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Against Moderate Morality: The Demands of Justice in an Unjust World

By

Brian Berkey

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in

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of the

University of California, Berkeley

Committee in charge:

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Abstract

Against Moderate Morality: The Demands of Justice in an Unjust World

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Doctor of Philosophy in Philosophy

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Extremism about Demands is the view that morality is significantly more demanding than prevailing common-sense morality acknowledges. This view is not widely held, despite the powerful advocacy on its behalf by philosophers such as Peter Singer, Shelly Kagan, Peter Unger, and G.A. Cohen. Most philosophers have remained attracted to some version of *Moderation about Demands*, which holds that the behavior of typical well-off people is permissible, including the ways that such people tend to employ their economic and other resources. It is difficult to resist the conclusion that proponents of Extremism have not taken sufficiently seriously the central convictions that motivate the Moderate view.

This dissertation offers an improved defense of Extremism about Demands. At its center is an argument that appeals dialectically to requirements of *justice* that Moderates themselves already implicitly accept. Specifically, I claim that any plausible set of Moderate moral *principles* will, when applied to a world like ours, yield *demands* on typical well-off people that far exceed the demands of common-sense morality.

My argument has two cruxes. The first is the idea that our concern for justice is at least partially grounded in a concern for individuals' *interests*, broadly construed. The other is a principle that I call *Injustice entails Obligations*, which says that we are collectively subject to requirements of justice that, if fully complied with, would ensure the transition from current injustice to a just state of affairs. Any view that is compatible with both the interest-based view of (part of) our concern for justice and Injustice entails Obligations will, I argue, require sacrifices from typical well-off people that substantially exceed what prevailing common-sense morality requires of them.

Moderates typically emphasize the idea that each person has an important interest in pursuing the projects, plans, relationships, and commitments that are most important to her. But they also believe that acceptable Moderate principles will properly balance this idea with the idea that from a properly impartial perspective everyone, and everyone's interests, are equally morally important. Because Moderates accept the latter idea, they are already committed to thinking that in a just world, everyone would have a sufficient minimum share of society's resources. I argue that *even if* we limit our focus to distributive justice in a single society such as the United States, and *even if* we assume that distributive justice requires only a sufficient minimum, the extent to which the status quo must be transformed in order for justice to be achieved is still too great to be compatible with Moderate demands on typical well-off people.

There are a number of ways to try to argue that Moderate principles and Injustice entails Obligations are compatible with Moderation about Demands. For instance, it might be argued that all or nearly all of the demands to sacrifice in order to promote justice can be assigned to the super-rich, rather than to typical well-off people. Or it might be argued that the sacrifices of a single well-off person cannot be required because they amount to a mere “drop in the bucket” relative to what needs to be done in order to fully achieve justice. I show that such arguments fail.

The argument that I consider in greatest detail derives from John Rawls’s view that the principles of justice apply to the institutions of the “basic structure of society,” and do not apply directly to the conduct of individuals. If this “Institutionalism” is right, then it cannot be the case that individuals are obligated to promote justice directly in the way that I suggest they are. Furthermore, it might seem that a view that assigns all of the burdens of promoting justice to the basic structure satisfies the imperative to transition from injustice to justice, since if the relevant institutions were to begin doing everything that the Rawlsian view says they ought to be doing, the requirements of justice would be met. I argue, however, that there is no understanding of Institutionalism on which it is itself consistent with the following desiderata: Moderate principles, and the associated interest-based view of (part of) the ground of our concern for justice; Injustice entails Obligations; and Moderate demands. So, Institutionalism cannot make Moderate principles and Injustice entails Obligations compatible with Moderate demands.

Moderate principles and Injustice entails Obligations, then, remain incompatible with Moderation about Demands. Since there are compelling reasons to accept both Moderate principles and Injustice entails Obligations, I conclude that we must reject Moderation about Demands. The obligations that justice places on typical well-off people are substantially more extensive than is acknowledged by prevailing common-sense morality.

For my parents

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Acknowledgements

The questions that I grapple with in this dissertation, while not always quite the same, are at least in the neighborhood of the questions that generated my initial interest in philosophy during my undergraduate years at New York University. I have, then, been struggling to come to grips with many of the issues that I discuss here for over ten years (and will no doubt continue to do so for many more). My intellectual debts, incurred over this period of time, are, unsurprisingly, substantial and wide-ranging.

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Introduction

We live in a society, and a world, in which millions of people lack the resources and opportunities necessary to successfully pursue the kinds of lives that the more fortunate among us would consider even minimally decent, let alone the kinds of lives that many of the better-off among us actually enjoy. It is widely acknowledged that this deprivation is a very bad thing, and nearly as widely acknowledged that it ought, at least to some extent, to be remedied.

At the same time, most people who are among the well-off do not believe that they, as individuals, are morally obligated to make significant sacrifices in order to contribute to limiting the deprivation suffered by the badly-off. They believe, that is, that the typical patterns of consumption, and patterns of behavior more broadly, engaged in by well-off people represent ways of living that are morally permissible in a world like ours, even given the regrettable facts about the deprivation of the badly-off noted above. This belief (or something at least close to it) is held not only by most well-off members of the general public, but also by many, if not most, moral and political philosophers.

We can, perhaps only somewhat uncharitably, roughly characterize most well-off people as believing something close to the following claim: the deprivation of the badly-off ought to be remedied, just not by me, or not at my (significant) expense. Of course, in order to be morally credible, this belief cannot be so explicitly self-referential; those who accept it presumably believe not only that they themselves are not obligated to make substantial sacrifices in order to aid the badly-off, but also that anyone in relevantly similar circumstances (for example, those with a similar income, similar familial obligations, etc.) is not obligated to make such sacrifices.

The belief that the deprivation of the badly-off ought to be remedied is not necessarily incompatible with the belief that typical well-off people are not obligated to sacrifice substantially in order to contribute to limiting that deprivation. After all, one might believe that all, or at least most, of the obligations to contribute to the elimination of the deprivation of the badly-off apply to agents other than typical well-off individuals. They could, for example, apply only to the super-rich, or to the various institutions that constitute the government, or even to the non-poor members of society who are nonetheless not wealthy enough to count as “well-off,” or to some combination of these.

The central aim of this dissertation, however, is to show that if we accept that the deprivation of the badly-off ought to be remedied, we will be unable to defend the view that the behavior of typical well-off people in societies like ours is permissible. And since it seems clear that we ought to accept that the deprivation of the badly-off ought to be remedied, the arguments that we will develop aim to show that the obligations of well-off people in societies like ours are substantially more extensive than is commonly supposed.

We begin in Chapter One by considering how we might understand the type of “Moderate” moral outlook that is widely accepted among philosophers, as well as how the component of that outlook that consists in the claim that the ordinary behavior of well-off people in societies like ours is permissible (which we will call Moderation about Demands) might be defended within a broadly Moderate framework. Several existing approaches to defending that claim are shown to be problematic or ineffective, and an important methodological constraint on arguments for Moderation about Demands is defended. In light of this methodological constraint, we are able to see more clearly what would need to be done in order to effectively defend Moderation about Demands.

In Chapter Two we examine some apparent implications of the broadly Moderate moral outlook described in Chapter One, and in particular of plausible Moderate views about the content of the correct moral principles. Certain fairly minimal requirements of distributive justice are claimed to follow from such Moderate moral principles, and a principle claiming that the existence of injustice entails the existence of obligations to eliminate that injustice is defended. It is then suggested that the existence of obligations to eliminate what is widely acknowledged to be prevailing injustice casts serious doubt on Moderation about Demands, given the extent to which the status quo must be transformed in order for the requirements of distributive justice to be met.

Chapter Three focuses on two objections to the challenge to Moderation about Demands developed in Chapter Two. The first claims that the view that the ordinary behavior of typical well-off people is permissible can be defended because all, or nearly all, of the obligations to sacrifice in order to remedy existing distributive injustice can be assigned to the super-rich. This objection is rejected in light of economic data that show that it would require a large percentage of the income of the super-rich just to eliminate the resource deprivation that clearly constitutes injustice, as well as in virtue of the inability of defenders of this objection to provide a rationale for assigning all or nearly all of the burdens to the super-rich that would not also provide substantial support for a much more egalitarian view of the requirements of distributive justice than we saw in Chapter Two seems to clearly follow from Moderate moral principles. Since a more egalitarian view would clearly entail substantial demands on typical well-off people, in addition to very substantial demands on the super-rich, the fact that attempts to assign all or nearly all of the burdens that arise from a less egalitarian view to the super-rich pushes us in the direction of a more egalitarian view renders that approach to defending Moderation about Demands self-defeating.

The second objection to Chapter Two's case against Moderation about Demands considered in Chapter Three appeals to the fact that the sacrifices of typical well-off people made in order to promote distributive justice would have no effect, or only imperceptible effects, on the lives of the badly-off. This objection is rejected by appealing to the widely acknowledged collective obligation to eliminate injustice in combination with both the principle that existing injustice entails obligations to contribute to eliminating that injustice and the claim that the collective obligation can only be understood as consisting of a series of individual obligations.

In Chapter Four, we begin to consider a line of objection to the arguments of Chapters Two and Three that derives from John Rawls's claim that the principles of justice apply directly only to the institutions of what he calls the "basic structure of society," and therefore do not apply directly to the conduct of individuals. Some reasons to doubt that this "Institutionalism about Justice" can be defended are provided by showing that several of the motivations for Institutionalism offered by Rawls and others fail, on reflection, to support that view, as well as by showing that the view seems inconsistent with an important and extremely plausible component of the Moderate moral outlook described in Chapter One.

Chapter Five considers some additional grounds that have been offered for the Institutional view that well-off people are not obligated to promote the aims prescribed by the principles of justice directly, and focuses in particular on the claim that the prospect of disadvantage relative to other well-off people justifies well-off people generally in refusing to sacrifice in order to aid the badly-off victims of prevailing injustice. This claim is rejected on the grounds that the prospect of relative disadvantage is not generally a justification for refraining from sacrificing in order to promote justice, and because there do not seem to be any

fundamental moral differences between the cases in which it is clear that the appeal to the prospect of relative disadvantage cannot justify the refusal to sacrifice, and the case of well-off people refusing to make substantial resource sacrifices in order to aid the victims of prevailing distributive injustice.

