, responds that, “their capacities for reasoning and rational self-direction calls for the kind of respect that entails treating them only in a way they could not reasonably reject to” whether or not they treat us in the same way.<sup>138</sup>

Even murderers and rapists have a claim on us to be rescued when they are drowning or are in danger of bleeding to death after an accident. But normal moral relationships also involve a general intention to help others with their projects when this can be done at little cost, and we need not have this intention toward those who have shown a complete lack of concern for the interests of others.<sup>139</sup>

Morality does not require that we feel pleased for others when things go well for them or badly when they do not, but it is, nevertheless, a moral deficiency not to do so.<sup>140</sup> When someone is morally deficient in this manner or acts in a way prohibited by the basic foundation of the moral relationship, the responding party may, in turn, suspend certain attitudes of care and concern assumed by the default relationship. This makes it appropriate for her to not take pleasure in that person’s success or to hope that things go well for him – which, Scanlon notes, is not the same thing as taking pleasure in his failure or hoping that things go poorly for him. Blame, likewise, involves a reluctance to enter into more specific relationships (friendships, romantic relationships, business

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<sup>137</sup> Note: Although Scanlon credits our rational faculties for forming the basis of the moral relationship, he offers a place in it to children and mentally disabled adults as well. He states, “the mere fact that a being is of ‘human born’ provides a strong reason for according it the same status as other human beings.” Scanlon, *What We Owe*, 185.

<sup>138</sup> Ibid, 182.

<sup>139</sup> Scanlon, *Moral Dimensions*, 144.

<sup>140</sup> Ibid, 140.

partnerships, and otherwise) with someone who impairs the moral relationship, as well as the, “friendly attitudes that signal a readiness to do so.”<sup>141</sup>

Scanlon’s description of obligation within the confines of the moral relationship may not appear especially onerous or demanding. After all, it does not seem so much to ask that we be concerned by the claims and interests of other people or empathize with their situation. Nevertheless, the assumption that a person’s basic moral claims should be honoured, no matter how heinous or cruel their act may have been, should give us pause. Would Kristen French’s father be guilty of some horrible moral wrong if he did not save Paul Bernardo from drowning, when he could do so easily? I should surely hope not, but Scanlon’s account of blame suggests otherwise. Doug French, moreover, according to Scanlon’s theory, should not wish ill upon Paul Bernardo or be pleased to hear about his suffering – for that would reveal a certain moral deficiency on his part – the most that he can do, without opening himself up to blame, is withdraw his default attitudes of concern and sympathy toward his daughter’s killer. But, if remaining indifferent to the well-being of the man who raped, tortured, and murdered your child, whilst still honouring your fundamental commitments to him, is what morality asks of us, then I believe it asks too much.

This returns us to the question of moral supremacy which Williams raised. In comparison to Kant and many other deontological theorists, Scanlon does a better job of balancing personal values and relationships with moral values and moral requirements. Still, there appears something at odds with the universal or objective reasons morality provides and the self-interest and agent specific reasons our own life provides. When

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<sup>141</sup> Ibid, 144-145.

these classes of reasons collide it does not seem so unreasonable to me that a person give preference to the values and attachments that provide his life meaning. In fact, it can be insulting to the people with whom we have formed attachments that we place more importance in some abstract concept of ‘rightness’ than we do our feelings toward and connections with them.

Perhaps the biggest criticism offered against Scanlon’s theory of blame is that it neglects reactive sentiments such as anger and indignation normally considered primary to blame. To be fair, Scanlon does not deny that these attitudes can and often do accompany blame. In addition to downgrading his attitudes and intentions toward Paul Bernardo to the extent permitted by the moral relationship, Doug French may quite rightly be angry, furious, incensed, or engage in any other emotion we may associate with blame. Acknowledging that reactive emotions have a role to play in blame, however, is not the same as saying that they are central or, even, essential to it. Scanlon believes that it is the failure to make this distinction that has led many to view praise and blame as negative and positive correlates of one another.<sup>142</sup>

Scanlon believes that blame’s opposite may be found in gratitude. Like blame, gratitude presents itself in response to an act that alters the relationship one has with another person. Unlike blame, however, the act in question is something positive. In response, the grateful party will adjust their intentions and attitudes in ways that reflect this improvement – by being more inclined to help the other person out when they need it and by feeling an increased sense of pleasure when things go well for that person.<sup>143</sup>

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<sup>142</sup> Scanlon, “Interpreting Blame,” 90.

<sup>143</sup> Ibid, 91.

So important to gratitude are these changes in intentions and attitudes, Scanlon argues, they require no further emotional element to qualify as it:

It seems to me that, however warmly a person might feel toward someone who has benefited him, someone who lacked any increased tendency to help this person in turn could not really be said to be grateful. Such a person would not understand what it is to be grateful. On the other hand, someone who was very glad to have been helped and saw this as a reason to be ready to help the other person in turn could properly be said to be grateful even if, because he was something of a cold fish, this intention was not accompanied by any further affective element.<sup>144</sup>

Continuing with this parallel Scanlon claims that a person who adjusts their attitudes and intentions in a way that reflects impairment but lacks the reactive sentiments commonly accompanied by it, still blames.<sup>145</sup> In fact, our response to figures of the past replicates this type of blame.

Scanlon admits that the distance of time between us and past agents adds a certain obstacle to blame. Often times the remoteness of the agent and their action to us makes it the case that while we can judge them as being blameworthy; we, ourselves, are not in a position to blame them.<sup>146</sup> Other times, however, the agent's faults and actions still have significance for us, despite the fact that they existed at a different time. When this is the case, blame is both appropriate and possible. Adolf Hitler is but one example of a person whose crimes against humanity were so large and devastating, they continue to have significance for us today. As such, he is a prime candidate for blame. Even though we are not in a position to withdraw our 'good will' toward him or refuse to enter into more personal relationships with him, the heinousness of his acts changes the lens

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<sup>144</sup> Ibid, 91.

