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The Significance of Distribution

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In matters of distributive justice, we take it to be important how benefits and burdens are distributed among different people. But what, precisely, is important about this? In particular, what, from the point of view of justice, is ultimately at stake in what distributions come about? T. M. Scanlon has been coy about what his moral contractualism might imply for justice. Yet the theory bears on this question of stakes. The significance of distribution then lies not in what distributional patterns come about per se, but in independently valuable relations of recognition.

In recent years, many egalitarians (e.g., many luck egalitarians) have proceeded as though a distribution (of goods, resources, opportunities, capabilities, or welfare) can be just (or fair) by its very nature, in and of itself. The basic aim of the theory of distributive justice, on this now standard approach, is to say what this intrinsically just distributional pattern is (equality? priority for the worse off? everyone having enough? something else?).

Scanlon’s theory implies that this cannot be right: a distribution, taken as such, cannot be owed, and so cannot be justice. Or at least this follows given the platitude, due to Aristotle, that justice is, by nature, giving each his or her due. The platitude tells us that to distribute justly is simply to give to each individual what he or she is due or owed, as determined by an independent conception of what this is. According to Scanlon’s independent conception of “what we owe to each other,” no individual can be owed a distribution across persons, as such. We are at most each owed our respective shares—only what we can reasonably ask for on our own behalf. Any reason to favor one distribution of shares over another must flow, not from the intrinsic or impersonal value of a pattern, but from the various reasons—what Scanlon calls “personal reasons”—that different individuals have in their respective positions or standpoints.
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Few if any defend luck egalitarianism in thoroughgoing personal terms. As I will explain, a fully personal argument cannot, in any case, be straightforward: it must be grounded in specific contexts of justification, in light of their varying personal reasons, and admit of generalization only as such contexts allow. Luck egalitarianism is then difficult to defend, in its usual form, as a more or less general answer to the question of what distributive justice involves.

If Scanlon’s theory implies that distributions, as such, are not what ultimately matters, it also tells us what is finally at stake: the significance of distribution depends on independently valuable relations among people. We are to treat others as they are owed, by acting only in ways we could justify to them, because this sustains a valuable “relation of mutual recognition” with them (W, 162). If distributive justice is indeed an issue of what we owe to others, as Aristotle’s platitude suggests, then it, too, is relational: what is ultimately at stake in how benefits or burdens are distributed across persons is whether or not we, the distributing agent, stand in a relation of recognition with each of the different individuals involved.

We see the intended priority of relations over outcomes, in an intuitive way, in the following two sets of (Strawson-inspired) examples—one set from interpersonal morality, one set from social justice. In both of two interpersonal morality cases, hot coffee spills from my cup into your lap, leaving you burned and inconvenienced. In a first case, I have not been particularly careful, gesticulating in a way I knew might cause a spill. In the second variation, I take due care, but am bumped from behind; the spill reflects no fault of mine. In both cases the worldly outcome, aside from how I have governed myself, is by stipulation exactly the same. Yet there remains an important difference in my moral relation to you, because of what the outcome does, or does not, reflect about me. In the first case, I have been careless in a way I could not justify to you; I stand, as I will put it, unjustified by or with respect to you. In the second case, because I am not at fault, there is no change in our moral relation—though your pants are no less hot for that reason.

Now consider a society (or any organized group) and a similar contrast. Suppose some people have much less than others. In a first variant, the condition of those disadvantaged is a product of common institutions or practices which could be feasibly reformed at a small cost, leaving the disadvantaged much better off. Yet those who collectively sustain and shape the common structures ignore or never find out about this possibility; they have what are, for them, more pressing concerns. In a second version of the case, exactly the same distributional state of affairs is created by a natural disaster, which has no cause in human activity, and which persists despite all possible efforts of prevention and mitigation. Although in both cases the worldly outcome (aside from the way the society has governed itself) is by stipulation exactly the same, there remains an important moral difference in the social relation people bear to one another. In the first version, inaction is unjustifiable to the disadvantaged, and so the common relations stand unjustified by them. In the second version, because the society or group is not at fault—because it displays no failure of self-governance—it stands as justified by the disadvantaged as before disaster struck—even if they are materially no better off for that reason.
In each set of cases, the contrasting extenuating circumstances (in which the spill was pushed, and the disadvantage borne of natural causes) highlight how a valuable relation with others is both intuitively independent from mere worldly outcomes and what is of ultimate importance. I take Scanlon’s theory to develop this thought in the following way. Scanlon says the motivational starting point of his theory, the idea of “justifiability to others,” can be characterized in terms of a valuable relation we bear to others—a relation of being in “unity with our fellow creatures,” in Mill’s borrowed phrase. The relation (which Mill mishandled) is implicit in Scanlon’s beautifully ambiguous name for the domain of his concern, “what we owe to each other.” The name refers at once to a relation one person can have with another one person, as well as to a relation which each person can bear to all others. According to what I will call the basic relational orientation of Scanlon’s theory, the relation we bear to a particular other is primary: We bear the moral relation to all others in the same way we bear it to a single individual. We bear the moral relation, not to everyone, but to every one.

Scanlon calls the relation we bear to others “recognition,” but without clarifying the exact role of this characterization. Does it merely explicate the moral relation’s distinctive form of value? Or does it have a deeper explanatory role? I suggest the latter. Once we flesh out what it is to “recognize” another, in one’s motivation, we find a general rationale for Scanlon’s restriction to personal reasons. Roughly, if recognition is to put us in the moral relation with each other, taken separately, then it can only traffic in personal reasons. For personal reasons—reasons which refer to the people who have them—motivationally register persons as distinct individuals. Impersonal considerations, by contrast, contribute nothing to this recognitional function, and so are irrelevant, as such, to what we owe to each other. The same goes, then, for justice: we have to keep the grounds of distribution personal. Only distributions grounded in personal reasons recognize people for the distinct individuals they are; only such distributions are fit to establish the relation of unity with our fellow creatures that justice and morality is ultimately all about.

In sum, Aristotle’s platitude suggests the following two-premise argument. The first premise is that distributive justice is by nature part of what we owe to each other. The second premise is that distributions cannot, as such, be owed. It follows that distributions, as such, cannot be just. The relational foundation of Scanlon’s theory explains this second premise in positive terms: distributions do not, as such, establish a relation of moral recognition with each person taken separately. And the first premise can be confirmed by examples that show that, as much as outcomes matter in distributive justice, relations are what are ultimately at stake.

WHAT CAN BE OWED: INDIVIDUALISM

Scanlon’s theory strongly overdetermines the conclusion that distributions, as such, cannot be owed. As I explain presently, this follows from any of several general constraints on owing, which narrow the field of relevant considerations before we apply the well-known contractualist formula and judge what people can “reasonably reject.”
Scanlon takes the constraints to apply because they are part and parcel of the special moral domain he seeks to describe: To wholly ignore them is simply to change the subject, from the topic of what we owe to each other to something else. The question is then why the domain should be understood in Scanlon’s way. I will suggest the answer lies in the basic relational orientation of his theory.

According to Scanlon’s *individualism*, we are to determine what is owed only by considering individuals taken one by one. This constraint has both formal and substantive elements. The formal element is a general ban on the direct aggregation of benefits or burdens across persons. In considering whether a burden to one person is justifiable, we compare only the benefits or burdens to another one person, and then another one person, and so on, serially, until everyone is considered. What is justifiable can only be a function of the strongest reasons arising from some such position; there is simply no room to directly consider the sum of benefits across persons (or to use any other direct aggregative function). But what reasons are relevant when different positions are being considered? Scanlon’s substantive answer is what might be called his *person-alism*. Grounds for reasonable rejection include *personal reasons*, which “have to do with the claims and status of individuals in certain positions” (W, 219). Direct appeals to *impersonal reasons* are disallowed.¹⁰

The two elements of individualism require separate justifications. The formal ban is supposed to give intuitively correct answers where aggregative views such as utilitarianism falter (e.g., Jones the technician, stuck in the World Cup transmitter, cannot be sacrificed for the sake of modest gains to millions [W, 235]). It is also meant to indirectly allow appropriate aggregation, for nonaggregative reasons.¹¹ None of this entails personalism. For all the formal ban says, equality of distribution might be justified on impersonal but nonaggregative grounds. To be sure, the grounds of objection cannot be simply that such a distribution is intrinsically just or intrinsically owed, because this is precisely what is in question: a reasonable objection cites reasons why a distribution is just or owed. Yet the formal ban does not preclude objections to an unequal distribution on the simple ground that it is a bad thing to have happen from an impersonal point of view.