The central conclusion that we arrive at, then, is that the obligations of the well-off beneficiaries of prevailing injustice are much more extensive than is commonly accepted. If the arguments developed in the chapters are sound, then nearly all of us who benefit from the existing unjust distribution of resources are living our lives in ways that cannot, morally speaking, be defended. In addition to their philosophical interest, then, the arguments in this dissertation, if correct, should lead many of us to rethink the choices that we make about how to employ the unjustly large shares of resources that we are fortunate enough to possess. It is my hope that, if nothing else, the arguments here lead to a bit more skepticism about the moral acceptability of the lives that many of us live than seems currently to exist.

Chapter One

What is the Moderate View of Morality?

Many philosophers consider themselves *Moderates* about morality and its demands. The Moderate view is meant to occupy a middle ground between what Shelly Kagan has called the *Minimalist* and *Extremist* positions.¹ The Minimalist denies that morality can require individuals to sacrifice their own interests in order to promote the interests of others, while the Extremist holds that morality can require virtually unlimited sacrifices, if the reasons provided by the interests of others are strong enough. The Moderate, then, acknowledges that morality sometimes requires individuals to sacrifice their interests in order to promote the interests of others, but holds that there are limits to how much such sacrifice it can require.

One reason that the Moderate view is attractive to many is that it is much closer to what is often, somewhat vaguely, referred to as *common-sense morality* than the Minimalist or Extremist alternatives.² Most people believe, for example, that it would be wrong not to rescue a child drowning in a pond, even if doing so would require ruining one's expensive clothes, but do not believe that it is wrong to refuse to give up most of one's wealth and possessions in order to aid the desperately poor.³ Moderates typically take it to be an important advantage of their view as against the Minimalist and Extremist alternatives that it can accommodate both of these intuitions.

Despite the intuitive appeal of the Moderate position, its proponents have tended to be less than clear about the precise structure of the position, as they understand it.⁴ Our aim in this chapter, therefore, is to attempt to determine the most plausible structure for a Moderate position. In order to do this, we will focus in particular on the justifications that Moderates have offered for rejecting Extremist views.⁵ By focusing on Moderate arguments against Extremism, we will

¹ *The Limits of Morality* (Oxford: Oxford University Press, 1989).

² See, for example, Rahul Kumar, "Defending the Moral Moderate: Contractualism and Common Sense," *Philosophy and Public Affairs* 28 (2000): 275-309.

³ Peter Singer introduces the case of the drowning child in the course of an argument against the common-sense belief that it is not wrong to refuse to sacrifice substantially in order to aid the desperately poor; see "Famine, Affluence, and Morality," *Philosophy and Public Affairs* 1 (1972): 229-43, p. 231. Singer's Extremist conclusion is defended in Kagan, *The Limits of Morality*, Peter Unger, *Living High and Letting Die: Our Illusion of Innocence* (New York: Oxford University Press, 1996), and William Sin, "Trivial Sacrifices, Great Demands," *Journal of Moral Philosophy* 7 (2010): 3-15.

⁴ For a similar point with regard to the justification of partiality more generally, see Sarah Stroud, "Permissible Partiality, Projects, and Plural Agency," in *Partiality and Impartiality: Morality, Special Relationships, and the Wider World*, ed. Brian Feltham and John Cottingham (New York: Oxford University Press, 2010), p. 136. Stroud attempts to provide an account of the justification of partiality that is clearer and better grounded than previous attempts, but it seems to me that her view must be rejected, for reasons similar to those that will lead us to reject similar views in sections IV and V of this chapter.

⁵ In proceeding in this way we will follow many other writers who take it that Minimalism is an obviously unacceptable view; see Singer, "Famine, Affluence, and Morality"; Kagan, *The Limits of Morality*; Unger, *Living High and Letting Die*; Thomas Nagel, *The View From Nowhere* (New York: Oxford University Press, 1986), Chapters IX-X and *Equality and Partiality* (New York: Oxford University Press, 1991); Samuel Scheffler, *The Rejection of Consequentialism* (New York: Oxford University Press, 1982), *Human Morality* (New York: Oxford University Press, 1992) and "Potential Congruence," in *Morality and Self-Interest*, ed. Paul Bloomfield (New York: Oxford University Press, 2008). Extremists such as Singer, Kagan, and Unger rely on the unacceptability of Minimalism in their arguments against Moderate views, while those who are inclined to reject Extremism, such as

be able to see, as clearly as is possible, the sort of structure that a plausible Moderate view must have.

I. Minimalism and Extremism

Before we examine some of the reasons that Moderates have offered for rejecting Extremism, it is important to more clearly define both Minimalism and Extremism. For the Moderate's purposes, these labels must not be understood to refer to rigidly defined positions on morality's demands. So the above claim that Minimalism denies that individuals can ever be morally required to sacrifice their own interests is an oversimplification. Moderates reject not only the view that morality *never* requires individuals to sacrifice their interests, but also a range of possible views on which individuals are required to make only minimal sacrifices. Consider, for example, a view on which individuals are required to rescue children drowning in ponds, but are not required to rescue children drowning in lakes or oceans. Even if it is riskier and generally more costly to rescue children drowning in lakes or oceans, Moderates will not accept that the greater risk and cost in these cases implies that morality cannot require that individuals rescue the endangered children. Such a view would be much too close to the view that individuals are never required to sacrifice their own interests to be acceptable to the Moderate. That is, such a view would be unacceptably Minimalist, in the same way and for the same reasons (though not, of course, to quite the same extent) that the view that individuals are never required to sacrifice their interests is unacceptably Minimalist. Minimalism, then, must be understood to refer to a range of positions about morality's demands that are all too lenient to be acceptable to the Moderate.⁶

Similarly, we cannot understand Extremism to refer only to the view that morality's demands can be virtually unlimited. Just as there is a range of possible views that Moderates will find unacceptably Minimalist, there is a range of possible views that they will find unacceptably Extremist, including many that fall well short of claiming that morality's demands can be virtually unlimited. For example, a view on which well-off individuals are required to aid the desperately poor only when they are on the verge of death, and which permits them to keep a certain portion of their wealth at any given time, say ten percent, even if they could get by just fine without much of it, would surely be rejected by Moderates for the same reasons that they reject the view that morality's demands can be virtually unlimited. At least in the actual world, in which more people die on any given day from easily preventable causes than most people could save no matter how much they were to sacrifice, this view would be extremely demanding.⁷ The limits on morality's demands, on such a view, are insufficient to satisfy the Moderate, and therefore the view is, according to the Moderate, unacceptably Extremist.

Nagel and Scheffler, take it that an acceptable Moderate position must sometimes require individuals to sacrifice their own interests.

⁶ For a helpful diagram that generally reflects this way of understanding the distinction between Moderate and Minimalist views, as well as the way of understanding the distinction between Moderate and Extremist views that we will note shortly, see Sin, "Trivial Sacrifices, Great Demands," p. 7. Sin depicts the range of Moderate views as larger than both the range of Minimalist views and the range of Extremist views; he also depicts the range of Minimalist and Extremist views as equally large. I suspect, however, that many of those who consider themselves Moderates would consider the range of Extremist views to be larger than the range of both Minimalist and Moderate views.

⁷ According to UNICEF, 24,000 children die every day from preventable causes. If we count adults as well, that number is obviously much higher. See "U.S. Fund for UNICEF." 15 Oct. 2009
<<http://www.unicefusa.org/>>

The Moderate, then, believes that the correct account of morality's demands is located in the space between the range of views that are unacceptably Minimalist and the range of views that are unacceptably Extremist. In addition, Moderates believe that views within the acceptable range will have the implication that much, though not necessarily all, of the ordinary behavior of typical well-off individuals is morally permissible.⁸ For example, they believe that many of the ways that typical well-off individuals spend their free time and employ their legally owned resources (financial and otherwise) are not, as the Extremist position suggests, morally unacceptable. Morality is not, on the Moderate view, significantly more demanding than prevailing common-sense morality suggests.

The Moderate, then, believes that the moral *principles* that we ought to accept will imply that morality is not significantly more demanding than prevailing common-sense morality suggests. Such moral principles will, of course, have to have contents such that individuals are not, as the most common Extremist views suggest, always required to act in ways that take everyone's interests equally into account. The Moderate view, then, has two central components. The first, which we will refer to as *Moderation about Principles*, says that the correct moral principles must not require individuals to always act in ways that take everyone's interests equally into account. Such principles might, for example, allow each individual to give her own interests greater weight than they would receive if they were considered equally, along with everyone else's.⁹ The second component of the Moderate view is what we will call *Moderation about Demands*. Moderation about Demands says that, in circumstances like ours, morality is not significantly more demanding than prevailing common-sense morality suggests. For example, those who accept Moderation about Demands believe that morality does not require typical well-off individuals to donate a substantial portion of their income that is not used to cover basic needs to organizations that aid the poor.

The Extremist view has components that parallel those of the Moderate view. According to *Extremism about Principles*, individuals *are* always required to act in accordance with principles that give everyone's interests equal weight.¹⁰ *Extremism about Demands* says that, in circumstances like ours, morality *is* significantly more demanding than prevailing common-sense morality suggests.¹¹

Moderates sometimes defend their position by beginning from a commitment to Moderation about Demands, and arguing that Moderation about Principles must be accepted,

⁸ By "typical well-off individuals," I mean to refer to all individuals whose income and wealth exceed what is needed to provide for their own basic needs and the basic needs of their dependents, where basic needs include at least adequate food, shelter, clothing, health care, and education. This category, therefore, includes a large percentage of the population of the United States and other wealthy countries, and is not limited to those who are extremely wealthy.