<sup>145</sup> Ibid, 91.

<sup>146</sup> Ibid, 155.

by which we relate to and view him. We can no longer take pleasure in reading about his achievements in the same way that we can with other historical figures from his generation and his eventual collapse and suicide should leave us cold if not relieved.<sup>147</sup> Scanlon sees it as a strength of his theory that it is able to explain blame between us and distant agents so well. The fact, however, that he needs to appeal to some vague notion of a relationship which exists between us and historical figures we never knew and will never know in order to make sense of our reactions to them, I believe is a sign that something's amiss. It seems much more natural to say that we blame Hitler because we are provoked and angered by his actions than we blame him because his actions impair the relationship we are able to have with him as a person of the past.

The awkwardness of Scanlon's relationship model of blame also makes it difficult to explain our reaction to agents whom we cannot identify. Kevin Vallier raises this point with reference to an affliction many of us are all too familiar with – road rage. Most of the people who we share the roads with are not simply strangers to us; they are unidentifiable strangers to us. We see their cars, of course, and occasionally get a glance of the person inside, but other than that, their identity is a mystery to us. One of the most aggravating experiences of driving, as most will attest, is being cut off by reckless and speedy drivers. But if you do not know them, and are unable to see them, are you able to blame them? Typically we take the reactive sentiments that we respond with – be it, rage, anger, or simple irritation – as an indication that we do. The anonymity of these blameworthy agents, however, offers a challenge for Scanlon. If there is a way of modifying your attitudes and intentions to reflect relationship impairment with someone

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<sup>147</sup> Ibid, 159.

you not only do not know but would not recognize if you passed by them in a supermarket a half an hour later, it is far from obvious.<sup>148</sup>

More troubling than his account of blame toward unknown others, however, is his account of blame towards the people we, supposedly, know the best – ourselves. If the old saying that, “we are our own worst critics” rings true, it would seem a failing of Scanlon’s that he did not devote more attention and scrutiny to this critical feature of blame. Scanlon does admit that the idea of self-blame may sound odd in the context of a relationship based theory, but this peculiarity, he argues, is merely illusory. Just as we can judge someone else as blameworthy for revealing attitudes inconsistent with the terms of their relationship, so too, can we judge ourselves as blameworthy for the attitudes we harbour. The judgment of blame, Scanlon argues, gives rise to “special concern, regret, and a desire to change things,” which itself constitutes the act of blame.<sup>149</sup>

This, however, does not follow the definition of blame Scanlon offered to us earlier. Blaming oneself does not involve adjusting one’s attitudes in a way that reflects impairment. Although, it may require adjusting one’s attitudes in other ways – perhaps by trying to repair that relationship. I assume that this is what Scanlon is trying to get at with the inclusion of the “desire to change things.” I, however, would trade the word ‘desire’ for ‘intention’ since desires lack the formulation of a reasoned judgment that

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<sup>148</sup> Kevin Vallier. “Review of Thomas Scanlon’s ‘Moral Dimensions.’” *Journal Value Inquiry*, 44, no. 4. (2010), 564.

<sup>149</sup> Scanlon, *Moral Dimensions*, 154.

Scanlon claims motivate action.<sup>150</sup> Likewise, concern and regret sound more like emotional reactions than the kind of attitude adjustments Scanlon considers paramount. One can be concerned by what he has done and even regret his action without adjusting his attitude in ways that seek to repair his relationship or right his wrong. Scanlon does not consider this type of agent in his account of blame, so I cannot say positively whether he would count it as a form of blame or not. If, however, his description of gratitude offers us any insight, then it would seem that he would not. The affective element is not necessary to gratitude but the intention to reciprocate is necessary. It would, therefore, seem fitting with his theory to say that the affective element of self-blame (that is, concern, regret, or something else) is not necessary to self-blame but the intention to repair the relationship is. Yet, it seems to me that we can and often do blame ourselves for our acts in relationships we have no interest in repairing. A person, for example, who cheats on her partner because she is dissatisfied with their relationship, may still blame herself for what she did, even though she sees it as a good thing that their relationship has been brought to an end.

Things only get more confusing when we turn our attention toward aspects of self-blame that do not involve one's own relationship with others. I noted before that certain character flaws, such as laziness or gluttony are unlikely candidates for blame because they rarely impair relationships. Scanlon, however, responds that they do, in fact, impair relationships – the only difference is, the relationship they impair is not the relationship one has with another but the relationship he has with himself. When a

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<sup>150</sup> On this point, Scanlon notes, "I have become convinced that insofar as 'having a desire' is understood as a state that is distinct from 'seeing something as a reason' it plays almost no role in the justification and explanation of action." Scanlon, *What We Owe*, 18.

person acts contrary to his better judgment he may come to feel a peculiar sense of self-estrangement. Thus, impairment may be grounded in the “inability to ‘count on’ oneself.”<sup>151</sup> So, one can judge himself as being blameworthy, but how is he to modify his attitudes in ways that reflect that impairment? The traditional methods of distancing oneself from the blameworthy agent are, of course, ruled out by the nature of this impairment. Nor would it be realistic to expect an agent to no longer hope things turn out well for himself or take pleasure in his own successes. Those may be symptoms of depression but not blame. This leaves the option of attempting to ‘repair’ the relationship he has with himself by overcoming his shortcomings. It is hard, however, to see how this distinguishes itself from the affectless aspect of ordinary self-improvement. An agent, furthermore, who was angry with and critical of himself for not exhibiting more self-confidence would not by this model be considered blaming, since his attitudes are not congruent with the goal of improving his confidence; if anything, it is more likely to achieve the opposite by damaging his already fragile self-esteem.