Personalism does rule this out: the only relevant grounds for reasonably rejecting a principle are personal reasons, specifically, personal reasons which ground objections one could raise on one’s own behalf. Some such reasons concern features of distributions. I can object “he has more than me” in a personal key, on my own behalf, so long as the objection refers to the fact that I have too little, that I am stigmatized as a result of having less than others, that I am likely to be controlled or dominated by those who have more, that my self-respect is at stake, that I have helped to create the goods in question, and so on. What is essential is that the consideration adduced is explicitly or implicitly self-referential: it is a reason for me, as a matter of its agent-relative form, but also in some way concerns my interests or status, as a matter of its substantive content. The mooted objection must be self-referential, the idea goes, if it is to express an objection on my own behalf.¹²

Personalism is nevertheless consistent with several important forms of relativity. First, the content of a justified principle can be essentially comparative. Rawls’s
difference principle, for example, refers to relative positions of different people (the “worst off” or “least advantaged”), though its grounds are ultimately personal reasons concerned with each social cooperator’s interest in a greater rather than a lesser share of the social product. Second, even at the level of justification, what is owed is always comparative as such in the sense that we can never assess someone’s personal benefits or burdens without looking at how others fare (W, 195–96). Third, impersonal distributional ideals such as equality of distribution can be indirectly significant. One can at most give, on one’s own behalf, personal (implicitly self-referential) reasons to be allowed to promote them. Yet their impersonal value can strengthen one’s personal claim to this (W, 221). Fourth, Scanlon allows objections to principles “simply because they arbitrarily favor the claims of some over the identical claims of others: that is to say, because they are unfair” (W, 216). So, for example, suppose a principle gives people unequal shares, depriving some of “benefits and opportunities they have reason to want.” A less advantaged person can expect a relevant difference between his or her situation and those better off. If there isn’t one—if there are no relevant personal reasons on the side of those who get more—he or she can object of arbitrary treatment, on personal grounds.

These forms of relativity do not imply that a distribution as such can be owed. What is owed depends on a judgment of reasonableness, which is simply a judgment of sufficiency: a judgment that certain objections are, by comparison to other relevant objections, sufficient to rule out proposed principles. The class of relevant objections is in turn constrained by personalism: They must cite personal reasons, which, owing to their self-referential nature, express objections on someone’s behalf. A distribution can never be owed, taken simply as a distribution, simply because it can only be owed in virtue of some such personal objection.

But why not define the class of “personal reasons” more inclusively? That is, one might allow direct objection to distributional states of affairs, without self-reference, and define the class of objections “on one’s own behalf” to include these personal reasons. When I object that “he has more than me,” then, I object on my own behalf, based on a personal reason I have that disfavors the unequal distribution, simpliciter. Might we then say, given such an objection, that a distribution, as such, is owed after all? We cannot say this, however, even if we accepted the proposed inclusive definition. What is owed always depends on the relative force of various personal reasons, arising from various standpoints. The proposed inclusive definition simply puts a further personal reason into the mix. It does not imply that other possible countervailing reasons are insufficient.

The suggested inclusive interpretation nevertheless raises the important question of what is at stake in accepting Scanlon’s self-referential characterization of personalism, rather than some such modification. Scanlon mainly offers a bookkeeping argument: the overall project is supposed to vindicate the working self-referential conception by allowing us to capture and perspicuously analyze any and all considerations of moral significance. It is open for argument whether it does that. Even if we grant its adequacy on this count, however, we may also want a more substantial rationale, grounded in the moral phenomena. I suggest one below, derived from the idea of recognition.
If individualism means that distributions, as such, cannot be owed, the following features of Scanlon’s theory also imply this.

**Capacity-sensitivity:** One is only owed something when an agent is capable of regulating his or her conduct as regards that something, given what he or she can understand, plan for, and act on, on the basis of “commonly available information about what people have reason to want” (i.e., “generic reasons”). (W, 204) So no one can be owed a distribution as such. For the existence of a given distribution may or may not be within the power of any individual or collective agents, due to contingent limits on their regulative capacities.¹⁷

**Agent-relativity:** One can be owed something only if some particular kind of agent has reason him or herself to regulate his or her conduct as regards that something, that is, reason which is not equally reason for other agents to so regulate their conduct, and not equally reason to get them to so act. So a distribution as such cannot be owed, whatever other value it may have. If it were owed, every agent would instead have reason to promote it as far as he or she could, by acting on their own or by spurring others to action.

**Normativity:** One is only owed something by agents who have normally conclusive reasons for action (i.e., conclusive absent extenuating circumstances) as regards that something. So a distribution taken as such cannot be owed. For it will not normally supply conclusive reasons for action; it will normally have value, if at all, only as one value to be balanced against other values (even if it is conclusively required in certain situations, given further reasons).

A final feature draws from each of the aforementioned constraints.

**Context-sensitivity:** The different types of agent, capacities, and generic interests are potentially so various that no single regulative principle is likely to be defensible as normally conclusive for them all. So no distribution, as such, is likely to count as owed, independently of a specific context of justification.

In conjunction with individualism, these features substantially constrain distributive argument. We cannot then use the common methodology which simply (i) answers Amartya Sen’s question “equality of what?” (welfare? social goods? resources? opportunities? capabilities?),¹⁸ (ii) formulates an appropriate criterion of distribution (equality? priority for the worst off? sufficiency?), perhaps defending it against alternative criteria, and (iii) concludes that the result constitutes distributive justice. This methodology is at best incomplete. Step (iii) assumes that there are no further constraints on justification to consider. This is fine if we assume distributions, as such, can be intrinsically just; there is then no further question of scope—no further question whether the proposed argument assumes a certain context of justification, and, if so, what exactly that context is. If Scanlon’s constraints apply, however, then no
distribution is intrinsically just, and the context of justification is crucial. Until we have a credible sense of what agents are addressed, their capacities, the range of relevant generic interests, and how a regulative principle could nevertheless be normally conclusive across some range of cases, abstract answers to the questions “What is equality?” and “Equality of what?” do not establish even a presumptive criterion of just distribution. The abstract ideal might be a worthy value, but not what is owed.

Take luck egalitarianism as an example. One does presumably have some personal reason to somehow be compensated for one’s undeserved bad luck, if only because this would make one better off. Yet the extent to which others can be asked to act on this reason will depend on what is in a given agent’s regulative powers and what any proposed measures will cost them. If there are perhaps situations in which no one could reasonably reject being asked to take compensatory measures of certain sorts, there are also surely many situations in which people can raise reasonable objections—for example, the cost of compensation is high, success is unlikely, and the unlucky person is relatively well off. So long as such cases are not entirely peripheral, and especially if they are common, luck egalitarianism cannot take any very general form. Its defensible scope will have to be restricted to the contexts lacking in such countervailing personal considerations.

Rawls’s theory, by contrast, starts closer to the ground, in a specified institutional setting. Principles are tailored to a society’s basic structure, to a list of socially created primary goods, to more or less normal cooperators, and to the general realities of life, motivation, and society. This narrow focus makes it credible to regard the resulting limits on inequality as normally conclusive demands—as not simply valuable but owed. What egalitarian principles lose in breadth of application, because of context-sensitivity, they gain in normative force.

RELATIONAL FOUNDATIONS

If Scanlon’s constraints are significant, the question is why we should accept them. Is there some organizing rationale why they come all together or not at all? Or can we pick and choose? Why not accept the framework save individualism, as Derek Parfit suggests? Or why not ban direct aggregation (unlike Parfit) and allow other impersonal considerations, rejecting only personalism? Again, someone might then reasonably reject an unequal distribution on the grounds that it is bad state of affairs from an impersonal point of view.

Scanlon’s general answer is that individualism is part and parcel of what the domain of what we owe to each other is like. This is less obviously true as compared to the other constraints on owing. Normativity does pretty clearly follow simply insofar as right and wrong are at issue. To judge an act of injury or neglect to be morally wrong is to judge that there is normally conclusive reason not to do it. For reasons of “ought implies can,” capacity-sensitivity plausibly follows as well: the only conclusive reasons will be reasons agents are able to keep track of, plan for, and act on. Agent-relativity is also natural, though perhaps still in need of explication, insofar as it is notoriously
hard to capture principles of right and wrong by appeal to impersonal value. And context-sensitivity might be seen to follow, though still less straightforwardly, as an elaboration of what all of these prior constraints mean for justificatory methodology. Still, why individualism? Even if the formal ban can be motivated given familiar problems with utilitarian aggregation, why personalism? Why the restriction to personal considerations, to the exclusion of impersonally valuable distributions? Scanlon says individualism, including personalism, is “a central feature . . . that I would not want to give up” (W, 229). But this is not of course to say why it is correct.