⁹ This is Scheffler's proposal in Chapter 2 of *The Rejection of Consequentialism*.

¹⁰ Singer endorses this view, saying that "[one's] own interests cannot, simply because they are her [her] interests, count more than the interests of anyone else" (*Practical Ethics* (Cambridge: Cambridge University Press, 1979, p. 12, italics in original). It is also defended by Kagan in *The Limits of Morality*. For criticism of the view see, in addition to Chapter 2 of Scheffler's *The Rejection of Consequentialism*, John Cottingham, "Ethics and Impartiality," *Philosophical Studies* 43 (1983): 83-99.

¹¹ The Minimalist view, of course, also has parallel components. *Minimalism about Principles* says that individuals are never required to act in ways that give the interests of others any weight, while *Minimalism about Demands* says that, in circumstances like ours, morality is significantly *less* demanding than prevailing common-sense morality suggests. Since both components of the Minimalist view are clearly unacceptable, we will not consider them any further.

since it is impossible to maintain Moderation about Demands otherwise.¹² Arguments of this sort are, it seems to me, extremely problematic.¹³ We will, therefore, consider how Moderates might develop a view by beginning from a defense of Moderation about Principles that does not rely exclusively on a commitment to Moderation about Demands. If such a defense can succeed, then the Moderate will have a basis upon which to argue that Moderation about Demands ought to be accepted, given the implications of the specific Moderate principles that seem most plausible.¹⁴

The central aim of this chapter, then, is to attempt to locate and describe the space that the Moderate seeks to occupy by examining some of the reasons that Moderates have given for thinking that we must reject certain views about the correct moral principles as unacceptably Extremist. By considering the reasons that Moderates have provided for rejecting the rather general Extremist claim that morality's demands can be virtually unlimited, we will begin to see more clearly how the more concrete view that morality is not, in circumstances like ours, significantly more demanding than prevailing common-sense morality suggests might be defended within a Moderate framework. Before moving on to this task, however, it is important to clarify the relationship between Extremism, as we have been using that label, and a theoretical orientation in ethics with which it is often associated, namely Consequentialism.¹⁵

II. Extremism and Consequentialism

Moderates believe that a range of views about morality's demands must be rejected as unacceptably Extremist. Many have thought that Consequentialist views are particularly susceptible to the objection that they are too demanding, and have looked to alternative theoretical frameworks to provide an account of morality's demands that is both less stringent and independently plausible.¹⁶ It is, of course, true that Consequentialism is usually, and plausibly, understood as having quite demanding implications. It is a serious mistake, however,

¹² James Fishkin, for example, employs something very close to Moderation about Demands as an assumption in the argument of his *The Limits of Obligation* (New Haven: Yale University Press, 1982):

my working assumption... will be that the way of life most of us have adopted is not, on its face, immoral... I will assume, in other words, that under normal conditions we are justified in regarding the zone of moral indifference [that is, the zone in which "the actions that we perform are neither right nor wrong, good nor bad"] as applying to a robust proportion of our actions (pp. 20-2).

Although he considers the possibility that this assumption might be given up in light of the pressure put on it by arguments such as Singer's in "Famine, Affluence, and Morality," he takes the fact that giving it up would imply that "a very great revision in our common way of life" is required to be itself a reason against giving it up (p. 155).

¹³ We will discuss some of the reasons for thinking this in section IV of this chapter.

¹⁴ There is, of course, no way for those who adopt the argumentative strategy being considered to be certain in advance that the most plausible Moderate principles will in fact have the implication that Moderation about Demands is true. Indeed, much of our discussion in the following chapters will suggest that Moderation about Principles is, in a world like ours, *incompatible* with Moderation about Demands.

¹⁵ Kagan uses 'Extremism' and 'Consequentialism' interchangeably in *The Limits of Morality*, and many who argue that morality's demands must be limited take Consequentialism as their target, and think that it is particularly vulnerable to their line of argument. See, for example, Scheffler, *The Rejection of Consequentialism* and Bernard Williams, "Persons, Character, and Morality," in *The Identities of Persons*, ed. Amelie Rorty (Berkeley: University of California Press, 1976), reprinted in *Moral Luck* (Cambridge: Cambridge University Press, 1981); all subsequent page references are to the reprinted version.

¹⁶ For an example of an attempt to employ the Contractualist framework for this purpose, see Kumar, "Defending the Moral Moderate."

to characterize the disagreements between Extremists and Moderates as mere reflections of the divergent theoretical orientations of Consequentialists and their anti-Consequentialist opponents.

What Moderates object to is morality's requiring of individuals certain kinds and degrees of sacrifice. Determining whether any particular moral theory requires such sacrifice is a matter of application and interpretation, and there is no reason to think that *only* Consequentialist views will imply that such sacrifices are required. There is, in fact, much debate about the demandingness of both Consequentialism and some of its most prominent rivals, in addition to debate about whether the demands of these theories are unacceptably Extremist. Bernard Williams, for example, famously argues that both Utilitarianism and Kantianism are unacceptably demanding.¹⁷ Elizabeth Ashford claims that T.M. Scanlon's Contractualism is at least nearly as demanding as Utilitarianism in conditions like those in the actual world, and would be even more demanding than Utilitarianism in conditions that are significantly better, in morally relevant respects, than those in the actual world.¹⁸ And Peter Railton argues that Consequentialism, properly understood, does not necessarily have some of the particularly demanding implications that its critics cite in their arguments for the claim that it is unacceptably Extremist.¹⁹ The debate over how demanding an acceptable moral theory can be, then, cuts across the debate over the correct theoretical orientation in ethics, despite the fact that many who have argued that morality's demands must be limited have been particularly concerned to avoid Consequentialism. In order to achieve a clearer understanding of what a plausible Moderate view must look like, then, we must avoid conflating Extremism and Consequentialism.

A. The Maximizing Requirement

It is worth dwelling on this point a bit, given the extent to which Moderates have tended to direct their concerns about morality's demands against Consequentialism in particular.²⁰ Consequentialism is thought to be particularly vulnerable to the charge that it is unacceptably Extremist for several reasons. First, it typically involves a maximizing account of morality's demands, which is thought to severely limit the range of morally permissible options, and to imply that sacrifices must be made whenever their being made would make the outcome better than if they were not made.²¹ Views that do not include a maximizing requirement are,

¹⁷ "Persons, Character, and Morality."

¹⁸ "The Demandingness of Scanlon's Contractualism," *Ethics* 113 (2003): 273-302. Ashford does not think that the fact that Scanlon's Contractualism has extremely demanding implications is a reason to reject it. She rejects Scanlon's view, on other grounds, in favor of Utilitarianism, and accepts the demanding implications of the latter. Leif Wenar also has a helpful discussion of how to think about the demandingness of Contractualism in his "What We Owe to Distant Others," *Politics, Philosophy, and Economics* 2 (2003): 283-304, pp. 287-91. For Scanlon's view, see *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998), especially Chapter 5.

¹⁹ "Alienation, Consequentialism, and the Demands of Morality," *Philosophy and Public Affairs* 13 (1984): 134-71.

²⁰ In Chapter Six of *Human Morality*, for example, Scheffler argues at length (pp. 102-10) against the defenses of Utilitarianism given by R.M. Hare (*Moral Thinking* (Oxford: Clarendon Press, 1981)) and David Brink ("Utilitarianism and the Personal Point of View," *Journal of Philosophy* 83 (1986): 417-38 and *Moral Realism and the Foundations of Ethics* (Cambridge: Cambridge University Press, 1989)) in an effort to lend support to his rejection of the view that morality's demands are stringent, despite clearly recognizing that non-Consequentialist views can be extremely demanding as well (pp. 102, 110).

²¹ Not all Consequentialists accept the maximizing conception of morality's demands. See Alastair Norcross, "Reasons Without Demands: Rethinking Rightness," in *Contemporary Debates in Moral Theory*, ed. Jamie Dreier (Malden: Blackwell Publishing, 2006) for a Consequentialist view that rejects the maximizing conception.

understandably, thought to be less vulnerable to the charge that their demands are unacceptably Extremist. But on reflection it is not clear how much help rejecting the maximizing requirement can, in itself, provide to the Moderate. Kantian and Contractualist theories lack a maximizing requirement, at least on the dominant interpretations,²² but it is not clear that, properly understood, the demands of such theories are limited enough to satisfy the Moderate – that is, it is not clear that such theories have the implication that much of the ordinary conduct of typical well-off individuals is morally permissible.²³ Such theories may be better equipped to avoid requiring the most extreme sacrifices than views that, like standard versions of Consequentialism, include a maximizing requirement. But Moderates are not only concerned to avoid endorsing these particularly extreme requirements; they believe that morality’s demands must be significantly more limited than that. The rejection of the maximizing requirement, however, does not in itself lend support to any particular account of either the extent or the structure of the limits on morality’s demands. It is compatible with a range of views that are quite demanding, and would be rejected by Moderates as unacceptably Extremist.²⁴

B. The Doing/Allowing Distinction

Another feature of standard Consequentialist views that is often thought to make them particularly demanding is the rejection of the moral significance of the distinction between doing and allowing.²⁵ If allowing a harm to occur when one could have prevented it is, all else equal, just as morally objectionable as causing the same harm oneself, then it seems that morality will require preventing harm in an extremely wide range of cases. After all, it is generally accepted that doing harm is impermissible in an extremely wide range of cases, including at least most cases in which doing such harm would benefit one significantly. Since Moderates will tend to find views that significantly limit the range of cases in which doing harm is impermissible unacceptably Minimalist, it seems that a plausible Moderate view will have to attribute moral

²² In recent years several writers have argued that supposedly competing theories are in fact compatible with Consequentialism. For such an argument directed at Kantianism, see David Cummiskey, *Kantian Consequentialism* (New York: Oxford University Press, 1996). For an argument directed at both Kantianism and Contractualism, see Derek Parfit, *On What Matters* (Oxford University Press, forthcoming).