Because Scanlon begins his inquiry into blame by first examining it in terms of friendship and then expanding to other types of relationships, it is easy to see how he mistakes attitude adjustment, as opposed to reactive sentiments, as being paramount. When a friend betrays you, he, in addition to revealing something unattractive about himself, undermines the reasons you have for sustaining that friendship. Not only would it be demeaning for you to continue on with that relationship as if nothing changed but also disingenuous because his act of betrayal has changed the meaning of your friendship whether you are prepared to acknowledge it or not. Altering your attitudes

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<sup>151</sup> Scanlon, *Moral Dimensions*, 155.

and intentions in a way that reflects this impairment, then is simply a way of owning up to the fact that your friendship, unfortunately, has been impacted. It comes as no surprise to Scanlon's theory of blame that you would feel angered or provoked by your friend's betrayal. Friendships involve a certain amount of emotional interdependence and vulnerability, making it hard to respond in a completely affectless manner. If you were simply to modify your attitudes and intentions in a dispassionate way, one may wonder whether you were ever true friends in the first place.

Jay Wallace rejects Scanlon's analysis of blame for two reasons: First, while he admits that it may be incompatible with the normative ideals of friendship that one feels nothing in response to impairment, that does not necessarily mean the agent must be angered by it. It is consistent with the emotional tenets of friendship that one be made to feel sad or melancholic by the betrayal. Sadness and melancholia, however, are not the type of reactive sentiments that come to mind when we think of blame.<sup>152</sup> Second, Scanlon's position that an agent who shows disregard or contempt for the moral relationship negatively affects the appropriateness of certain attitudes assumed by the default relationship, Wallace argues, is in contradiction with his belief that an agent's basic moral rights must be upheld no matter what.<sup>153</sup> Since, Scanlon maintains that the basis of moral relationships, unlike friendships, is not emotional interdependence and vulnerability, but our mutual standing to one another as fellow rational beings, it stands to reason that this relationship is not only indestructible but incapable of impairment:

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<sup>152</sup> Jay Wallace, "Dispassionate Opprobrium: On Blame and the Reactive Sentiments," in *Reasons and Recognition: Essays on the Philosophy of T. M. Scanlon*, eds. R. Jay Wallace, Rahul Kumar, and Samuel Freeman (New York: Oxford University Press, 2011), 355.

<sup>153</sup> *Ibid.*, 355.

Compliance with the moral standards is not something you owe to people in virtue of already standing in relations of this kind with them; it is not relationship-based, in the way that special obligations of friendship seem to be. Hence the impairment of somebody's ability to relate to you on terms of mutual recognition is not something that gives you reason to modify your default attitudes towards them, in the distinctive way impairment of a friendship gives you reasons to modify your intentions and expectations regarding your friend.<sup>154</sup>

For this reason, Wallace concludes that “moral requirements may be understood as relationship-constituting, but they are not relationship-based.”<sup>155</sup> They are relationship-constituting insofar as they give way to certain non-obligatory attitudes and expectations, such as friendliness and sympathy. They are, nonetheless, not relationship-based because they remain unaffected by how well that relationship is going.

One of the greater insights of Scanlon's is the distinction he draws between blame and blameworthiness. As a reminder:

To claim a person is blameworthy for an action is to claim that the action shows something about that agent's attitudes towards others that impairs the relations that others can have with him or her. To blame a person is to judge him or her to be blameworthy and to take your relationship with him or her to be modified in a way that this judgment of impaired relations holds to be appropriate.<sup>156</sup>

But although Scanlon is right to distinguish these two closely related concepts from one another, he picks out the wrong differences. Consider again the example I offered earlier of a co-worker who is having an extramarital affair. I have argued that my judgment that she is blameworthy does not give me the right to blame her. Only her partner and those directly affected by her action have the right to do that. Still, it would be silly to deny that this may colour my perception of her. The fact that she betrayed and lied to the

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<sup>154</sup> Ibid, 360.

<sup>155</sup> Ibid, 360.

<sup>156</sup> Scanlon, *Moral Dimensions*, 128.

person she was closest to, may give me a second thought about developing a closer relationship with her. By Scanlon's description this would mean that I blame her, but the dispassionate way in which I may modify my attitudes towards her suggests to me that I do not. Wallace argues that "to resent someone is to feel not merely that they have acted wrongfully, but that they have wronged us in particular, violating the norms that constitute relations of mutual regard."<sup>157</sup> It is this sense of being wronged that is notably missing from the above example of impairment.

Judgment revision rarely happens in isolation of attitude revision. This is not a phenomenon exclusive to blame; rather, it is true of non-moral judgments as well. If your artistic friend proves not to be as good a hairstylist as he is a painter, then you may reconsider asking him to cut your hair. If your fast-food loving partner turns out to have an exemplary taste palette for wine, then you may give her merlot recommendations more credence than you did before. If it turns out that your neighbour, whom you thought you had something in common with, after hearing him play a song by your favourite band, was actually playing it ironically, then you may reassess your decision to try and forge a friendship with him. Likewise, when you judge an agent as being blameworthy, it is only natural that this judgment will affect your attitudes and intentions toward her. This remains true whether or not her actions had special significance for you. A con artist, recognizing the scheme of a compatriot, may be the first to acknowledge that his dishonesty and trickery impairs the relationship others can have with him. In fact, the faith and good-will assumed by the default relationship is precisely what allows him to take advantage of them. As such, she would undoubtedly

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<sup>157</sup> Wallace, "Dispassionate Opprobrium," 356.

say that his victims have reason to adjust their attitudes toward him by no longer trusting him or partaking in any ‘fun’ games he suggests. She, likewise, would be wise to do the same. Just because her attitude adjustment is based in the judgment that he is blameworthy, however, does not necessarily mean that she blames him. On the contrary, she may respect and even envy his ability to fool people so easily.