Scanlon does provide a clue in his comments on the question of whether to preserve a natural treasure such as the Grand Canyon, for impersonal reasons. He writes:

...it is important to bear in mind the limited range of the part of morality we are trying to characterize. The contractualist formula is meant to describe one category of moral ideas: the requirements of “what we owe to each other.” Reasons for rejecting a principle thus correspond to particular forms of concern that we owe to other individuals. By definition, impersonal reasons do not represent such forms of concern. They flow from the value of those objects themselves, not (at least in the first instance) from anything having to do with my relation to other people. (W, 219, emphasis added)

As Scanlon does not elaborate in great detail in What We Owe to Each Other, his commitment to personalism, as expressed in these remarks, seems mainly to be an expression of his overall project. The project is not to show why we have to keep things personal, but that we can. This is significant in itself. Recall the ambiguity in the name “what we owe to each other.” The name at once denotes two relations: a relation one person can bear to another one person, which the one can in principle bear in return, and a relation any one person can bear to all others. A fundamental goal of Scanlon’s theory is to make credible the intuitively attractive thought that the former relation is primary: the relation each bears to all is a relation any two can bear, pair-wise, to each other. Specifically, these relations are of the same basic kind, in the sense that both depend on the same kinds of considerations. So insofar as the basic one-to-one relation is personal, in a sense which excludes impersonal considerations as irrelevant, the relation we bear universally and serially to all others is personal as well, in that same sense. And this is just personalism. Because impersonal reasons are then excluded, aggregation or distribution across persons can only be required, if at all, on the basis of personal reasons.

Scanlon’s big idea is that, because his contractualist theory meets a range of theoretical desiderata—it accounts for the motivational basis, the subject matter, and the content of morality, as it is ordinarily understood—we can find credible the idea that morality is at bottom relational, in at least the above abstract sense. Still, the question remains: can we make good sense of the basic pair-wise relation which grounds the whole project?

Scanlon has further explicated the relation we bear to persons that we do not bear to the Grand Canyon. He writes:
recognizing your value as a rational being is a matter of responding properly to the reasons we have that flow from your reasons, that is to say, from the reasons you have “on your own behalf.” (Nothing similar can be said about the Grand Canyon, which does not have any reasons.)

Although we may have reason not to fill up the Grand Canyon, our reason not to break someone’s legs is in part that he or she has personal reasons, him or herself, not to be so injured. What we may or may not do is thus a matter of what is justifiable to that person, in the light of those personal reasons. This is helpful, but at most the start of a general rationale for personalism. This says only why recognizing the value of person must include reference to his or her personal reasons, not why impersonal reasons should be excluded. Why doesn’t recognizing your value require responding to your reason not to have your legs broken and to the fact that this is an impersonally bad thing to have happen? We have a rationale for personalism only when this kind of further impersonal consideration is ruled out. I will now suggest one such rationale by fleshing out the personal nature of Scanlon’s motivational starting point, the idea of “justifiability to another.”

THE MORAL RELATION

The justifiability of an action to a person is strictly speaking a relational property of actions, a relation between an action and a person. But a relation between persons does seem to be what Scanlon takes to be ultimately at stake in matters of right and wrong. He writes:

[T]he pain of guilt involves, at base, a feeling of estrangement, of having violated the requirements of a valuable relation with others. . . . What is particularly moving about charges of injustice and immorality is their implications for our relations with others, our sense of justifiability to or estrangement from them. . . . When we look carefully at the sense of loss occasioned by charges of injustice and immorality we see it as reflecting our awareness of the importance for us of being “in unity with our fellow creatures.” (W, 162–63)

But what is the single underlying “valuable relation with others” at issue here? Scanlon does explain how the unjustifiability of our conduct to others changes how they can appropriately relate to us: they may properly resent us, be unwilling to remain friends, or simply feel uneasy about being asked to shake our hand. This is, however, only to say that our conduct enables or undermines various specific ways of relating, not that there is a single, underlying “valuable relation with others” at stake. The question then is, What would be a basic moral relation of this kind? As I understand it, the relation in question includes a single basic relation between persons—the moral relation, if you will—and two forms of relational status or standing. The basic relation holds between any two people with certain capacities of rational
assessments, specifically, capacities which enable, at least in theory, a justifying exchange of reasons for acceptance. Such people not only bear a common property of rationality, they bear a relation of *encounterability*. In principle, the two could have a certain face-to-face encounter: the one could, in theory, be asked for reasons why there was sufficient reason for his or her conduct, despite foreseeable consequences for the other, and the other could, in theory, accept or reject the sufficiency of those reasons. You ask why I missed our appointment, I explain, and you accept, or reject, my putative justification. When this idea of encounterability is simply out of place, because the thing in question (e.g., a tree, the Grand Canyon) lacks the capacities needed to even in principle have the justifying exchange, one simply has no such relation or standing in relation to that something (even if some other standards of conduct concerning it still apply). 29

There are two forms of status, or two ways of “standing,” in this basic encounterability relation. I am in good standing when all of my actions are justifiable to you—when my reasons would win your acceptance (assuming you are informed, well-motivated, and reasonable). Even if we never have the justifying exchange, I thereby stand justified with respect to you, or (for short) justified by you (much as you might say “fine by me”). I am not in good standing, perhaps to the degree my total conduct falls short, if something I have done or failed to do, which might in some way have affected you, could not be justified to you if you asked; you would not accept the sufficiency of my reasons. Even if you never do ask, I thereby stand unjustified by or with respect to you, to some degree. (Though we bear the basic moral encounterability relation to everyone, one’s standing as justified by another need not be mutual; the other may or may not stand justified by one.)

So the moral relation is thus a relation between persons. Might some conception of its personal nature explain why impersonal considerations must be excluded from the exchange of reasons for acceptance? I suggest the following conception, which has four parts. The first is the

1. *Attributability Condition*: How people stand in the moral relation depends only on events that are attributable to one or both of those people. 30

This excludes all purely impersonal occurrences in the world (e.g., earthquakes) as irrelevant. It is not to say what personally attributable events do matter. Thus we may add the

2. *Subjective Recognition Thesis*: How one stands in the moral relation to a person i depends only on whether or not one displays the subjective regard necessary to recognize i, as reflected in the considerations operative in one’s deliberation or action.

Everything thus depends on whether we recognize others in our motivating grounds. But what does “recognizing someone” require? According to the

3. *Distinctness Condition*: One recognizes a person i, in the sense relevant to one’s moral relation to i, only if the considerations operative in one’s
deliberation or action register i as an individual, that is to say, as distinct (i) from the impersonally described and evaluated course of events and (ii) from other persons.

In order to exclude impersonal considerations, then, we need only add the further claim that

4. Only motivation by personal considerations registers a person as distinct from the impersonally described and evaluated course of events and from other persons. Motivation by impersonal (or non-person-referential) considerations fails to register persons as distinct in one or both of the required senses, (i) and (ii).

In other words, personalism follows from (2), (3), and (4). In short: only personal reasons motivationally register persons as distinct individuals, and such motivation is all that counts.

THE ATTRIBUTABILITY CONDITION

The Attributability Condition, (1), is not strictly necessary for the above reasoning. Its role is to motivate concern with recognition. The argument in its favor generalizes from the coffee case. In such cases, a bad outcome changes my relation to you only insofar as it reflects on or is attributable to me. We generalize to the irrelevance of all outcomes by firmly denying the possibility of “moral luck”: we add, that is, that it makes no difference what outcome, good or bad, actually comes about. The painful spill might have been averted by stroke of good luck. Still, if my conduct was faulty (because I was reckless), our relation will not be as it was before.

In other words, the moral relation holds between us as persons. Any exchange of justification for acceptance which bears on that relation therefore cannot take purely impersonal occurrences into account. Now, strictly speaking, that is not to exclude impersonal considerations from the content of personal motivation; in theory, one might still owe it to others to care about and be moved to promote impersonally valuable states of affairs. Yet this thought now lacks a clear rationale. Why, from the point of view of what we owe to others, should we be concerned with and motivated by the thought of certain impersonal events, as such, if the occurrence of those events is wholly irrelevant to our standing with respect to one another?