²³ See Williams, “Persons, Character, and Morality,” and Ashford, “The Demandingness of Scanlon’s Contractualism,” respectively.

²⁴ A simple example would be a view that required individuals always to perform either the maximizing act or one of the next four best acts in terms of maximization. Other possible examples, however, need not even be committed to ranking overall states of affairs in a way that would allow for maximization. A fully welfarist Contractualist view, for example, might imply that individuals are required to make sacrifices of their own welfare whenever doing so would increase the welfare of someone who is worse off. Such a view could include this requirement without being committed to the claim that the states of affairs that result from such sacrifices are better than the initial state of affairs.

²⁵ Some have thought that the rejection of the moral significance of the doing/allowing distinction lends support to the maximizing requirement (see, for example, Kagan, *The Limits of Morality*, Chapter 3), and that endorsement of the moral significance of the distinction undermines the maximizing requirement (see, for example, Warren Quinn, “Actions, Intentions, and Consequences: The Doctrine of Doing and Allowing,” *Philosophical Review* 98 (1989): 278-312). The relationship between the distinction and the maximizing requirement is, however, contested. Christopher McMahan argues, for example, that we can accept that the distinction is morally significant without rejecting the maximizing requirement (“The Paradox of Deontology,” *Philosophy and Public Affairs* 20 (1991): 350-77). McMahan’s view is an attempt to “deontologize” Consequentialism in a way that is similar to the attempts of Cummiskey and Parfit to “consequentialize” Kantianism and, in Parfit’s case, Contractualism. McMahan’s view, however, depends on acceptance of an unusual, and, it seems to me, quite implausible theory of value.

significance to the distinction between doing and allowing. Even if this is true, however, accepting the moral significance of the distinction is not enough to ensure that morality's demands will be limited enough to satisfy the Moderate. Allowing a particular harm might be less morally objectionable than doing the same harm, even if allowing the harm is still morally impermissible. Accepting the moral significance of the distinction suggests that in at least some cases allowing a harm will be permissible even though doing the same harm would be impermissible, but this does not entail that allowing harm will be permissible in a wide enough range of cases to satisfy the Moderate. The Moderate needs an argument that explains why allowing harm is permissible in the cases in which she thinks it permissible, despite the fact that it is not permissible in other cases. After all, some allowings of harm are clearly impermissible, and so acceptance of the moral significance of the distinction cannot involve a general permission to allow harm.²⁶ A view on which allowing harm is never impermissible would clearly be unacceptably Minimalist. Because accepting the moral significance of the distinction does not, in itself, entail any particular account of when allowing harm is permissible, there is a range of possible such accounts that the Moderate will find unacceptably Extremist. To take a relatively simple (and perhaps not terribly implausible) example, consider an account on which causing minor and moderately serious harms is generally impermissible, while allowing such harms is permissible provided that preventing them would be at least somewhat costly to the agent. In addition, both causing and allowing very serious harms, such as death, are, on this account, generally impermissible.²⁷ Given all of the deaths that could be prevented by the well-off without very significant sacrifices, this view would be quite demanding, and would be rejected by Moderates for many of the same reasons that they reject standard versions of Consequentialism. Moderates, therefore, require more than a defense of the moral significance of the doing/allowing distinction in order to lend support to the specific limits on morality's demands that they favor. They need, in addition, an account of when allowing harm is permissible, and when it is not, that avoids both unacceptable Minimalism and what they take to be unacceptable Extremism. In the absence of such an account, the mere acceptance of the moral significance of the distinction is insufficient to avoid Extremism.²⁸

It is important to be clear about the task that Moderates face here. What they need is an argument for thinking that allowing harm is permissible in the sorts of cases in which it must be

²⁶ Singer's case of the drowning child ("Famine, Affluence, and Morality," p. 231) is a widely cited example. Other Extremists such as Kagan (*The Limits of Morality*), and Unger (*Living High and Letting Die*) also rely on the impermissibility of some allowings of harm in their arguments against Moderate views.

²⁷ I use the qualifier "generally", here as in the previous sentence, because such an account must allow that both causing and allowing harms are permissible in certain cases. For example, one is permitted to harm a culpable attacker in order to prevent comparable harm to oneself or others, and one is permitted to allow the death of another (at least) when the only means of preventing it would involve one's own death.

²⁸ In addition, Moderates need an account of what it is to harm someone that is narrow enough to serve their purposes. Some accounts seem to imply that we harm others in a wide range of cases in which it is not intuitive to think that this is the case. On certain counterfactual accounts, for example, we harm someone whenever we perform an action such that, had we not performed it, or had we done something else instead, she would have been better off. We will avoid considering the question of what it is to harm someone, since doing so is not necessary for our purposes. For discussion of various accounts of harm, see Matthew Hanser, "The Metaphysics of Harm," *Philosophy and Phenomenological Research* 77 (2008): 421-50. For discussion of the importance of an account of harm for understanding particular moral choices, as well as for moral theory more generally, see Seana Shiffrin, "Wrongful Life, Procreative Responsibility, and the Significance of Harm," *Legal Theory* 5 (1999): 117-48, and Elizabeth Harman, "Can We Harm and Benefit in Creating," *Philosophical Perspectives* 18 (2004): 89-113.

permissible if we are to avoid a view that is, according to them, unacceptably Extremist. Because Moderates and Extremists generally agree about the cases in which allowing harm must be impermissible if we are to avoid a view that is unacceptably Minimalist, Moderates must claim that there are morally relevant differences between the allowings of harm that are impermissible and the allowings of harm that they claim are permissible, *and* claim that these differences are sufficient to ground the divergence in permissibility that they endorse. Extremists, on the other hand, have several options for resisting the Moderate's conclusion. First, they can argue against the moral significance of the doing/allowing distinction. Second, they can accept the moral significance of the distinction (that is, they can accept that doing a harm is, in general, morally worse than allowing that same harm), but deny that there are morally relevant differences between allowings of harm other than the differences in the severity of the relevant harms and the costs that would be involved in preventing them. On this view many allowings of harm that Moderates believe are permissible would in fact be impermissible, despite the fact that allowing a harm is less morally bad than doing the same harm.²⁹ Third, they can accept the moral significance of the distinction, accept that there are morally relevant differences between allowings of harm apart from the differences in the severity of the relevant harms and the costs that would be involved in preventing them, but deny that such morally relevant differences are ever sufficient to ground differences in permissibility.³⁰ On this sort of view many allowings of harm that Moderates believe are permissible would be impermissible, despite the fact that some allowings of equal harm which could be prevented at equal cost are morally worse than others.³¹ Finally, Extremists can accept the moral significance of the distinction, accept that there are morally relevant differences between some allowings of harm and others, apart from the severity of the relevant harms and the costs that would be involved in preventing them, accept that such morally relevant differences sometimes ground differences in permissibility, but deny that there are enough cases in which there are such morally relevant differences from the cases in which Moderates acknowledge that allowing harm is impermissible to ground the limits on morality's demands that Moderates favor.³²

²⁹ This position is suggested by Singer's argument in "Famine, Affluence, and Morality", as well as by much of Unger's argument in Chapter 2 of *Living High and Letting Die*. Both Singer and Unger are, however, skeptical about the moral significance of the doing/allowing distinction, despite the fact that this skepticism does not figure directly in their arguments.

³⁰ The question whether certain morally relevant differences are, or could be, sufficient to ground differences in permissibility is equivalent to the question whether a certain feature or set of features present (or absent) in a particular case can make it the case that an act that would be impermissible but for the presence (or absence) of that feature or set of features is permissible. For ease of exposition, I will continue to employ the shorthand "ground differences in permissibility" in the text.

³¹ For example, one might think that failing to rescue a child drowning in a pond that one passes by is morally worse than failing to rescue a child in a distant country from starvation, despite the fact that the severity of the relevant harms and the cost that would be involved in preventing them are equal, and despite the fact that both are impermissible. On such a view physical distance might be thought morally relevant but insufficient to ground a difference in permissibility.

³² This seems to be the view suggested by Ashford in "Individual Responsibility and Global Consequences," (*Philosophical Books* 44 (2003): 100-10, p. 103); for a response to Ashford's suggestion that amounts to a limited defense of the Moderate view, see Scheffler, "Replies to Ashford, Miller, and Rosen," *Philosophical Books* 44 (2003): 125-34, pp. 125-8. Given the range of options open to Extremists and the constraints faced by Moderates, it is not surprising that some of the most influential defenses of Extremism have avoided taking a position on the moral significance of the doing/allowing distinction itself, and have instead made the more limited argument that many intuitively permissible allowings of harm seem not to be distinguishable in a morally relevant way, sufficient to ground a difference in permissibility, from allowings of harm that are widely

C. The Doctrine of Double Effect

In addition to the maximizing requirement and the rejection of the moral significance of the doing/allowing distinction, standard Consequentialist views include the rejection of the moral significance of the distinction between intending harm and merely foreseeing it. Proponents of the view that intending harm is morally worse than merely foreseeing the same harm, often referred to as the *Doctrine of Double Effect*, tend to think that accepting the moral significance of the distinction helps to limit morality's demands relative to Consequentialism.³³ One way in which it does this is by making certain actions through which one causes harm unintentionally permissible, despite the fact that the actions would have been impermissible had the harm been intended. So, for example, an action through which I pursue an important interest of mine might be permissible, despite the fact that it causes some harm to another person, so long as I do not intend that the person be harmed. If, however, I intended that the person be harmed, then causing the very same harm may be impermissible. In other words, the Doctrine suggests that so long as one does not intend any harm, the range of actions that are permissible is greater than it would be if one did intend the harms that are among the foreseeable results of one's actions.