Wallace likens the difference between the judgment of blame and the act of blaming to the difference between the judgment that something is valuable and the act of valuing. While most everyone can acknowledge the value of artistic or intellectual pursuits, such as opera or philosophy, Wallace argues:

There is an additional quality of emotional engagement that characterizes the attitudes of people that genuinely value these pursuits; they take a real interest in them, care about whether they are in a good or bad way, become excited when there are opportunities to engage in activities related to these pursuits, and are subject to distress when they are unable to do so.<sup>158</sup>

The same might be said about attraction. We can recognize that someone is attractive without being attracted to them ourselves. In terms of blame – anger, indignation, and other reactive attitudes are not just supplementary features that add something to blame, they are what makes blame, *blame*. Scanlon argues that failing to blame may itself be blameable as it could indicate either an attitude of superiority – if the meaning of the blameworthy agent’s actions ceases to have importance to you – or an attitude of inferiority – if you do not hold yourself in high enough regard to take the meaning of the blameworthy agent’s actions as a basis for adjusting your own attitudes. This strikes me as correct, but importance is not something that can be registered dispassionately. It is,

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<sup>158</sup> Ibid, 367.

as Wallace points out, a way of caring.<sup>159</sup> And caring can be a scary thing because it reveals that you are capable of being hurt. This explains why, we sometimes disguise our anger and snap back, “I’m not mad!” despite the clenched fist and red face which suggests otherwise because to be honest would be to admit something to ourselves and others which we would prefer to hide. It is to admit to the fact that our happiness, our well-being, our person is not within our complete control.

### **A Moral Luck Scenario**

Having devoted some time and scrutiny to Scanlon’s theory of blame, we are now in a position to address the ‘moral luck’ scenario he proposes to solve:

- Person A always drives carefully. Nonetheless, one evening as A is driving home, a child runs in front of his car and is killed.
- Person B is disposed to be reckless (not to be sufficiently concerned about the risks that his conduct poses to others), but he never actually endangers anyone because he never has the occasion to engage in risky conduct.
- Person C had the same disposition as B, but she drives a car. She drives recklessly but, through sheer good luck, injures no one.
- Person D has the same characteristics as B and C, drives in exactly the same manner as C, but is unlucky and kills a child.<sup>160</sup>

The problem of moral luck presents itself as early as the first scenario. It does not seem right nor fair to blame A for the death of a child he, by no fault of his own, brought on, any more than it seems right or fair to blame the driver three car lengths down for it.

That being said, A’s involvement in the act will likely affect the way others, particularly

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<sup>159</sup> Ibid, 367.

<sup>160</sup> Scanlon, *Moral Dimensions*, 148-149.

the child's parents, are able to relate to him. From considering him as an applicant to babysit their surviving children to making small-talk with him at the bus stop, there are things about his relationship with them before which may no longer be possible in the aftermath of the tragic incident. But while their response may mirror blame, Scanlon argues it does not, in fact, indicate blame. To blame someone necessitates the judgment that they are blameworthy, which is different from simply modifying one's relationship towards them. It is consistent with the parent's judgment that they acknowledge that it was not A's fault but still require their distance from him.<sup>161</sup>

Scanlon contrasts this first scenario, which he describes as "objective stigma," from the three that follow. B, C and D are all open to criticism for the character weaknesses they display, but the degree to which we are free to blame them varies. By failing to show a proper regard for others safety, B, Scanlon argues, impairs his relationship with others. Nevertheless, "the fact that he would drive recklessly if he drove gives people little reason to revise their attitudes toward him. It affects his relations with them very little, if at all."<sup>162</sup> This suggests a difference between B and C's case. While an evaluative account of blame cannot make sense of why we would respond to C's case more severely than we would B's, Scanlon's account can. C's flaw, although the same as B's, actually has significance for others; it endangers them and thus offers them reason to change their attitudes towards her. In addition to being

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<sup>161</sup> Ibid, 148.

<sup>162</sup> Ibid, 149.

reluctant to get in a car with her or lend their car to her, Scanlon notes, they should also see her as a perilous person whose priorities are deeply out of whack.<sup>163</sup>

However great a gap there is between B and C's case, the gap between C and D's case is even larger. Although it is tempting to view D's case as an amalgamation of what was involved in A's and C's, Scanlon believes that this would be a mistake. Since, Scanlon's account of blame looks at blame in terms of relationship, the gravity of a person's fault is only one part of the puzzle. Larger than this is the significance that, that fault has in the life others. D "is not only the person who killed a child but also the person whose recklessness led to the child's death."<sup>164</sup> The casual outcome of D's action, rather than adding to the significance of his fault, actually multiplies it.<sup>165</sup>

The importance of this distinction comes out even more when we consider our diverging expectations of A and D in response to the accident. While we will rightly expect both to apologize, A's apology, does not admit fault; rather it expresses regret over the tragedy of the outcome. In doing so, A invites the parents to see the act for what it is – an unfortunate event – and, thus, tries to, as much as possible, ease the strife it caused in their relationship. D's apology, by contrast, serves a very different purpose: "Its function would be to acknowledge his fault, to acknowledge the significance of his fault for those affected by it, and to express the wish to repair his relationship with them."<sup>166</sup>

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<sup>163</sup> Ibid, 149.