THE SUBJECTIVE RECOGNITION THESIS

Impersonal concern will of course seem natural if there is nothing else to put in its place. The Subjective Recognition Thesis provides a plausible alternative: one is to recognize others in the considerations operative in one’s deliberation or action.
A person is fully recognized, we may say, when we give significance and appropriate weight to his or her interests in our motivating grounds. This has a familiar meaning in face-to-face interactions involving conversation and coffee—I notice, and give sufficient weight to, foreseeable costs to a person I can independently identify. It is less clear what “full recognition” might entail as regards distant strangers we cannot know of in any particularity. How does one recognize everyone in a world of several billion people?

Scanlon accounts for limitations in our conceptual, epistemic, and other regulatory capacities by framing moral argument in terms of “generic” reasons—reasons we know people have by generally available information. So insofar as I govern myself in a way which is responsive to the generic interests of persons in your position (by following the appropriate principles, with an understanding of their point and generic grounds), I can in a general sense be said to fully recognize you—even if you in your particularity never come before my mind. The relevant general sense of “recognition” is therefore quite distinct from those associated with special causal or social relationships, for instance, picking someone out of a crowd, identifying someone as the same individual one saw before, granting permission to speak or vote within a deliberative body, or knowing someone in all his or her individuality, as a lover might expect of his or her beloved. Indeed, because recognition of the relevant general sort cannot depend on any such specific way of “recognizing” persons as particular individuals, it must be “impersonal” in a fairly straightforward sense.

This does not, however, imply impersonal concern for the good of people or humankind—that is, impersonal motivation of the sort we seek to rule out. This is because personal motives, even in a highly generic form, implicitly or explicitly refer to the individuals who have them. They can thus be said to relate us to those different individuals, rather than to humanity or people at large. If I take the pain my hot coffee will cause you, or a headache you happen to have, to be not just a bad state of the world, but bad for you, according your personal reasons, then reference to you is part of my motivating grounds. This remains true when the grounds are quite generic, concerned only with persons in your position. I think, “one suffers in that condition; it is bad for one,” making no reference to your particular sensitivity, distinctive personality, or other distinguishing features. Nevertheless, the grounds assume, by virtue of the kind of grounds they are, that you are a particular individual who has the personal reasons in question, whether or not anyone else does. I thus see pain as significant because it is someone’s pain, rather than a mere impersonally bad occurrence in the world. And I am not simply registering persons in pain in the aggregate, but rather the individual and several persons under the generic description—that is, each and every person like you for whom the condition or sensation in question hurts. In this albeit indirect way, you are registered as distinct from impersonally desirable events in the world, such as the preservation of the Grand Canyon or the reduction of headaches or pain overall, as well as from other persons, who may have different personal reasons. I implicitly pick you out from both the world’s impersonal goings on as well as the crowd.
In other words, personal motivation meets the Distinctness Condition. If “full recognition” is hard to characterize in general terms, conditions (i) and (ii) are bare minimum requirements for recognition of persons as distinct individuals in the most basic sense. If persons are not registered as distinct from the impersonally described and evaluated course of events, we do not count as related to persons as distinct from impersonal objects such as the Grand Canyon. And if persons are not registered as distinct from other persons, we do not count as directly related to each and every person, taken separately.

If this is right, we finally have our rationale for personalism: impersonal (or otherwise non-person-referential) motivation is irrelevant to the moral relation, because it makes no contribution to minimal recognition in the specified senses; it fails the Distinctness Condition. To see why, consider first a case of aggregation. Suppose I spill the hot coffee on your lap, not negligently, but solely for the sake of net impersonal gains to other people. (Perhaps the resulting spectacle will cause several bystanders to talk and make a profitable business arrangement that will benefit millions of consumers.) If Kant would say that I am treating you as mere means, not as an end in yourself, the present version of the objection is that I do not fully recognize you as a distinct person. Most important, the problem here is not simply the way your interests have been balanced against the interests of others, a problem that might justify only the formal ban on aggregation. For the idea of recognition also limits the sorts of considerations that may be put into the balance in the first place. If I am only careful not to spill my coffee because the world is an impersonally better place when pain is minimized, this does not register you as distinct from the impersonal course of events, even if the ban on aggregation is respected. If my only thought is that pain is a bad thing to have happen, I have yet to recognize you, the person in pain, as distinct from any way pain might happen to come about or be reduced in the impersonally described and evaluated history of the world. I see the pain, but have yet to recognize the person whose pain it is.

To be sure, pain is necessarily someone’s pain. Even if this is true and known, however, this is insufficient for recognition as part of the content of one’s motivating grounds. One can acknowledge the descriptive fact that pain must be someone’s pain without having any motivating thought about its normative significance. One can even be moved by the badness of pain, knowing that the pain must be someone’s, and yet not be moved by the fact that it is someone’s pain. This fact might be as incidental as the known fact that the person has a beating heart, or has spent most of his or her life relatively close to the surface of the earth. Recognition of the person, within one’s motivating grounds, is only achieved when we add personal considerations: we have to add the motivating thought that the pain is bad for a certain reason—because it is bad for the someone whose pain it is.

The motives of actual people of course often mix personal and impersonal considerations. The present claim is that any recognition of others we achieve is explained by the personal motives. If impersonal motives are insufficient taken by themselves, this
shows that they have nothing to add. Why would they suddenly become relevant simply because a wholly different, personal form of motivation was introduced?33

RECOGNITION IN DISTRIBUTION

If all of this is right, we can now say more precisely why distributions, as such, cannot be owed: they do not provide a basis for recognizing persons as distinct individuals, in the sense that our moral relation to each person requires.

To see this, suppose that, in resolving some distributive problem, we distribute things equally among the people involved. Suppose that our motivating basis is simply that equality of distribution is a good state of the world from an impersonal point of view. (Specifically, our basis is the thought that this reason alone grounds reasonable rejection of any principle that allows inequality). It follows that we do not place value on individuals’ having their respective shares, for their own sakes, for their personal reasons. In that case, however, the chosen distribution is simply a way of bringing about a valuable pattern in the world. And this is just to say that the people involved are not recognized as distinct from the role they happen to have in the larger impersonal world. We can of course add, as a further claim, that distributive shares are also valuable for the different persons, for their personal reasons. But, as above, recognition is then achieved only because personal considerations have been introduced.

If the equal distribution is indeed motivated only by impersonal considerations, we also cannot say that the people are recognized as distinct from each other. People can be viewed as distinct from the larger impersonal world and yet not as distinct individuals. Humanity might, for instance, be seen to have a single utility function, the maximization of which happens to require equal distribution (e.g., because of diminishing marginal utility). Yet, much as Rawls famously claimed, to distribute equally on this impersonal basis is not to fully recognize persons as distinct from each other.34

The formal ban on direct aggregation partly captures this thought: it leaves no (relevant) standpoint of evaluation beyond the imagined objections of different, numerically distinct persons. Personalism is also needed, however. Again, without personalism, we can introduce nonaggregative impersonal considerations from any given standpoint, for example, as grounds for equality of distribution. But suppose, as above, that such grounds provide our only motive for distributing things equally. In that case we are not moved on behalf of anyone. This does not display recognition of the fact that distinct persons are involved. For the distribution is by stipulation not on behalf of a particular someone, in the sense that it is motivated by his or her personal reasons in its favor. Nor, then, can we be supposing that every one has some personal reason to favor the distribution. So we cannot say, in that sense, that equal distribution is on behalf of, and expresses recognition of, each and every one. Yet we do have to say that the distribution is “on behalf of everyone,” in some nondistributive sense. After all, if people weren’t involved, no distribution problem would come up. The distribution, then, is on behalf of everyone but no one. The different individuals involved nowhere figure into the picture; they are not recognized as individuals, as distinct from one another. We can of
course add reference to their respective personal reasons, but, again, recognition is then achieved only because personal motivation has been introduced.

SOME OBJECTIONS

Before turning to what all of this means for political philosophy, I should consider two objections which highlight the intuitively attractive basic relational orientation I mean to be developing. A first objection is that the above conception of recognition is too specific: it suffices for recognition, one may say, simply that no one could reasonably complain of one’s motivating grounds. Hence, if impersonal considerations are allowed as sufficient bases for reasonable objection, being motivated by them would suffice for recognition. Personalism would of course rule that out, but what is wanted here is a rationale for personalism from an idea of recognition.

This shows that my proposed characterization of recognition assumes and merely develops the basic relational orientation presently under consideration. Again, we are trying to explicate a relation one can bear to all that is of the same basic kind that we can bear to a single individual person. If we broaden “recognition” as our objection proposes, however, it becomes unsuitable for this role. It is not clear that any individual person is recognized, as such, if impersonal grounds are allowed. According to the proposed view, it suffices for recognition if my motivating grounds reflect principles no one could reasonably complain of. But here we should ask, “Suffices for recognition of whom?” If someone is imagined to complain, it would not necessarily be because that person has a complaint on his or her own behalf. For all we have said, the grounds would be equally available to everyone, and the objection on behalf of no one. The corresponding motivation might then count as recognizing “everyone” in a general nondistributive sense. But we cannot yet say that it recognizes any given person. We cannot yet say we have characterized a relation we bear to all that is of the sort that we bear to a particular person, that is, a relation we bear separately to each and every person, taken as a distinct individual.