As in the case of the doing/allowing distinction, however, merely accepting the moral significance of the distinction between intending harm and merely foreseeing it is insufficient to avoid what Moderates take to be unacceptable Extremism. Even if it is the case that intentionally bringing about a harm is morally worse than bringing the same harm about unintentionally, it may also be the case that bringing about harm unintentionally is impermissible in a range of cases that is too wide to be acceptable to the Moderate.³⁴ After all, it is widely acknowledged that some instances of causing foreseeable but unintended harm are

acknowledged to be impermissible. See, for example, Singer, "Famine, Affluence, and Morality," and Unger, *Living High and Letting Die*, Chapter 2.

³³ For a careful examination and defense of the Doctrine of Double Effect, see Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," *Philosophy and Public Affairs* 18 (1989): 334-51. Quinn argues that the most important way in which the Doctrine limits morality's demands is by "giv[ing] each person some veto power over a certain kind of attempt to make the world a better place at his expense" (p. 351). His focus is therefore on the implications of accepting the Doctrine for the demands on those who might be intentionally harmed in the service of an otherwise morally worthy goal, rather than on the implications for the demands on those who might harm others, intentionally or unintentionally, in the pursuit of their own interests. On his understanding of the Doctrine, then, it is not clear whether its acceptance will be helpful to the Moderate. He says that

The effect of the doctrine is...to raise rather than to lower moral barriers...we should not expect a proponent of DDE to be more tolerant of harmful indirect agency [that is, roughly, unintentional harmings] than those who reject the doctrine but share the rest of his moral outlook. We should rather expect him to be *less* tolerant of harmful direct agency [that is, roughly, intentional harmings] (p. 346).

What Quinn seems to be suggesting is that proponents and opponents of the Doctrine should agree about the cases in which unintentional harming is impermissible, and disagree only about the cases in which intentional harming is impermissible, with proponents believing it to be impermissible in a wider range of cases. In other words, there should be no cases in which both proponents and opponents agree that intentional harming is impermissible, but in which only proponents believe that unintentionally causing the same harm is permissible. If this is the correct understanding of the implications of accepting the Doctrine, then it appears that it cannot be of much help to the Moderate.

³⁴ Whether or not this will be the case will depend not only on the details of our account of the moral significance of the distinction, but also on our account of what it is to intend a harm, and our account of harm itself. For discussion of the importance of an account of intending harm for the Doctrine of Double Effect, see Quinn, "Actions, Intentions, and Consequences: The Doctrine of Double Effect," pp. 335-44.

impermissible. Consider, for example, a bombing campaign that kills many thousands of civilians, foreseeably but unintentionally (so called “collateral damage”), in order to achieve a relatively insignificant but in itself legitimate military objective. Proponents of the Doctrine of Double Effect cannot plausibly claim that the unintentional killing of the civilians is permissible in such a case, and they typically avoid this commitment by accepting a requirement of proportionality regarding unintentional harmings. The requirement of proportionality states that unintentionally caused harms must not be disproportionate to the good that can be achieved by causing them. Moderates who believe that accepting the Doctrine can help to limit morality’s demands in the ways that they want, then, must argue not only that intentionally causing harm is morally worse than unintentionally doing so, but also that the correct account of when an unintentionally caused harm is proportional to the good that can be done by causing it is such that the cases in which the Doctrine permits unintentionally causing harm limit morality’s demands in ways and to an extent that is consistent with the limits on morality’s demands that they favor. In other words, the proportionality criterion must be such that the Doctrine does not permit unintentional harming in cases in which doing so would be unacceptably Minimalist, and does not prohibit unintentional harming in cases in which doing so would be, according to the Moderate, unacceptably Extremist.

As in the case of the distinction between doing and allowing, Extremists have several options for resisting the Moderate’s claim that accepting the Doctrine of Double Effect can help us arrive at a plausible Moderate view. First, of course, they can argue against the Doctrine itself and claim that causing a harm unintentionally but foreseeably is not less bad, morally speaking, than causing the same harm intentionally.³⁵ Second, they can accept the Doctrine, but claim that despite the fact that causing a harm unintentionally is less bad, morally speaking, than causing the same harm intentionally, this difference is never sufficient to ground a difference in the permissibility of causing any particular harm. Third, they can accept the Doctrine, accept that the moral difference between causing a harm intentionally and causing the same harm unintentionally is sometimes sufficient to ground a difference in permissibility, but deny that the cases in which there will be such a difference will be helpful to the Moderate.³⁶ Finally, they can accept the Doctrine, accept that the moral difference is sometimes sufficient to ground a difference in permissibility, accept that some of the cases in which it does so are helpful to the Moderate, but deny that there are enough such cases to get the Moderate everything that she wants.

D. Anti-Consequentialist Elements and the Moderate View

We have seen that certain commonly accepted elements of anti-Consequentialist moral thought are not necessarily helpful to Moderates, and are certainly insufficient in themselves to establish the limits on morality’s demands that they endorse – that is, they are insufficient to establish that much of the ordinary behavior of typical well-off individuals is permissible. Given the limits on morality’s demands that Moderates aim to defend, those who accept Extremism about Demands can accept the Moderate’s rejection of the maximizing requirement and

³⁵ Many philosophers reject the Doctrine of Double Effect. See, for example, Judith Jarvis Thomson, “Self-Defense,” *Philosophy and Public Affairs* 20 (1991): 283-310, pp. 292-6; Unger, *Living High and Letting Die*, pp. 72-3; and T.M. Scanlon, *Moral Dimensions: Permissibility, Meaning, Blame* (Cambridge: Harvard University Press, 2008), Chapters 1-2.

³⁶ This seems to be the position suggested by Quinn’s remarks quoted in footnote 33 above.

endorsement of the doing/allowing distinction and Doctrine of Double Effect, while maintaining that morality's demands are much more extensive than Moderates claim. If Moderates are to employ these elements of anti-Consequentialist moral thought in their construction of a Moderate view, they must explain the precise ways in which each element functions within the structure of the view to limit morality's demands.³⁷ In addition, the ways in which the elements function within the structure of the view must not have implications that make the view unacceptably Minimalist – for example, the way in which the doing/allowing distinction functions within the view cannot imply that it is permissible to allow children to drown in ponds when one could rescue them at little cost.

In order to determine how Moderates can best develop a view that limits morality's demands in the ways that they want, including how and whether they should employ each of the elements of anti-Consequentialist moral thought that we have considered, we must first examine the reasons that Moderates have given for thinking that morality's demands must be limited at all – that is, we must examine how Moderates have attempted to motivate Moderation about Principles. This will, in turn, help us to begin to see some of the specific ways that the Moderate might be able to defend Moderation about Demands, and therefore the Moderate view as a whole.

III. Motivations for the Moderate View

Moderates believe that views of morality's demands that they consider unacceptably Extremist fail to accord sufficient weight to certain morally relevant considerations which, when adequately taken into account, function to limit what is required of individuals in ways and to an extent such that morality's demands are in fact Moderate. These morally relevant considerations are described in different ways by various Moderates, but the thoughts underlying these descriptions and the motivations for appealing to them are quite similar. The central thought that motivates the view that Extremist accounts of morality's demands must be rejected in favor of a Moderate account can be put as follows, in what we will refer to as claim (M):

(M): Individuals have certain interests, often deriving from commitments to such things as personal projects and relationships, whose value must be given greater weight within an account of what they are morally required to do than they have within a purely impersonal account of the importance of all of the morally relevant considerations.³⁸

³⁷ Despite the fact that many Moderates believe that the elements of anti-Consequentialist moral thought that we have considered help to limit morality's demands, Moderates need not endorse all of these elements in their construction of a Moderate view. Scheffler, for example, aims to develop a view that is Moderate in *The Rejection of Consequentialism* by rejecting the maximizing requirement while otherwise accepting the Consequentialist framework. His rejection of the maximizing requirement consists in an endorsement of what he calls an "agent-centered prerogative" to give one's own interests proportionately greater weight within Consequentialist calculations.

³⁸ I use the somewhat cumbersome phrase "the importance of all of the morally relevant considerations" instead of the simpler "what is valuable" in order to leave open the possibility that there are considerations that are morally relevant, even from an impersonal perspective, that do not consist in something's being valuable. This is the case on any view that asserts that it is sometimes impermissible to act in a way that will maximize value, such as views on which it is impermissible to violate a right even when doing so is the only way to prevent a greater number of violations of the same right. For a helpful skeptical discussion of such restrictions on maximizing value, see Scheffler, *The Rejection of Consequentialism*, Chapter 4. In a more recent discussion ("Doing and Allowing," *Ethics* 114 (2004): 215-39, reprinted as Chapter 3 of Scheffler's *Equality and Tradition: Questions of Value in*

One central concern in the remainder of this chapter will be precisely *how* Moderates should think that individuals' interests deriving from their commitments to projects and relationships should be given greater weight within an account of what morality requires of them than they have within an impersonal account of the importance of all of the morally relevant considerations. Answering this question will allow us to see what sort of explanation the Moderate might be able to give for the view that, in circumstances like ours, morality is not significantly more demanding than prevailing common-sense morality suggests. In order to begin to consider these issues in detail, we must examine some of the ways that Moderates have expressed their commitment to claim (M). We will focus specifically on Thomas Nagel's *The View From Nowhere* and Samuel Scheffler's *Human Morality*, since the relevant parts of these works seem to me to be the clearest and most thorough expressions of the motivations for Moderation about Principles.³⁹

The conflict that both Nagel and Scheffler seek to address is generated by the conviction, which both share, that morality must take seriously the objective fact that every individual is equally morally important, in combination with the conviction that something like claim (M) must be true. For Nagel, this conflict is represented by two distinct standpoints, the personal and the impersonal,⁴⁰ from both of which individuals can and do view the world and their place in it. Both standpoints, according to Nagel, reflect fundamental aspects of the self, and so an adequate account of morality's demands must take seriously the values associated with each. From the impersonal standpoint we recognize that "no one matters more than anyone else, and that this acknowledgment should be of fundamental importance to each of us even though the [impersonal] standpoint is not our only standpoint."⁴¹ From the personal standpoint, however, certain things, such as our personal projects and relationships, are important *to us* to an extent that is significantly out of proportion to their importance from the impersonal standpoint. The

Moral and Political Theory New York: Oxford University Press, 2010), Scheffler is somewhat more open to certain kinds of restrictions.