<sup>164</sup> Ibid, 150.

<sup>165</sup> Ibid, 150.

<sup>166</sup> Ibid, 150-151.

While it is true that D has more for which to apologize, A's apology, I believe, expresses more than just a general form of regret, which is open to anyone who wishes things had gone differently. The reason why we would see it as a tremendous failing on A's part if he did not say, "I'm sorry" but only a minor failing if the driver three car lengths down did not say it, is that his apology expresses more than just regret and sorrow for the circumstances that led to their child's death; rather, he is expressing regret and sorrow for *killing* their child. The awfulness of having to forever carry with him the burden of knowing he is the one whose action claimed their child's life, is only made worse by the fact that they would be perfectly within in their rights never to want to speak to or see him again.

Adding to the confusion and mixed emotions that this case presents, is the fact that it is very difficult to imagine a scenario in which there was absolutely nothing A could have done to prevent the accident. Governing our decision as to whether an agent is blameworthy, Scanlon argues, is the question of whether they were "sufficiently responsive to relevant considerations."<sup>167</sup> A driver who obeys all the speed limits, comes to a full stop at every stop sign, only moves his hands from the 10:00 and 2:00 position to make a turn, gets his car serviced every six months, changes his oil every 2,000 miles, checks his mirrors every five seconds, always leaves more than two seconds of space between him and the next driver, and never drives when he is sick or tired is something of a unicorn on the road. Most of us are a little more lax when it comes to the rules of the road. But, despite knowing we should do these things, we still consider ourselves good and safe drivers. The idea of being "sufficiently responsive to relevant

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<sup>167</sup> Ibid, 163.

considerations” is deceptively unthreatening. Although it has the implication of being ordinary, it actually demands an unordinary amount of care and diligence. On this point, Nagel notes that while a driver who is entirely without fault may excuse himself from reproach, “if the driver was guilty of even a minor degree of negligence – failing to have his brakes checked recently, for example – then if that negligence contributes to the death of the child, he will not merely feel terrible. He will blame himself for the death.”<sup>168</sup> Since most of us are probably guilty of some minor form of negligence, we are at mercy of luck more than we may want to believe.

This raises another problem: All the examples Scanlon offers focus on attitudes that are stable to a person’s character. D did not just act recklessly on this occasion; rather, he is a reckless person. The fact that his recklessness resulted in an accident then is not surprising. Whether blame serves some punitive purpose or not is besides the point. It simply does not make sense for us to trust him or hold him in as high regard, as we did before. With Larry, it was a different story. He is not disposed to be reckless. In fact, compared to most of us, he is quite careful. Still, no one’s perfect. He took his eyes off the road for longer than he should have and in doing so, endangered the life of another. If we view attitude as a kind of character trait a person is more or less inclined to take up, then our reaction to Larry would appear wrong. Scanlon, however, counters that his theory is interested in “a special kind of agent assessment, in which what is being assessed is not the agent’s overall character but rather the quality of the particular

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<sup>168</sup> Nagel, “Moral Luck,” 25.

piece of decision making that led to the action in question.”<sup>169</sup> Thus, Larry, Scanlon would say, is not blameworthy because he is careless but because he acted carelessly.

There is no doubt that the significance of Larry’s mistake for the child whose life was taken and loved ones from whom he was taken is catastrophic, but that is not what is essential to blame. What is essential to blame, according to Scanlon’s theory, is the particular attitude that action reveals. So, what does this unfortunate accident reveal about Larry? It reveals that Larry is not infallible; that although he is for the most part a safe and cautious driver, there was, at least, one brief instant in which he was not. If that affects the attitudes others had toward Larry, it does so only in a way which was appropriate before his fleeting moment of carelessness. It does not mean, for example, that we would be stupid to trust him or get in a car with him. Insofar as he is a better and more careful driver than the average person, we have more reason to trust him and get in a car with him than we do most. It does, however, mean that we should not trust him *absolutely* – we cannot, for example, get in a car with him without accepting some small risk of danger.

Moreover, the fact that we exhibit similar faults to Larry negatively affects his ability to impair the relationship he has with us. As Scanlon notes:

A person’s standing to blame may be undermined by their own similar actions, quite apart from the fact that it reveals a sense of hypocrisy or contradiction. The reason she has less standing to blame is because her action already impaired and changed the relationship she has with her friend and the expectations one can have in it.<sup>170</sup>

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<sup>169</sup> Scanlon, *Moral Dimensions*, 28.

<sup>170</sup> *Ibid*, 176.

For those perfect agents, who assumed Larry was perfect as well, this attitude revelation will come as a great shock and impair their relationship with him greatly; for everyone else, however, who is prone to make their own mistakes every now and again, it changes very little. The fact that we would take Larry's wrong so severely, under these circumstances, then remains a mystery to Scanlon's theory.