A second, quite different objection suggests that recognition can instead be seen as only one component of the moral relation. In that case, individuals could be recognized by the acknowledgment of their respective personal reasons, but impersonal reasons might otherwise bear on what people are owed. A partial reply is that certain impersonal considerations (e.g., of aggregation) undercut recognition. This is only a partial reply, because it does not rule out the more moderate view which bans aggregation and merely rejects personalism, allowing impersonal concerns with distribution. Acknowledgment of the personal value of each having his or her share could then do the job of recognizing each person, whereas equality of distribution might be owed because of its impersonal goodness.

In reply to this more modest view, we should recall the challenge posed by the Attributability Condition, now supplemented by a personal conception of recognition. The Attributability Condition by itself implies that purely impersonal events, whether distributive or otherwise, are irrelevant to the moral relation that we bear directly to
different individuals. But why then should we care about those events, at least as far as our relation to others is concerned? Shouldn’t we simply be concerned with the different individuals, and care about worldly events only insofar as they personally matter for one or another person?39

RELATIONAL THEORIES OF JUSTICE

I now turn, at last, to what all of this means for political philosophy. I have already described the inadequacy of the Sen-inspired methodology of justification. Abstract answers to the questions “What is equality?” and “Equality of what?” do not warrant conclusions about what is owed or required by justice. The case for any principle of distribution must be made in terms of personal reasons, in a context-specific, inductive way. We have also now said why a fully personal argument is necessary: only personal reasons are relevant to the relation of recognition that is chiefly at stake when moral questions of just distribution come up.

In other words, a relational theory of justice must be correct. It is important that Scanlon’s theory does not imply any particular relational theory, however. We can still take any of several views about who exactly the “justice relation” relates. According to an interpersonal relational theory (of justice generally, or of a certain justice concept), the justice relation holds between each individual of the world and each other individual. Special social relationships—families, nations, international organizations—raise special opportunities for action as well as special concerns, but do not alter the basic question of what this direct justice relation between all individuals requires. According to a social relational theory (of justice generally, or of a certain justice concept), by contrast, the justice relation holds between individuals and the organized social relationships they are a part of, or substantially affected by, which may or may not include everyone. Rawls, for example, justifies his claims about domestic distributive justice, and the reasoning appropriate for their justification, based on an independent conception (“model conception”) of what a society is.40 Elimination of inequalities is owed to each member, not because this is necessarily owed among all human persons, but because this is a condition of realizing a just social relation of the sort a domestic society involves (a well-ordered, fair scheme of social cooperation, among free and equal moral citizens).

Although Scanlon’s individual-oriented theory may seem to imply or strongly support the former, interpersonal view, this is not in fact the case. Indeed, the pluralistic nature of Scanlon’s framework is especially congenial to social relational views. Because different contexts can require different principles, there is nothing arbitrary or inappropriate in failing to assess all human activity by a single general distributional standard, contrary to Rawls’s critics.41 At the level of interpersonal relations, principles of voluntary exchange can be different from principles of mutual aid, even if both have distributive effect. At the level of social relationships, domestic justice can be different from justice in the complex social practices and institutions that organize the global scene. And if we are so pluralistic within levels, we can be pluralistic
across levels as well. If collective life can be said to raise its own distinctive and equally fundamental questions of justification, then principles for social forms do not need to be somehow derivable from principles justified at the interpersonal level, but rather justified for those social forms themselves. Rawls, for example, is a nonreductivist in that sense: principles of social justice, seen as principles for collectively sustained social practices and institutions, are neither less fundamental nor derivable from principles of interpersonal conduct, and indeed the latter are at best a secondary or independent matter.42

Why might collective life raise its own distinctive and equally fundamental questions of justification? The question is barely coherent within a consequentialist framework. Scanlon’s framework supports one plausible answer provided only modest further assumptions about the conditions of political life. We need only have generic interests at stake in the governance of something other than our respective individual selves, and thus a fresh collective occasion for asking what the recognition of each affected person requires. Thus we may say that political philosophy’s concern with distributive justice arises in part because we find large-scale patterns of distribution largely beyond any given individual’s control. Because such patterns cannot be said to personally reflect on those individuals, in the sense required by the Attributability Condition, they are not, on a large scale, a matter of justifiability among persons, as such. Yet they cannot simply be left to fate. As is often (but not always) the case, a large-scale pattern can be attributed to certain large-scale social relationships. Especially when such relationships are collectively governed, whether through centralized politics or by decentralized means, the collective then holds a distinctive form of power over each individual caught up in the distributional machine.43 Distributive justice, on this conception, is achieved only when the relationship’s organization, and resulting distributive pattern, is such that each such individual is fully recognized. The question of what we owe to each other, in other words, is not then about what each owes to each, but rather about what we, collectively, owe to each.44

THE PRIORITY OF RELATIONS OVER OUTCOMES: FURTHER EXAMPLES

I have now explained what Scanlon’s theory entails if we situate justice within what we owe to each other. In the remainder of my discussion, I return to the large question of why justice should be so situated in the first place. I offer two reasons for this. First, unlike an alternative reading of Aristotle’s platitude, situating distributive justice within what we owe to each other directly explains the great significance we attach to distributive justice. Second, the resulting priority of relations over outcomes is confirmed by numerous examples akin to our initial natural disaster case.

If Aristotle’s platitude was supposed to link justice to what we owe to each other, it does not have to be interpreted in this way. On an alternative interpretation, justice is by nature giving each his or her due only in the following sense: each is (by nature) owed his or her appropriate place in a pattern of distribution. Nothing in the nature
of justice then precludes a distribution from being required as such. If justice requires that reward be distributed according to merit, then each is due the place in the pattern of reward that he or she deserves. Or if justice requires a distribution free from undeserved misfortune, where a person’s misfortune is deserved only insofar it results from his or her own choices, then each is due his or her place in a pattern of this kind.

An adequate conception of distributive justice needs to explain why the issue is normally of great if not overriding importance to us. Situating justice within what we owe to each other explains this in a direct way: what is a stake is a moral relation of corresponding significance. By contrast, the alternative reading of Aristotle’s platitude just suggested does not directly explain the significance of distributive justice, if it explains it at all. The proposal is of course that justice can require a certain distributional pattern. But the question is then why the pattern should be seen to have the great importance we assign to justice. Nor is it enough to say that people are due or owed certain things. If one’s due is simply having one’s place in a certain pattern, whatever it is, and whatever the pattern’s value, no essential reference to the value of that pattern is assumed. If the distributional pattern has little or no value, it is hard to see why it should be of great importance, as a matter of justice, for each to have his or her place in it. And even if one adds that the properly specified distributive pattern is indeed valuable, as an independent claim, this will not necessarily meet the relevant explanatory burden. The account of the pattern’s value may or may not capture the general importance that distributive justice has for us; everything depends on what sort of value is involved.

The argument against situating justice within what we owe to each other might instead appeal to examples. One might argue that certain distributions are so obviously unjust, in and of themselves, that my argument shows only that justice cannot be part of what we owe to each other. As I will now explain, a range of examples suggests otherwise. Examples such as the natural disaster case suggest that the significance of distribution lies in the character of social relations rather than mere outcomes, even in cases of obviously unjust distribution.

Consider an emergency situation involving a sinking ship. Knowing they have a moderate chance of rescue, but being fair people, the passengers adopt an impeccably fair procedure for distributing the different kinds of life preserving device on hand, in effect assigning different ex ante life prospects to each. It could well have been “every person for him or herself.” Because the passengers instead chose fair arrangements, however, they stand in a just social relation, however the different life prospects turn out. Everyone may die; everyone may be saved; or some may die whereas others are saved. If the procedure of distribution really was impeccably fair, the people stand justified with respect to each other whatever the eventual result.45

An emergency situation is hardly a model for what justice substantially requires of a governed society in normal conditions. Because the outcomes of regularized coordination can be to a considerable extent known and controlled, it will often be culpably negligent to simply leave them to fate. Here the independence of relations from outcomes is revealed mainly in extenuating circumstances, as in our natural disaster
cases. Although the same unequal distribution of material goods obtains in the two societies, in the one case it does not reflect on, or is not attributable to, the society itself. Thus the *society* displays no failure of recognition. The outcome is unfortunate and the hand of fate has perhaps been unfair, but just as my moral relation to you is not undermined when my coffee is simply pushed onto your lap, there is no injustice in the social relations going on.