³⁹ Also relevant are Nagel's *Equality and Partiality* and Scheffler's *The Rejection of Consequentialism and "Potential Congruence."* Scheffler explicitly refers to himself as a Moderate about the demands of morality (*Human Morality*, pp. 6, 100), although it is not entirely clear that he is committed to the view that, in circumstances like ours, morality is not significantly more demanding than prevailing common-sense morality suggests, despite the fact that this is a natural interpretation of some of his claims (for example, "Potential Congruence," p. 119). Nagel does not describe his view as Moderate, and there are places where he seems to allow that despite his arguments, morality might be significantly more demanding than prevailing common-sense morality suggests (for example, *The View From Nowhere*, pp. 187, 189-90, 205, 207); his aims, however, are broadly similar to Scheffler's, as are his reasons for rejecting views that are more demanding than the sort of view that he, although somewhat hesitantly, endorses. For a view that is broadly similar to, though in key respects differs from, the views of Nagel and Scheffler, see Stroud, "Permissible Partiality, Projects, and Plural Agency."

⁴⁰ At times Nagel also refers to the "subjective" and "objective" standpoints, and it is not always clear whether he intends these as synonyms for the personal and impersonal standpoints (as seems to be suggested by his reference to the objective standpoint on p. 205 of *The View From Nowhere*), respectively, or as distinct standpoints that play distinct roles in our moral and other thought (as seems to be suggested, at least of the objective standpoint, on pp. 174, 189 and 202). It seems to me that the best way to understand Nagel, despite isolated instances which suggest otherwise, is as conceiving of the objective standpoint as distinct from the impersonal standpoint. At several places it appears that Nagel thinks that we must determine morality's demands from the objective standpoint, and that in doing so we must integrate the values associated with the impersonal and personal standpoints in the appropriate way (for example, pp. 189 and 202, although the relevant passage on p. 202 admits of differing interpretations). I will confine myself to using 'personal' and 'impersonal' to refer to the standpoints that are Nagel's central focus.

⁴¹ *The View From Nowhere*, p. 205.

fact that certain things have this importance from the personal standpoint is, for Nagel, also a fundamental and morally important feature of human life that an account of morality's demands must take seriously. This means that morality cannot, according to Nagel, require that we act as we would if we lived our lives entirely from the impersonal standpoint, always giving everyone's interests equal weight, in some sense or other, including our own.⁴² Such a view would neglect the moral importance of the values associated with the personal standpoint, and would, in virtue of that neglect, be unacceptably Extremist in its demands.

We can avoid a view of morality's demands that derives solely from the values associated with the impersonal standpoint, according to Nagel, by recognizing that the interests that we have in virtue of our commitments to, for example, certain projects and relationships give us *agent-relative reasons* to pursue and maintain those projects and relationships, and that these reasons are relevant to determining morality's demands on us.⁴³ These agent-relative reasons are reasons that each person has, "stemming from the perspective of his own life which, though they can be publicly recognized, do not in general provide reasons for others and do not correspond to reasons that the interests of others provide for him."⁴⁴ Agent-relative reasons are, on Nagel's view, morally relevant reasons that each person has in addition to all of the *agent-neutral* reasons provided equally by the interests of everyone.⁴⁵ Because each individual has morally relevant agent-relative reasons in addition to all of the agent-neutral reasons that there are, morality's demands are not fully determined by the impersonal perspective, which gives rise only to agent-neutral reasons. The important implication of the moral relevance of agent-relative reasons, for our purposes, is that morality's demands are, on Nagel's view, more limited than on a view that takes only agent-neutral reasons to be morally relevant. The agent-relative reasons, if they are strong enough, can make certain actions that contribute to promoting or maintaining one's personal projects or relationships permissible, despite the fact that they would be impermissible on a view on which only agent-neutral reasons were morally relevant.

There are many questions about the relationship, on Nagel's view, between agent-neutral and agent-relative reasons, as well as questions about the precise ways in which agent-relative reasons are thought to limit morality's demands. Nagel attempts to address these questions, and we will examine the sort of view that he endorses, and some of the problems that arise for it, in the following section. Before moving on to that task, however, it will be helpful to consider some of what Scheffler says in his attempt to motivate the Moderate view of morality and its demands.

Scheffler is a bit more insistent than Nagel that morality's demands should not be thought of as, to use his term, "stringent."⁴⁶ He announces in the introductory chapter of *Human Morality* that he intends to "argue that morality should be thought of as *moderate* rather than

⁴² The requirement to give everyone's interests equal weight could be framed in Consequentialist terms, but it could also be given, for example, a Kantian or Contractualist reading, or require that we give priority to the worst-off (see Scheffler, *Human Morality*, pp. 121-2, footnote 4). The important point for our purposes is that *all* such accounts would converge in requiring that individuals actively promote the interests of others, sometimes (and in the case of those who are particularly well-off, probably often) at substantial cost to themselves. Any view without such a requirement could not plausibly claim to require individuals to give the interests of everyone equal weight.

⁴³ *The View From Nowhere*, p. 172.

⁴⁴ *Ibid.*

⁴⁵ Agent-neutral reasons are the reasons that there are for anyone to promote the objective interests of everyone, including oneself, and do not vary in strength according to whose interests are at stake.

⁴⁶ *Human Morality*, p. 6.

stringent,” and that an important implication of the Moderate view is that “although morality sometimes requires significant sacrifices of us, nevertheless the most demanding moral theories are mistaken.”⁴⁷ He goes on to say that on the sort of view that he accepts, “what morality demands is limited by considerations having to do with the individual agent’s psychology and well-being,” and that “morality...is, from the standpoint of the agent, fundamentally a reasonable phenomenon.”⁴⁸

Scheffler explains that the Moderate view is “intermediate between” Extremist or “stringent” views, which are “very demanding,” and Minimalist views, such as the view that “people may do whatever they please...morality places no constraints whatsoever on people’s conduct,” or the view that “moral demands reduce to the demands of self-interested rationality.”⁴⁹ What is common to all Moderate positions, and differentiates them from the Extremist and Minimalist alternatives, is that on Moderate views both of the following propositions, which we will label claims (P) and (D), are true:

(P): Under favorable conditions, morality permits people to do as they please within certain broad limits [despite the fact that their doing so will very often be impersonally sub-optimal].⁵⁰

(D): Morality does nevertheless make demands and impose constraints: it prohibits some things, requires others, and imposes costs – sometimes very great costs – on agents.⁵¹

In order to gain a better understanding of the sort of view that Scheffler is advocating, and of precisely how it differs from the Extremist views that he seeks to reject, it is clear that we must determine how we are to understand claim (P).⁵² Scheffler says a number of things that suggest constraints on our understanding of the implications of (P). First, he says that Moderates believe that “moral norms should be capable of being integrated in a coherent and attractive way into the life of the individual agent,” and that this requirement “impos[es] a significant constraint on the content of morality.”⁵³ This constraint is seen as supporting the view that morality “includ[es] relatively robust permissions for individuals to attend to their own projects and plans.”⁵⁴ An account of morality’s demands that did not include such permissions would, presumably, not be capable of being attractively integrated into the lives of individuals. The view that morality includes such permissions, in turn, leads quite naturally to the conclusion that “conduct that

⁴⁷ Ibid, italics in original.

⁴⁸ Ibid, p. 18. It is not entirely clear what the relationship is between what Scheffler calls “the standpoint of the agent” and the two standpoints that Nagel describes in *The View From Nowhere*. It may be that he has in mind simply what Nagel refers to as the “personal standpoint.” For our purposes nothing of significance hangs on whether or not this is the correct interpretation, so we will not pursue the question further.

⁴⁹ *Human Morality*, pp. 99-100.

⁵⁰ Ibid, p. 100. Obviously it is extremely important to determine what count as “favorable conditions,” and to consider what Moderates should think, or are committed to thinking, that morality demands in *unfavorable* conditions. This question will figure prominently in the remainder of our discussion.

⁵¹ Ibid.

⁵² Claim (P) also, importantly, imposes constraints on how we must apply and integrate claim (M) into a Moderate account of morality and its demands. We will consider this issue later in this section, as well as in section IV.

⁵³ *Human Morality*, p. 102.

⁵⁴ Ibid, p. 112.

promotes the agent's well-being...is...often fully legitimate from a moral standpoint."⁵⁵ After all, pursuing one's projects and plans will typically promote one's well-being.

All of this suggests the following elaboration of claim (P), which will guide our continued inquiry into how best to understand the Moderate view:

(P*): Under favorable conditions, it is very often permissible for individuals to attend to their own projects and plans, and to thereby promote their own well-being, despite the fact that their doing so will very often be impersonally sub-optimal.

Scheffler's approach to explaining the truth of (P*) has a great deal in common with Nagel's approach to explaining why we should reject Extremist accounts of morality's demands. On Scheffler's view, "the moral perspective attaches weight to prudential considerations – considerations pertaining to the agent's interests," in addition to the equal weight that it attaches to everyone's interests, impersonally construed.⁵⁶ This is because, for Scheffler,

morality attaches unmediated significance to each of two basic propositions. The first...is that, from an impersonal standpoint, everyone's life is of equal intrinsic value and everyone's interests are of equal intrinsic importance. The second...is that each person's interests nevertheless have a significance for him or her that is out of proportion to their importance from an impersonal standpoint.⁵⁷

On the Moderate account of morality and its demands that Scheffler favors, "moral norms reflect and attempt to balance these two fundamental propositions."⁵⁸

"[D]irect intuitive support" for this way of thinking about morality's demands, as against more Extremist alternatives, can, according to Scheffler, be found in certain important elements of our common-sense moral outlook.⁵⁹ It is, he says,

a basic tenet of our commonsense moral outlook that we are justified in devoting some disproportionate degree of attention to our own basic interests, where these are construed as including our fundamental human needs as well as the major activities and commitments around which our lives are organized...we do not believe that the amount of attention that we may legitimately devote to our own families, friends, communities, careers, and commitments is fixed solely by reference to their advantages from a strictly impersonal point of view...The commonsense view is...that we may, within limits, devote disproportionate attention to those things that matter most to us.⁶⁰

Referring to our major commitments and the other things that may matter most to us, Scheffler adds that "[w]ithin certain limits, the very fact of their importance to us by itself provides a justification for attending to them disproportionately."⁶¹

⁵⁵ Ibid, p. 113.