The problem of moral luck is intimately connected with the problem of freedom. An appeal to the *requirement of psychological accuracy* is often also used to explain why force or coercion may render blame inappropriate. It would, for example, be inappropriate for us to blame a bank teller for handing over all the cash in her till to an armed robber who threatens her life. She was under duress and, therefore, cannot be held accountable for her actions, some may argue. Scanlon, however, responds that this is to mischaracterize responsibility. She is not blameworthy because her actions are not attributable to her. It was still her decision to hand over the money, in the sense that she could have refused. What is different between her action under this circumstance versus her decision to assist, as an accomplice, a bank robbery in the absence of such a threat, is that the threat changes the meaning and, thus, permissibility of her act. Her life is certainly a high price to pay for not complying with the gunman's demand, and it would not be reasonable of us to expect her to do so. Rather than undermining responsibility then, Scanlon argues, what coercion and other such restrictions on freedom do is modify the permissibility of the action.<sup>171</sup>

This elucidates a further distinction between A and D. Neither A nor D sought out to kill a child and to that extent are less blameworthy than someone who did. In D's

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<sup>171</sup> Ibid, 181.

case, however, the accident is consistent with and, incidentally, a result of his carelessness. This modifies the permissibility of the act because, whereas, D's carelessness makes his act impermissible and also, blameworthy; in A's case the question of permissibility ceases to have meaning. The absence of any flaw or wrongdoing on A's part changes the act from a moral problem to an unfortunate event.

The *requirement of opportunity to avoid* is similarly related. At the most fundamental level, the necessity of choice to blame is readily understood. Thus, if in the midst of a heated argument, I shove you, causing you to lose your balance and push into the elderly woman beside you, it would seem obvious that you are not to blame for the injuries that she sustains. The *requirement of psychological accuracy* offers an explanation for this because your action was not a reflection of ill intentions or attitudes, but, rather, the result of an uncontrollable movement, the idea of blame ceases to make sense. There is, however, another way in which an action may be said to be beyond an agent's control for which the *requirement of psychological accuracy* does not account. Our attitudes are greatly shaped by environmental and genetic factors over which we have no control. Consequently, many have argued that in order for an agent to be the proper object of blame, it is not enough that the agent's attitudes matches his actions; rather he should have consciously and explicitly chosen to possess them.<sup>172</sup>

A version of this argument was made during the 1992 trial of Robert Harris – a man who callously and casually murdered two teenage boys. What was disturbing about Harris' crimes was not that they were surprising but predictable. A piece that ran in the Los Angeles Times shortly after Harris trial summarized, "In the life history of Robert

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<sup>172</sup> Ibid, 183.

Alton Harris, two facts stand out: The murders that put him on Death Row were heartless, and he seemed destined to die strapped down in an execution chamber somewhere.”<sup>173</sup> To say that Harris had a rough upbringing would be a gross understatement. The son of two alcoholic and hot tempered parents, Robert – who suffered from fetal alcohol syndrome – came into the world two months early after his father kicked his mother in the abdomen, causing her to go into premature labour. The abuse did not end there: As a toddler his father brutally beat him with a cane. As a child his weapon of choice was a wrench. On other occasions, his dad would simply draw out his gun and advise Robert to run. His only break from the day-to-day torture he was subjected to came, at the age fourteen, when his family abandoned him.<sup>174</sup>

Understandably, public opinion on Harris was torn. Some argued that he was a monstrous man, whose action reflected the intentional decision to end the life of two young men. It only seemed fair that he be made to realize a similar fate. Others, however, could not shake the feeling that there something barbaric about sentencing a man to death for an action that was all but guaranteed by the violent and tragic nature of his upbringing. As such, they urged the California courts to grant Harris clemency, but the clemency was rejected. In a press conference addressing the decision, the mayor of San Diego stated, “As great as is my compassion for Robert Harris the child, I cannot excuse or forgive the choice made by Robert Harris the man.”<sup>175</sup>

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<sup>173</sup> Dan Morain “From Birth to Death Row, Violence Surrounded Harris.” *Los Angeles Times*, (April 21, 1992). Retrieved 1 June 2013. [http://articles.latimes.com/1992-04-21/news/mn-608\\_1\\_robert-harris](http://articles.latimes.com/1992-04-21/news/mn-608_1_robert-harris), 1.

<sup>174</sup> Ibid, 1.

<sup>175</sup> “Robert Alton Harris.” *Clark County (Indiana) Prosecuting Attorney*. Retrieved June 2013, <http://www.clarkprosecutor.org/html/death/US/harris169.htm>.

Since Scanlon's theory is not politically centred, the state sanction most fitting to Harris' crime is not his main focus but the appropriateness of our moral response to him is.<sup>176</sup> Like the city's mayor, Scanlon argues, "facts about Harris' past do not erase or diminish his blameworthiness. They do not change the fact that he is a heartless killer and someone we should never trust."<sup>177</sup> That said, there is a certain cruelty involved in continuing to berate someone for actions they could not have avoided or traits they could not avoid having. This, Scanlon argues, explains why blame may appear to demand a strong kind of freedom, when understood as a type of sanction or punishment: "It is not enough *just* to say that those who suffer it could have avoided it by making reasonable choices. But giving people adequate opportunity to avoid that fate is at least a necessary condition."<sup>178</sup> This objection, however, does not apply, Scanlon argues, when blame is understood in the way he proposes. To be sure, we have reason not to want people to draw negative conclusions about us or modify their attitudes toward us, even when their judgment is accurate and their response wise. Still, friendship, trust, sympathy, and a willingness to enter into more specific kinds of relationships are not things we owe unconditionally. Rather, Scanlon argues, "these attitudes are appropriate only toward those whose attitudes make them appropriate. Where they are not appropriate we need no further justification for withholding them."<sup>179</sup>

This may explain our treatment of Harris, but it still renders our treatment of A puzzling. It is not A's attitudes which make it appropriate to modify our attitudes toward

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<sup>176</sup> Although based on Scanlon's arguments surrounding the sanctity of life it would be safe to assume that he opposes the death penalty.

<sup>177</sup> Scanlon, *Moral Dimensions*, 179.

<sup>178</sup> *Ibid*, 184.