In still further cases, it becomes clear that no untoward outcomes need come about. The society can simply have the wrong relation to a welcome outcome. In a variation on the natural disaster case, suppose that disaster never strikes despite overwhelming evidence to the contrary. If the negligence remains, say, because the evidence was played down or ignored, the society remains no less unjust. The fortunate outcome is not to its credit; it says nothing about the society’s relation to its members. The society’s members have not been fully recognized. 46

Extenuating circumstances aside, we may often find it hard to believe that a society in the normal conditions of human life will lack control over distributive outcomes. We therefore expect certain distributions to actually come about, as a condition of just social relations. We may then find extreme poverty combined with great inequality obviously unjust, but not because we think such a distribution is, as such, obviously unjust, in and of itself.

Indeed, any appearance of obvious intrinsic injustice fades when we consider the familiar test-case of two isolated societies. Suppose the one society is rich and goods and opportunities are fairly distributed, whereas the other is tragically poor, despite all best efforts and a fair distribution of what scarce goods and opportunities there are. Here the global state of affairs of severe poverty and great inequality seems neither just nor unjust if the societies cannot interact. Perhaps the inequality is regrettable, fate has been unfair, and the world is in one way bad, or otherwise objectionable. Yet it reflects nothing about the character of the social relations going on. There is no reason as yet to deny that everyone stands justified with respect to everyone else, in both their special relationships and their bare relations as persons.

It is important that the essential thought here does not depend on the impossibility of interaction. If the societies could suddenly interact, but had yet to do so to any significant degree, the global distribution of goods or opportunities will still not necessarily reflect the character of international or transnational social relations, such as they are. The Attributability Condition is still not met. It is only when, given a fair amount of luck and time, meaningful patterns of interaction become established between our two societies or their members that we can begin to consider the extent to which the *global* distribution of goods or opportunities is genuinely within their power, and so reflective of or attributable to their social relations as opposed to the mere workings of fate. Any number of circumstances could prevent regularized interaction of this kind. Perhaps the societies have limited capacities for effective communication; perhaps they have radically different views of the world and its workings; perhaps they as yet lack mutual awareness of common problems; perhaps they fail to see stable coordinative solutions; perhaps they see too many solutions, as no one solution is yet salient enough to provide a “focal point” solution; perhaps there is
uncertainty about the degree of expected compliance and so the costs of participation; perhaps all of these factors have a role, to different degrees, in different contexts of possible interaction. Although such obstacles to cooperation often combine with ill will, distrust, and violent, manipulative, or exploitative action, they can in principle arise without anyone being at fault. The conditions for cooperation themselves can simply be wanting.

I do take the current state of international relations to give rise to significant egalitarian demands, beyond humanitarian obligations to eliminate absolute poverty. The state system, the rule of international law, and the institutions of trade and lending governing the global economy generate significant principled limitations on both poverty and inequality across societies, even if they are of a more limited and varied kind than the requirements of domestic justice. I take this to be the case, however, because patterns of social coordination have arisen which generate special responsibilities, over and above the requirements of mere humanity. It is not enough that a world without poverty or inequality is desirable per se. In this respect, the case is similar to obligations of humanity. Such obligations do not depend on existing social practices; to take Peter Singer’s famous example, if one simply walked passed a drowning child that one could have saved, the child’s ensuing death would be attributable to one, even without a practice of mutual aid. Still, obligations of humanity remain quite distinct from what is desirable per se. In the case of two previously isolated societies beginning to interact, for example, we move away from clear-cut personal interactions and relatively certain causal relations. The poor society will be owed humanitarian assistance only to the degree that others know or can come to know how to effectively help, according to the standing possibilities of interaction and the generic interests at stake. In some cases, even a heroic good faith effort may or may not translate into real poverty reduction, let alone a dramatic change in the imagined unequal global distribution of wealth. Much as in our sinking ship case, what will determine whether the people involved stand justified with respect to one another will be decided only by what is attributable to those agents, not the degree to which poverty or inequality is reduced as such. When a pattern of poverty or inequality will persist despite all possible efforts of good and sustainable governance, this will not reflect on the character of relations themselves but rather the hand those relations are dealt. (This is not to say, of course, that the actual, contemporary world is such a case.)

Insofar as the possibilities of governance are often a matter of undeserved luck, this is to deny many versions of luck egalitarianism. But cannot some form of the view still be defended in relational terms? Perhaps, but, as we have said, the argument would have to be personal and context-sensitive. Moreover, we can now see that it would have to meet the Attributability Condition: only states of affairs that can be attributed to independently indentified relations would count. Again, among newly interacting societies, the global state of affairs of severe poverty and great inequality cannot be attributed to their relations, in which case luck egalitarianism cannot have global application (even if humanitarian obligations do apply). Our own globalizing world is of course a quite different situation. Perhaps modern domestic states—marked by deep centralized governance of well-integrated markets with free labor mobility—do
shape their subjects’ fates to an extent that justifies a luck egalitarian distributive standard. Yet there is no clear global analogue on the global scene. For the foreseeable future, the world will have a decentralized state system, involving partial economic integration, relatively limited labor mobility, and limited and diverse forms of international governance, each with distinctive functions and consequences, and subtle systemic interconnections. Even if various distributional principles apply, beyond humanitarian obligations, it is far from clear, and indeed difficult to successfully argue, that there exists a single, robust, global-sized subject of justice to assess and govern by a single “cosmopolitan” luck egalitarian standard. If nothing else, a serious case for such a standard would have to resolve murky issues of international and transnational social interpretation—precisely the sort of relational messiness luck egalitarianism is often thought to avoid.

CONCLUSION

I have now said something to motivate both premises of our initial argument. The argument is that justice cannot require a distribution, at least not as such, because justice is part of what we owe to each other, and because distributions as such cannot be owed. The latter premise is explained by the relational nature of morality, and justified by the manifest appeal of a relational conception. As for the former premise, I have just been arguing, in effect, that we can accept a version of Aristotle’s platitude, in a sense of “due” consistent with Scanlon’s theory, without doing violence to our concept of justice, and in a way which has considerable intuitive force.

NOTES

1. For comments or relevant discussion, I thank Charles Beitz, G. A. Cohen, Joshua Cohen, Marshall Cohen, Carl Cranor, Samuel Freeman, Margaret Gilbert, Sean Greenberg, Robin Kar, Rahul Kumar, Sharon Lloyd, Steven Munzer, Thomas Nagel, Chris Naticchia, Philip Pettit, Andrea Sangiovanni, T. M. Scanlon, Yonatan Shemmer, Seanna Shiff rin, Daniel Speak, Kok-Chor Tan, Julie Tannenbaum, Leif Wenar, Gary Watson, R. Jay Wallace, Andrew Williams, the Southern California Law and Philosophy discussion group, and audiences at Princeton University, University College London, and California State University, Northridge. I am especially indebted to A. J. Julius.

2. In What We Owe to Each Other (Cambridge, Mass.: Harvard University Press, 1998) (hereafter “W”), Scanlon cautiously limits his official concern to interpersonal morality. His contractualism is also at best peripheral to his political essays, as I explain in my review essay of The Difficulty of Tolerance: Essays in Political Philosophy (Cambridge: Cambridge University Press, 2003), “Rights and Circularity in Scanlon’s Contractualism,” Journal of Moral Philosophy 1(3) (2004). In “The Diversity of Objections to Inequality,” Lindley Lecture: University of Kansas (1997), for example, Scanlon argues against taking equality of distribution as an independent value, but without reference to his moral theory. As we will see, it has a similar upshot.

3. Few egalitarians are very explicit about this, although I believe the stated view is widely assumed. The essential assumption, for my purposes, is a weaker methodological claim which


5. According to Gerasimos Santas (in conversation), Aristotle himself took the claim to be a platitude which was accepted by Plato and others.

6. Most versions of luck egalitarianism mix personal and impersonal considerations. One version, for example, begins with an impersonal appeal to the prima facie fairness in everyone having a good life, but modifies this ideal because of personal considerations of desert. Because some people do less well because of their own choices, the relevant ideal is equality of access or opportunity to a life as good as that of others.

7. But see below for different views about who exactly the “justice relation” relates.


9. The basic formula mentions judgments about “what would be permitted by principles that could not reasonably be rejected, by people who were motivated to find principles for the general regulation of behavior that others, similarly motivated, could not reasonably reject” (W, 4).