⁵⁶ Ibid, p. 118.

⁵⁷ Ibid, p. 122.

⁵⁸ Ibid.

⁵⁹ Ibid, p. 123.

⁶⁰ Ibid, p. 122.

⁶¹ Ibid.

These remarks give us further guidance regarding how we are to understand the implications of (P*), as well as highlighting in greater detail the commonalities between Scheffler and Nagel's approaches. Just as Nagel claims that our projects and commitments provide us with morally relevant agent-relative reasons that function to limit what morality requires of us, Scheffler argues that morality takes the disproportionate significance to us of our projects and commitments directly into account, resulting in a view of morality and its demands that is significantly more limited than the Extremist accounts that both he and Nagel reject.⁶²

We now have a general sense of the sort of view that both Nagel and Scheffler endorse, and therefore we have a general sense of what a plausible Moderate view must look like. But it is not yet clear precisely how we are to understand the limits placed on morality's demands by claim (P*) and the further claims made in support of it. It is, then, not yet clear the precise structure that the most plausible Moderate view will have.

In the next section, we will consider several ways that we might understand the structure of such a view, consistent with what Nagel and Scheffler have said about their general approach. We will examine, with respect to each possibility, whether the relevant view is plausible, as well as considering, out of all of the possibilities, which one is on the whole the most plausible. If we are able to describe a clearly structured view that is consistent with the constraints articulated by Nagel and Scheffler, as well as being independently plausible, then we will have made progress toward understanding how the Moderate approach to morality's demands might be defended. We will also then be in a position to consider whether Nagel and Scheffler's approach to limiting morality's demands can vindicate the Moderate view that, in circumstances like ours, morality is not significantly more demanding than prevailing common-sense morality suggests (that is, Moderation about Demands). If, on the other hand, we are unable to articulate a clearly structured and plausible way of limiting morality's demands that is consistent with Nagel and Scheffler's general approach, then we may be led to reconsider their rejection of Extremism.

IV. Projects, Interests, and Morally Relevant Reasons

We have seen that Nagel and Scheffler believe that individuals' commitments to projects and relationships provide them with morally relevant agent-relative reasons to pursue and maintain those commitments. These reasons, according to the Moderate, are often strong enough to make it the case that it is permissible for individuals to act in ways that contribute to the pursuit or maintenance of their projects and relationships, despite the fact that acting in such ways would be impermissible if only agent-neutral reasons were morally relevant. This thought, as we have seen, has been expressed by saying that morality permits individuals to pursue their own interests to an extent that is out of proportion to the importance of those interests from the impersonal perspective.⁶³ The Moderate approach, then, relies on the thought that one's interests

⁶² Scheffler does not explicitly say that the way in which morality takes into account the disproportionate significance for us of our projects and commitments is by recognizing agent-relative reasons that they give rise to. He refers, instead, to "agent-relative principles" that are, on his view, part of the content of morality. Such principles are, Scheffler says, the "hallmark of moderate moral outlooks" (Ibid, p. 103). Despite the slight difference in terminology, it is clear that Scheffler and Nagel have essentially the same idea in mind. The agent-relative principles that Scheffler endorses must, given the sort of view that he wishes to defend, be supported by appeal to the kind of agent-relative reasons that Nagel describes. And the agent-relative reasons that Nagel refers to must, on his view, justify the sort of agent-relative principles that Scheffler endorses if they are to systematically limit morality's demands in the way that he intends.

⁶³ In addition to the above quotes from *Human Morality*, see Scheffler's *The Rejection of Consequentialism*, pp. 20-1.

are, to a significant extent, determined by the projects, relationships, and other commitments around which she has structured her life.

These thoughts highlight the general way in which Moderates think that morality must account for the significance of the personal standpoint and the values that are uniquely associated with it. The precise way in which such thoughts might help us arrive at a plausible and clearly structured Moderate view is, however, still unclear. We must consider in greater detail how these general thoughts are to be understood and applied within an account of morality and its demands in order to see whether they can form the basis of an acceptable Moderate view.

An important claim that is suggested by the view that individuals are permitted to pursue their own interests to an extent that is out of proportion to the importance of those interests from the impersonal perspective, in conjunction with the view that one's interests are, to a significant extent, determined by her central projects and commitments, is that one's projects and commitments *always* give rise to morally relevant agent-relative reasons, *no matter what those projects and commitments are*.⁶⁴ This is a natural thought to have, given the aim of developing a view of morality's demands that takes seriously the importance of the personal standpoint.⁶⁵ After all, everyone's projects and commitments are extremely important to the individual whose projects and commitments they are, from his or her personal standpoint. In addition, recall that Scheffler states that from the impersonal standpoint "everyone's interests are of equal intrinsic importance."⁶⁶ Given the extent to which each person's projects and commitments are thought to determine her interests, it appears that Scheffler must think that, at least in an approximate sense, everyone's projects and commitments are of equal intrinsic importance. If this is the case, then it is clear that to the extent that everyone's projects and commitments give rise to agent-relative reasons, they must give rise to reasons that are of roughly equal strength. And if

⁶⁴ Despite the fact that she denies that individuals are always permitted to give their *interests*, understood either narrowly or broadly, greater weight than they have from the impersonal perspective ("Permissible Partiality, Projects, and Plural Agency," pp. 137-41), Stroud seems committed to the view that individuals' *projects*, understood as goals or aims that "[they] intend to bring about through [their] own efforts... things toward which [they] are directing [their] *agency*" (p. 141), always give rise to morally relevant agent-relative reasons (pp. 141-2). At the very least, she neglects, in both her discussion of projects in general and her discussion of the projects of plural agents, to note any constraints on the content of the projects that might give rise to such reasons (pp. 141-9). Her view, then, seems to imply that those who are members of a plural agent with the project of, for example, advancing the agenda of the Ku Klux Klan, have morally relevant agent-relative reasons to pursue that project. Her view, then, seems unacceptable, for reasons that, as we will see, also undermine certain ways of understanding the views of Nagel and Scheffler.

⁶⁵ It is also a natural thought for both Nagel and Scheffler to have given that their attempts to develop a Moderate account of morality's demands are significantly influenced by Williams's integrity objection, which was first directed against utilitarianism ("A Critique of Utilitarianism," in J.J.C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973)), and then applied to other views that reject the moral relevance of agent-relative reasons, such as Kantianism ("Persons, Character, and Morality"). The objection states that certain moral theories should be rejected because they will require, at least in certain instances, that individuals sacrifice the personal projects and commitments around which they have structured their lives. If one wants to develop an account of morality's demands that avoids this result, it would seem that one would have to allow everyone's projects and commitments to have moral significance. Nagel rejects certain key aspects of Williams's argument (*The View From Nowhere*, p. 198), but views the challenge that Williams presents to fully impersonal accounts of morality's demands as important, and as requiring an answer that fully impersonal accounts cannot provide. Scheffler is explicit in *The Rejection of Consequentialism* that he hopes to develop an account of morality's demands that is not subject to the integrity objection (pp. 14, 41), although he construes the objection in a way that does not directly imply that any requirement to sacrifice a central project or commitment is objectionable (p. 9).

⁶⁶ *Human Morality*, p. 122.

everyone's projects and commitments give rise to agent-relative reasons that are of roughly equal strength, then everyone would, on the sort of view advocated by Nagel and Scheffler, have reasons of roughly equal strength that function to limit morality's demands on them relative to views on which only agent-neutral reasons are morally relevant.⁶⁷

Despite the reasons for finding this view appealing, it is difficult to see how the Moderate can accept it. After all, some people have projects and commitments that seem to be clearly unacceptable candidates for giving rise to morally relevant agent-relative reasons. Scheffler acknowledges that there are such cases, mentioning in particular

[a] person whose deepest and most powerful desire is to inflict pain on others...the charming and avowedly self-interested con-artist...the thoroughgoing sadist who makes a living by torturing political prisoners...[o]r the hard-bitten mercenary whose love of violence and adventure leads him to sell his services to the highest bidder.⁶⁸

About these sorts of individuals, Scheffler says that "their projects are not the sort that a moral conception must make room for."⁶⁹ This seems clearly right, but accepting it has some important implications that we must take note of. First, we have seen that Moderates define individuals' interests largely in terms of their projects and commitments, and claim that morality must allow individuals to pursue their interests to an extent that is out of proportion to their importance from the impersonal perspective. This way of understanding one's interests, in combination with the permission to pursue one's interests to an extent that is out of proportion to their impersonal importance, clearly serves the Moderate's aim of developing an account of morality's demands that takes seriously the importance of the personal standpoint. But this approach cannot be exactly what the Moderate needs, given that we must not allow that *everyone's* projects and commitments give rise to morally relevant agent-relative reasons. If the projects of the characters discussed above do not give rise to such reasons, then given that Moderates define

⁶⁷ This does not mean that on this sort of view the demands on everyone will be roughly equal. The agent-neutral reasons that apply to some people may be stronger than those that apply to others simply in virtue of the fact that some are better placed to promote the interests of others. For example, the wealthy are better placed to aid the desperately poor than are the moderately poor, and so the agent-neutral reasons that apply to the wealthy will tend to be stronger than those that apply to the moderately poor. This suggests that in at least some cases the wealthy will be morally required to sacrifice more in, for example, monetary terms, than are the moderately poor, in order to aid the desperately poor. This is an important way in which Moderate views differ from Minimalist views which follows from the Moderate's commitment to taking seriously the fact that from the impersonal standpoint every individual's interests are of equal moral importance.