<sup>179</sup> *Ibid*, 187.

him since he was driving cautiously. So what is it about A that warrants the parents' change of attitude toward him? One response may be that his association to the accident is likely to bring back a painful memory they would rather soon forget. This would seem as good a reason as any for them to want to break ties with A, but as rational as this explanation is, it does not quite get at the ambivalent feelings this situation stirs up. Although many things are likely to remind them of the tragic incident<sup>180</sup> and while they may for good reason try to avoid such things,<sup>181</sup> their disapproval, scorn, hostility, and otherwise blame-like attitudes are likely only to be directed at the man who ran over their child because whether he could have helped it or not, he is the one responsible for their child's death. On this point Williams argues, "I still cannot see what comfort it is supposed to give to me, or what instruction it offers to other people, if I am shunned, hated, unloved, and despised, not least by myself, but am told that these reactions are at any rate not moral."<sup>182</sup>

Scanlon does not address the question of reactive sentiments in relation to objective stigma, so whether he classifies them as permissible or not is open to debate. In either case, they complicate the matter of justifiability. Reactive emotions such as anger and derivatives thereof are negative in a way that relationship impairments are not. They involve not just the taking away of something an agent had reason to like, but the adding of something he has reason to dislike. The difference between them may be thought of as the difference between depriving a man of water and drowning him in it. It

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<sup>180</sup> The street it happened on, the witnesses who recounted the incident to them, and other children around the same age as their child, for instance.

<sup>181</sup> Perhaps, by modifying their relationships with the people that bring up that memory and taking a different route home.

<sup>182</sup> Williams, "Moral Luck a Postscript," in *Making Sense of Humanity and Other Philosophical Papers* (Cambridge: Cambridge University Press, 1995), 244.

is the active component of reactive emotions which is warranting of greater justification. Thus, while the revised relationship A has with the parents of the child he accidentally ran over strikes us as unfortunate, the anger and indignation that they hold towards him seems wrong. Nonetheless, it may be too much to ask, that parents and loved ones feel nothing in response to A. Reactive emotions are not as within our conscious control as relationship modifications. Of course, how we express our emotions – whether we, so to speak, throw punches at the person who provokes us or walk away from the fight – may be, at least to a some degree, our decision. But, if the decision of whether or not to feel angry were up to us, in the same way that the decision of whether or not to have breakfast is up to us, then my guess is there would be far less angry people in the world than there currently are. Reflecting on the appropriateness of reactive emotions pulls us in to two different directions: On the one hand, the discomfort and distress that they are sure to cause the people they are directed towards, increases justificatory requirements that objective stigma and blame need to comply. On the other hand, if reactive emotions are, as I have argued, not within our conscious control the idea of trying to justify them seems futile.

Scanlon admits that some may find his account of blame too weak or mild, since it does not explain why we have reason to dislike being blamed as well as some other accounts do.<sup>183</sup> Indeed, Wolf even goes as far as to describe Scanlon's theory as "wimpy blame" for failing to give importance to the reactive emotions which give blame its punch.<sup>184</sup> Insofar as having strong and happy relationships with other people is

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<sup>183</sup> Scanlon, *Moral Dimensions*, 157.

<sup>184</sup> Wolf, "Blame, Italian Style," 336.

something that provides our life value and significance, Scanlon retorts, relationship impairment is nothing to be taken lightly. Furthering his point, Scanlon approvingly cites the following quote by William James regarding the awfulness of being snubbed:

No more fiendish punishment could be devised, were such a thing physically possible, than that one should be turned loose into society and remain absolutely unnoticed by all the members thereof. If no one turned when we entered, answered when we spoke, or minded what we did, but if every person we met ‘cut us dead,’ and acted as if we were non-existing things, a kind of rage and impotent despair would well up in us, from which the cruellest bodily torture would be a relief; for these would make us feel that, however, bad might be our plight, we had not sunk to such a depth to be unworthy of attention at all.<sup>185</sup>

This seems to me to offer as strong an argument as any as to why we should find the idea of blame aversive. But, while Scanlon succeeds in putting the complaint that his theory is too mild or weak to bed, he does not do his contention that blame is different from punishment any service. In fact, if we take the James quote literally, physically torturing someone for a wrongdoing would be less cruel – and the argument may be made – more justified than withdrawal or attitude adjustment.

## **Conclusion**

The closing section of Scanlon’s inquiry into blame is aptly titled, “Conclusion: Is My View Also Revisionary?” Although the question is rhetorical, I would like to take this opportunity to respond that it is. Indeed, it is this revisionary aspect of Scanlon’s perspective which makes it both an essential philosophical paper on the ethics of blame and something that is ultimately alien to our thoughts and feelings around the subject. By emphasizing the integral role relationships play in blame, Scanlon is able to offer

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<sup>185</sup> William James, *the Principles of Psychology*, vol. 1 (London: Macmillan, 1890) 293-294, quoted in Scanlon, *Moral Dimensions*, 229

more insight into the nuances of blame. In particular, he is able to explain how the differences in our relationships account for differences in one's ability to blame. Appeals to this idea are made when we say things like, "that's between the two of you" or "that's none of my business." Sometimes these statements are merely dismissive attempts to avoid conversations that we should otherwise be having, but when said in sincerity, they make reference to a fact that while an agent may be blameworthy, we are not in the right position to blame him. Alas, Scanlon gets carried away with this analogy, which allows him to mistake two closely linked but distinct acts – relationship impairment and blame – for one act. This gives way to the most notable oversight of Scanlon's theory – the peripheral role it assigns to reactive sentiments, normally thought central to blame. The temptation for doing this is obvious. Reactive sentiments are messy. They are not as within our conscious command as attitude adjustments and enhance the suffrage of being blamed – neither of which bode well for an argument against moral luck. Unfortunately for Scanlon, they are also essential to blame.