10. Strictly speaking, reasoning is grounded in, but not exhausted by, personal reasons. A substantive judgment of reasonable rejectability has three elements: (i) judgments that facts of the case are irrelevant (not personal considerations, or not relevant personal considerations); (ii) personal reasons judgments in favor of principles or some alternatives; and (iii) judgments that certain relevant personal reasons are, by comparison to other relevant personal reasons, sufficient to rule out a principle, given the available alternative principles. For expositional ease, I include such “nonimpersonal” judgments under the heading of “personal reasons.”

11. W, 229–41. See also Rahul Kumar’s contribution to the festschrift.

12. The idea that “personal reasons” must be self-referential in order to express an objection “on one’s own behalf” is at best implicit in *What We Owe to Each Other*. Scanlon emphasizes the


14. One might further insist that the proposed direct personal reasons for less inequality necessarily provides sufficient grounds for reasonable rejection, despite the other considerations in play. This is, however, and outright rejection of Scanlon’s pluralistic, open-ended framework, and not very plausible besides. Most egalitarians regard their proposed distributions as one value to be balanced against others.

15. For instance, one can imagine modifications that grant the self-referential definition of “personal reasons” but offer different conceptions of what is appropriately self-referential. I leave this rough and ready, though any interpretation would have to preserve “recognition” of an individual in the abstract sense I specify below.

16. One might, for instance, deny that relevant objections have to be on one’s own behalf, especially in “political” contexts where we imagine people trying to get along despite (perhaps reasonable) differences in their normative views. Seeking reasonable compromise, one can say, “This distribution involves too much inequality in my view,” in a personal key which expresses one’s own normative judgment, but has little to do with one’s own interests. Rawls’s political liberalism, which makes reference to differences in moral views, can be read in this way, for example. Scanlon might reply that his theory is not “political” in the assumed sense, except insofar as it is applied in political contexts. It seeks a basis for reasoning about what normative views to have in the first place, at least as far as what we owe to each other is concerned. And it does absorb personal concerns with people’s views and differing judgments, but in substantive terms, as a matter of self-referential personal reasons concerned with what ideals people should be left free to pursue. So, it may be argued, no adjustment of the very structure of contractualism is needed.

17. In *Rescuing Justice and Equality*, Cohen argues that any such “principles of regulation” cannot be fundamental for the meta-ethical reason that they are not “fact-insensitive.” I take it, however, that such principles are indeed “fact-insensitive” in the sense of being valid regardless of the actual world facts. In an unpublished manuscript, “Deflating Fact-Insensitivity” (available at http://www.faculty.uci.edu/profile.cfm?faculty_id=4884), I argue that Cohen’s argument fails to rule out the possibility of fact-insensitive principles which are still justified for particular sets of factual assumptions. A principle P justified for some facts F presupposes the fact-insensitive conditionalization, “If F, then P.” Such conditionalized principles are true whether or not facts F actually obtain—especially if they are regarded as necessary truths.


19. It is noteworthy that, even here, Scanlon’s view of substantive responsibility independently precludes the assumed idea of desert (W, ch. 4). Standard luck egalitarianism is, one might say, too meritocratic for a properly egalitarian view, and perhaps better formulated without choice-sensitivity: cosmic fairness (as I would call it) is done when everyone has a good life, including those unlucky enough to be bad choosers.

21. To be sure, Sen and others have criticized Rawls for tailoring the question of domestic justice too narrowly. A general Rawlsian reply cites what the moral domain in question requires: though there is perhaps some room to adjust Rawls’s theory, we have to work within the constraints on what owing involves. In developing the charge of undue narrowness, Sen, “Equality of What?” argues that Rawls’s focus on goods is insensitive to the special plight of people (e.g., the handicapped) who need greater shares of goods relative to others in order to achieve the same level of valuable functioning. But capacity-sensitivity might mean that, when the general facts of modern society are in question, only the distribution of regulable goods is within the powers of its large-scale institutions, as Rawls in fact claims. Goods, he says, are “openly observable” as basis for interpersonal comparisons. Utility and basic capabilities, by contrast, are “unworkable ideas.” Capability theory, for example, “calls for more information than political society can conceivably acquire and sensibly apply.” The Law of Peoples (Cambridge, Mass.: Harvard University Press, 1999), 13, including n3. In A Theory of Justice (Cambridge, Mass.: Harvard University Press, 1971), 62, Rawls similarly claims that, unlike social goods, “natural goods . . . [are] influenced by the basic structure [but] not so directly under its control.” This is hardly to say that the handicapped are owed less than others. They may well be owed more, in the form of special accommodation. Context-sensitivity allows Rawls to argue that the full measure of what they are due, given their special circumstances, cannot be properly specified when, at the basic level of justification, only the general facts of men in society are in question. Thus Rawls suggests resolving the issue at the “legislative stage” of justification which is attentive to both local capacity and specific needs. Political Liberalism, paperback ed. (New York: Columbia University Press, 1996), 184.

To mention a second criticism, Cohen, “Where the Action Is,” and Murphy, “Institutions and the Demands of Justice,” both argue that Rawls is too narrowly concerned with the basic structure of society, to the exclusion of individual choices. Individual conduct and informal social practice are supposed to not only sustain the basic structure, but have profound influence of the kind which supposedly gives the basic structure its special importance. The suggestion, at least in some strains of their arguments, is that we should evaluate any human activity as just or unjust by the same standard as any other. In my “Power in Social Organization as the Subject of Justice,” Pacific Philosophical Quarterly 86 (2005), I argue that this ignores relevant power asymmetries: Individuals rarely if ever have power to change the structure of institutions or informal practices on their own, these being subject to what many other agents routinely choose. This in turn shapes their generic interests and so what can be asked of them. Given context-sensitivity, then, Rawlsians can suppose that an argument for normally conclusive demands (as according to normativity) must take contexts for individual and collective action separately.

22. In Climbing the Mountain (unpublished ms.), Parfit suggests that the basic contractualist test is what people can “rationally will as universal laws,” which in turn decides what people can reasonably reject. Because people can rationally accept the promotion of impersonally valuable states of affairs, this may be what we owe to others. Because this might include such things as being pushed to one’s death from a bridge in order to stop runaway trolley about to kill five people, however, I regard the rational acceptance test as inappropriate. But this is of course simply to deny Parfit’s position. See below for a slight elaboration of the same theme based on the idea of recognition of persons as distinct individuals.

23. This is especially so if we assume Scanlon’s plausible pluralism about reasons, value, and welfare (W, chs. 1, 2, 3).
One question left open in *What We Owe to Each Other* is whether Scanlon can or should allow impersonal considerations to override the demands of what we owe to each other, perhaps a kind of extenuating justification. If this is allowed in some cases, it raises a difficult question of how a principled line might be drawn. I think Scanlon can indirectly permit a good deal of impersonal concern *within* what we owe to each other given the personal reasons we each have to be free to pursue important values. Whether this proves sufficient is of course another question.

This also provides abstract rationales for capacity-sensitivity and agent-relativity. Capacity-sensitivity follows (quite aside from any connection to normativity) because events which an agent cannot regulate by her conduct, given what she can understand, know, plan for, and act on, will not reflect on or be attributable to *her* in a way that changes her relational status with others. (Also see below what I call the "Attributability Condition." ) As for agent-relativity, the reason a person A has to live in accord with his or her moral relation with other persons B and C is simply reason for A to live as his or her relation to each requires. It is not necessarily reason for A to try to get B to live up to the demands of his or her own relation to C.


I should mention that the following characterization of the moral relation is consistent with what Scanlon calls the "moral relationship" in connection with his account of blame—though it does not entail that account of blame itself. The "moral relationship" is constituted by "attitudes and dispositions" which make up "the kind of mutual concern that, ideally, we all have toward other rational beings" (Moral Dimensions, 140). When certain attitudes or failures of self-governance are displayed, the "moral relationship" is said to be "impaired," much as a friendship might be: even relations between strangers (perhaps only in chance encounters) cannot go on as they would have before. This raises large questions about when and how substantial relations should be altered and, in particular, whether retributivists are right that sufficient wickedness can entail the forfeiture of one's basic rights. My thin characterization of the moral relation does not raise such issues. It is compatible with any number of conceptions of blame and the ways of relating it changes or assumes. My aim is simply to characterize the relation which is ultimately at stake in matters of right and wrong—though this is not of course to say that implications for specific forms of relating do not matter a great deal as well.

I should also mention that my thin account of the moral relation is more limited than Stephen Darwall's in *The Second-Person Standpoint* (Cambridge, Mass: Harvard University Press, 2006). Darwall argues that the "second-personal" nature of the moral relation assumes specific relations of authority and accountability. I will in effect be claiming that such relations are not part of the moral relation in the most basic sense. In "Legal and Other Governance in Second-Person Perspective," *Loyola Law Review of Los Angeles* 40(3) (2007), I argue that Darwall's relations of authority and accountability reflect substantive concerns within what we owe to each other, not general elements of the nature of owing. I have nevertheless been influenced by Darwall's perceptive work.

It is sufficient for encounterability that two people in fact have the requisite capacities, which supply the relevant dispositional properties. Are such capacities also strictly necessary? If they are, we would not stand in the encounterability relation with future people, who do not
yet actually have the capacities needed. I am uncertain about this, but I am inclined to say that our relation to actual others is basic and that our relation to future people is relevantly different. It is perhaps more akin to the case of nonhuman animals, although even more clearly open to Scanlon’s suggestion that a notion of “trusteeship” can keep beings of uncertain status within the fold.

30. This formulation allows collective attributions necessary for political philosophy, in contrast, for example, with merely saying that each party’s standing in the moral relation depends only on events attributable to each (of which more below).

31. A full argument for the impossibility of “moral luck” must of course explain why outcomes seem to matter. Positive outcomes only change our moral evaluation of what the agent has done, we may say, when there is room to give the agent the “benefit of the doubt” about some uncertain exercise of judgment, knowledge, or skill. When outcomes more clearly work out despite the agent, we are happy to place blame. Negative outcomes pose greater difficulty, but Scanlon’s account of blame in *Moral Dimensions*, ch. 4, suggests how they may be handled. In cases in which we seem to blame an agent for bad events mostly outside of his or her control (e.g., Williams’s lorry driver who runs over a child), the event may still change how others (the child’s parents) relate with the person in ways which mimic genuine blame. To the extent that faulty conduct was involved, even if having only a minor role, the bad consequences can magnify the significance of the relational impairment, even if by simply making the fault-appropriate level of blame more salient.

32. Scanlon’s argument for the irrelevance of mere intention to moral permissibility in *Moral Dimensions*, ch. 2, might appear to suggest that he cannot accept my emphasis on subjective levels of regard for others. In fact, as the coffee case shows, I’ve assumed only that the overall character of one’s self-governance (including what one does not intend) determines one’s standing in the moral relation. So, as Scanlon claims, intention may not be relevant as such. The fighter bomber who expects his mission to destroy a hospital along with his military target will not be able to make the mission permissible, when it would otherwise be impermissible, simply by changing his intentions.

33. Darwall’s quite different rationale for personalism appeals to relations of accountability: impersonal considerations provide the “wrong kind of reason” for adjudicating the reactive-attitudes and other “accountability-seeking” responses (“Strawson’s Point,” *The Second-Person Standpoint*, 15 and 65ff). My argument shows that personalism can be derived from weaker relational notions. No view of reactive-attitudes, accountability, or their relevance to the basic moral relation, is assumed.

34. The thought here is somewhat like Thomas Nagel’s idea in *The Possibility of Altruism* (Princeton, N.J.: Princeton University Press, 1970) that the ethical egoist fails to see himself as one among many others who are equally real. The egoist fails, we might say, to fully recognize others, in the sense that his egoistic deliberation and action fails to identify them as distinct from larger impersonal world in which he locates himself; they may as well be things. The similarity is only partial, because, unlike Nagel, I am suggesting that impersonal motivation cannot be the basis for such recognition. Only personal considerations throw persons fully into relief.

35. The same point applies to ambiguous motives, such as the consideration, “it is bad that people suffer” or even “your pain is a bad thing.” These can be read either as an impersonal claim of the form *it is a bad thing to happen, that some person or people are in pain* or as a personal claim of the form *someone’s pain is bad for that someone*. Even if one is motivated by both types of consideration in a single ambiguous thought, only the latter, personal
consideration contributes to recognition of the person. Again, it is only when the pain is seen as bad for the person whose pain it is that the person is recognized in one’s motivating grounds.

36. Rawls famously objected to utilitarianism on the ground that it does not take seriously the distinctness of persons; it allows aggregation across persons of a sort that is only reasonable within a single person’s life. I am suggesting that recognition of persons as distinct individuals has a similar foundational role in Scanlon’s theory.

37. This is to be distinguished from the quite different situation in which anyone is seen as having standing to object on a particular someone’s behalf. If, for example, Jones can reasonably complain of being killed in theory, anyone might have standing to object to Jones being killed, on his behalf, in actual life. My point is precisely that the suggested conception of recognition does not require objections to be on behalf of any one in this way.

38. For example, if a limited amount of medicine can be used either to prevent a numerous very mild headaches for me, or a few short-term but very severe headaches for you, and I take the medicine simply because this is impersonally best (because my headaches add up), I will thereby fail to recognize you as distinct from me. Indeed, this could be so even if I instead factored in our respective personal reasons; full recognition might still be undermined because these reasons had very little weight.

Parfit, in Climbing the Mountain, may hold the mixed view under discussion in the text. If the above objection is right, and the view does not fully register people as distinct, we can conclude that Parfit’s rational acceptance test does not suffice to generate conditions for the moral relation of recognition we bear directly to each person, taken separately. Parfit can reply, as he did to Rawls, that persons are not distinct. This would be to reject the “basic relational orientation” I am developing. For his skepticism about personal identity, see Reasons and Persons (Oxford: Clarendon Press, 1984).

39. To be sure, we might need to introduce impersonal concerns if we couldn’t see how to characterize the form of subjective concern that does matter within our basic relational constraints. But the conception of recognition we have been developing does provide a characterizaton of this kind.


42. Rawls of course accepts for individuals regarding practices and institutions, including principles of “fair play,” the “natural duty of justice,” and so forth. The nonreductivist thesis is that these principles nevertheless do not determine what principles apply at the structural level. There are, then, at least three classes of basic principle: (i) principles for interpersonal relations, (ii) principles for social structures, and (iii) principles for individuals regarding social structures. Insofar as principles for individuals provide the main basis for social revolution, nonreductivism has conservative implications: reasoning about social justice is beholden to the basic social structures we already have. I take Rawls’s theory to have this implication,
though it also has the critical resources to avoid the charge of obviously objectionable status quo bias. See my "Constructing Justice for Existing Practice: Rawls and the Status Quo," *Philosophy & Public Affairs* 33(3) (2005).

43. In "Power in Social Organization as the Subject of Justice," I develop this kind of view in a way that gives it broad application. Special moral issues of social justice arise, generating specifically collective responsibilities, whenever an organized group exercises forms of power under no particular person’s control. This excludes individual conduct from direct assessment without being unduly limited to the institutions of the state and their close cousins. Informal social structures within and across societies, whether the family, the system of international trade, or the state system, also qualify as distinct subjects of social justice. I draw from this account in the context of international trade in my "Distributive Justice without Sovereign Rule: The Case of Trade," *Social Theory and Practice* 31(4) (2005).

44. I should note one way morality's basic concern with individual persons constrains a social relational view: if collectives can have their own personal reasons, they become relevant only when each individual is his given his or her due, as decided by his or her personal reasons. One class of arguments for community or state-centered authoritarianism is thus foreclosed from the start.

45. One might object that the lesson of this example is simply that *resources*, rather than life prospects, are the relevant “currency” of distribution. I think the same point can be made in these terms: if there weren’t enough life preservers to go around, distributing them by a fair procedure would realize just social relations, whatever the result.

46. Notice that this case cannot be explained by distinguishing between natural and human causes. The right outcome could still come about for the wrong *human* reasons. To vary the case again, a society faced with impending natural disaster would owe its members plans for damage mitigation and compensation. Suppose it is not planning. Seeing this, a benevolent foreign billionaire steps in to good effect: the outcomes are more or less as though a just society had controlled the damage. As good a person as the billionaire is, however, the result is little to the society’s credit. It says nothing about the society’s relation to its members, as expressed in how it governed itself. The society may luckily avoid liability for the bad outcomes that would otherwise have ensued, and perhaps few will voice blame. But it is no less at fault. It stands unjustified by the imperiled members, for failing to fully recognize them, despite the good result.


for a single global-size subject of distributive justice, as opposed to various separate subjects that have complicated but distinct interrelations and separable sets of consequences. I think we do need to engage the relational messiness of the global scene but that this leads to a more complex, specifically international picture of its basic organizing social forms (see the references in note 48).