## Conclusion

There is a sense of absurdity to human life, the reasons for which are implicitly understood, though rarely explicitly articulated. Nagel believes this absurdity is supplied by the fact that, as humans, we have the ability to see that everything we do is arbitrary or open to doubt, and yet we continue to take – indeed, *must* continue to take – life seriously. To live we must have goals, priorities, values, all of which we are earnest about, but we do not simply act upon them, we also reflect on them, assess them, and modify them. It is in these transient moments of reflection that the absurdity of our lives strikes us:

We step back to find that the whole system of justification and criticism, which controls our choices and supports our claims to rationality, rests on responses and habits that we never question, that we should not know how to defend without circularity, and to which we shall continue to adhere to even after they are called into question.<sup>186</sup>

This is where the paradox of moral luck enters because while problems surrounding agency, responsibility, permissibility, and blame remain unsettled, we must go on as if they were.

In the context of this thesis, the circularity of justification first presented itself when we began analyzing Scanlon's theory of permissibility. The idea that a permissible action is one that no one could reasonably reject does not sound so outlandish at first. The alternative position – that an action can be both reasonably rejectionable and permissible – is if not a complete contradiction, dangerously close to one. Yet, when we

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<sup>186</sup> Thomas Nagel, "The Absurd," in *Mortal Questions*, (New York: Cambridge University Press, 1992), 15.

consider the many differences our various circumstances, relations, and perspectives provide, the task of finding an action that no one could reasonably reject turns out to be much more difficult than one would expect. Adding to this challenge is the vagueness of permissibility's description. Rather than advocating for a mono value system (which, to be fair, comes with its own set of problems), Scanlon maintains that there are a plurality of values, any of which may be cited in defence of or in opposition to a proposed action. He alludes to what some of these values might be – fairness is one, well-being is another – but he leaves it up to us to fill in the rest. This makes discovering the morally permissible action more difficult and acting on it more trying. As a result we are more susceptible to blame than he would lead us to believe.

Scanlon's conception of blame follows a very logical structure. When an agent's action reveals attitudes inconsistent with the terms of his relationship, he impairs that relationship and, consequently, opens himself up to blame. Asking the affected party why she would take that impairment as a reason to adjust her own attitudes in turn is like asking a man riding up an escalator that breaks down why he would take that as a reason to walk up it instead. No complicated explanation is needed to justify treating impaired things differently than unimpaired things. But as anyone who has ever cursed at a glass door after walking into it knows – blame is not always so logical.

Scanlon's account of blame diverges from others that involve either punishment or moral grading. The active component of blame is lost when blame involves just the withdrawal or modification of various attitudes. I mentioned in the last chapter the irony of Scanlon's choice to include the passage by William James, given that it undermines the distinction he draws between blame and punishment, but there is another way in

which this choice strikes me as ironic. As a prominent psychologist of the nineteenth century, James is perhaps best known for emphasizing the physiological component of emotions:

Can one fancy the state of rage and picture no ebullition of it in the chest, no flushing of the face, no dilatation of the nostrils, no clenching of the teeth, no impulse to vigorous action, but in their stead limp muscles, calm breathing, and a placid face? The present writer, for one, certainly cannot.<sup>187</sup>

There is a reason why strategies like counting to ten before reacting or focusing on your breathing first help to moderate anger – they calm us down during a state of agitation. It would seem a peculiarity for Scanlon’s account of blame then that blame so often accompanies anger – as it incites more passion, not less. Following this line of thought, Wolf argues, “rather than get some distance between you and the person you’re angry with, you might as likely want to ‘get in his face.’ You may want him to see your anger and to feel your pain. You may want to scold him; you probably want an apology.”<sup>188</sup> This is not to deny that we can and often do withdraw or modify attitudes toward the blameworthy party. Yet it seems to me that these are usually secondary processes and often a strategy invoked to combat anger. Sometimes the only way we can stop ourselves from punching or screaming at the person we blame is to literally or figuratively distance ourselves from them.

If anger could be expressed in a thought it might be, “someone should pay for this.” Our anger at the door only lasts as long as we are able to personify it. For the majority of us, we are only able to keep up the charade for so long before we are left to reside in our own stupidity. Our anger toward natural disasters is likewise typically

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<sup>187</sup> William James, “What is an Emotion?,” *Mind*, vol. 9, (1884): 193

<sup>188</sup> Wolf, “Blame, Italian Style,” 339.

short-lived, but many continue to take their resentment out on God: “How could he allow so much pain and suffering?” “They did nothing to deserve this! Why them?” “What possible purpose could that serve?” one wonders. These questions only make sense when directed toward a being that has intentionality – a being that has control. It would be preposterous to ask them of a volcano, earthquake, or tsunami. Agents can be malicious – agents can make mistakes, but events are simply tragic. Yet, the more we distinguish ourselves from events, the less it seems we are able to.

Our intuitions on morality suggest that we can only blame an agent for actions that result from her free will, but when we consider what actions can be properly assigned to an agent’s free will, it seems that little or nothing can be. The trouble with this view is we cannot accept the natural conclusion of this thought experiment. Agent responsibility is not only a problem for morality, it is also, deeply rooted in our conception of ourselves as actors in the universe. It is implausible to think of oneself as merely a thing or product of causes however true that may be. Despite our initial intuitions which tell us not to, we will continue to blame ourselves and others for actions that are beyond our control.

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