⁶⁸ *The Rejection of Consequentialism*, p. 18. Scheffler mentions such cases in order to consider whether such individuals can be said to lead lives of integrity. His discussion is part of his attempt to interpret and assess the force of Williams's objection to fully impersonal accounts of morality's demands. He concludes that we can either say that such individuals can live lives of integrity, but that there are further conditions on what morality must permit in addition to integrity, or we can say that they cannot live lives of integrity, because integrity requires more than the consistency of one's desires, projects, and commitments. If there are such further conditions that must be satisfied in order to live a life of integrity, then they must, of course, be moral conditions. And if there are such conditions, then it cannot be the case that the integrity objection implies that everyone's projects and commitments must give rise to morally relevant agent-relative reasons.

⁶⁹ *Ibid.* Recall that Scheffler says in *Human Morality* that "within certain limits, the very fact of [our projects and commitments'] importance to us by itself provides a justification for attending to them disproportionately" (p. 122). Here we have an acknowledgement of one kind of limit that Scheffler is committed to, and that any plausible Moderate view must incorporate.

individuals' interests largely in terms of their projects and commitments, it follows that the sadist and the mercenary are *not* permitted to pursue their interests to an extent that is out of proportion to their importance from the impersonal perspective.⁷⁰ And if this is the case, then proponents of the Moderate view cannot claim that the personal standpoint as such must be given weight within an account of morality's demands. The central values within *some* people's personal standpoints count for nothing at all.

There are several ways that Moderates might respond to this challenge. First, they can argue that we have overestimated the force of cases such as the sadist and the mercenary. What is unacceptable, this response suggests, is that such characters could be permitted to actually pursue their projects once all of the morally relevant reasons have been taken into account. The mere fact that their projects give rise to morally relevant agent-relative reasons should not concern us, because those reasons will never be strong enough to make the pursuit of the projects permissible, given the overwhelming agent-neutral reasons that count against their pursuit.

There are several problems with this response. First, it is simply implausible that projects like those of the sadist or mercenary give rise to morally relevant agent-relative reasons at all, even if we allow that the view can be structured in a way that guarantees that such reasons will never be strong enough to make the pursuit of such projects permissible.⁷¹ Allowing that these projects give rise to morally relevant agent-relative reasons suggests, for example, that it would be morally worse for someone without sadistic projects to torture someone for fun than for someone with sadistic projects to do so. After all, the person with sadistic projects has morally relevant reasons to pursue those projects, and so the agent-neutral reasons that count against their pursuit are counterbalanced in a way that they are not in the case of the non-sadist. But surely it is unacceptable to think that the fact that someone has adopted sadistic projects in any way limits the extent to which her torturing someone for fun is morally bad.

In addition, it is not clear that the response that we are considering actually provides the Moderate with a way to ensure that her view will *never* permit the pursuit of projects like those of the sadist or mercenary.⁷² So long as projects are thought to give rise to morally relevant agent-relative reasons whose weight roughly corresponds to their importance from the personal standpoints of the individuals whose projects they are, it seems that it will be at least possible that these reasons will be strong enough to make the pursuit of the projects permissible. Indeed

⁷⁰ The reference to "the sadist" here and in the remainder of this chapter should be understood as limited to cases of the sort that Scheffler describes, in which one's aim is to inflict pain on those who have not consented to its infliction. I do not want to deny that consensual engagement in so-called "sado-masochist" practices can be part of valuable interpersonal relationships, or that adoption of such practices can generate agent-relative reasons for their pursuit. Thanks to Véronique Munoz-Dardé for encouraging me to clarify this point.

⁷¹ This is an intuition that I imagine is shared by Moderates and Extremists (though not necessarily by Minimalists).

⁷² This is particularly uncertain on views that allow everyone's projects to give rise to morally relevant agent-relative reasons of roughly equal strength. Kagan claims that Scheffler's formulation, in *The Rejection of Consequentialism*, of the principle that allows agents to give their own interests weight that is out of proportion to their importance from the impersonal perspective (p. 20), does not in fact limit the *kind* of projects that agents can pursue ("Does Consequentialism Demand Too Much?: Recent Work on the Limits of Obligation," *Philosophy and Public Affairs* 13 (1984): 239-54, p. 251, footnote 4), contrary to Scheffler's assertion that it does. One of the reasons to think that Kagan is right about this is that Scheffler's principle explicitly allows *everyone* to pursue their interests to an extent that is out of proportion to their importance from the impersonal standpoint. This general permission, combined with what appears to be Scheffler's view of the extent to which one's interests are determined by her projects and commitments, seems to rule out the possibility of excluding, in principle, the pursuit of any particular projects.

it seems that on the view that we are considering the Moderate will have to allow that this is the case in order to maintain the permissibility of pursuing other projects that she is concerned to defend. Recall claim (P*), which states that it is very often permissible for individuals to attend to their own projects. The Moderate claims that this is the case even when the pursuit of one's projects requires time and resources that would, if redirected in impersonally better ways, prevent others from enduring serious suffering, and even death.⁷³ If the pursuit of some projects is permissible because the agent-relative reasons that they give rise to sufficiently limit the force of the agent-neutral reasons to prevent serious suffering and death, then the Moderate needs to explain why this does not occur with respect to the projects of the sadist or mercenary.

One difference between the projects that Moderates generally think it is permissible to pursue despite the opportunity cost of serious suffering and death and those of the sadist or mercenary is, of course, that by pursuing their projects the sadist or mercenary would not merely *fail to prevent* serious suffering or death, but would herself *cause* it (that is, the sadist or mercenary would, by pursuing their projects, *do* harm rather than merely *allowing* it). But the Moderate cannot simply cite this difference as a basis upon which to conclude that adoption of the projects that she believes it is permissible to pursue generates morally relevant agent-relative reasons of sufficient strength to make their pursuit permissible, while adoption of, for example, sadistic projects does not. This move is unavailable to the Moderate because it begs the question against Extremism about Demands; it begins by assuming a view about which projects it is permissible to pursue that essentially amounts to Moderation about Demands, and then attempts to structure the relevant principles in a way that is consistent with that view. A successful argument against Extremism about Demands, however, must begin by motivating a version of Moderation about Principles on grounds that are, at least to some extent, independent of Moderation about Demands, and showing that Moderation about Demands follows from it.⁷⁴

Given the problems with the response that we have been considering, the Moderate may suggest that individuals' projects give rise to morally relevant agent-relative reasons unless they involve harming and/or intending to harm others.⁷⁵ This view would avoid the problem

⁷³ Recall our discussion in section I of the Moderate's rejection of the requirement to give up all but a certain relatively small fraction of one's wealth, even if doing so would save many lives, and even if one could get by just fine without it.

⁷⁴ The suggestion that the Moderate requires an argument against Extremism about Demands should not be taken to imply that Extremism is in any sense the default position in the debate. Those who defend Extremism require an argument against Moderate positions in just the same way that Moderates require an argument against Extremism. The point is simply that given the plausible arguments that exist for Extremism, and for Extremism about Demands in particular, the Moderate cannot hope to vindicate her position within the existing debate if she simply assumes that Extremism about Demands is false, or employs premises in her arguments that entail the falsity of Extremism about Demands. Similar remarks would apply to structurally similar arguments for Extremism that simply assume the falsity of, say, Moderation about Principles. Thanks to Sam Scheffler for encouraging me to clarify this point, and for a helpful discussion of the relevant issues.

⁷⁵ Adopting this approach would seem to require the Moderate to provide a justification for the claim that there are something like what Scheffler calls "agent-centered restrictions" (*The Rejection of Consequentialism*, Chapter 4) against pursuing projects that involve harming and/or intending to harm others that make it the case that such projects cannot generate morally relevant agent-relative reasons. Such restrictions, however, would commit the Moderate to the view that the pursuit of such projects would be impermissible under all circumstances, meaning that all of the agent-neutral reasons could, in principle, never favor their pursuit (alternatively, the Moderate could claim that their pursuit is prohibited even if all of the agent-neutral reasons favored it, although I doubt that this claim could be made particularly plausible). For discussion of this sort of problem with respect to Scheffler's view in *The Rejection of Consequentialism*, see Kagan, "Does Consequentialism Demand Too Much?," pp. 250-4. The Moderate could embrace something along the lines of Scheffler's response to Kagan's objection, which would allow

presented by the sadist and mercenary cases, and thus seems promising. But the Moderate who adopts this position must either abandon or reinterpret both her claim that morality must take seriously the importance of the personal standpoint and her claim that morality permits individuals to pursue their own interests to an extent that is out of proportion to their importance from the impersonal perspective.

With regard to the way in which morality must account for the importance of the personal standpoint, the Moderate must say one of two things. First, she can say that the standpoint as such is not what morality must take into account. Rather, it is necessary that the values that are uniquely associated with the standpoint, such as one's projects and commitments, be given weight within morality except when and to the extent that those projects and commitments involve harming and/or intending to harm others. If the Moderate takes this approach, she must explain how it is possible to hold both that the personal standpoint is of fundamental significance for morality, and that it does not give rise to morally relevant reasons in a certain range of cases.

Alternatively, the Moderate can deny that projects that involve harming and/or intending to harm others can be part of the personal standpoint as she conceives of it. I take it, however, that this second option is rather implausible, since it would require a highly revisionist conception of the personal standpoint. In addition to being in tension with the way that Moderates tend to talk about the personal standpoint, the conception of that standpoint that would be required would be at least partially moralized, in the sense that its content would be defined in accordance with certain moral constraints. Proponents of fully impersonal accounts of morality and its demands could then ask why the standpoint should be defined in accordance with *those* particular constraints rather than stronger ones that would bring the personal standpoint, by definition, even more closely in line with the impersonal standpoint. It is not clear that the Moderate could provide an answer to this question that succeeds in preserving the advantages of the argumentative approach to defending the Moderate view that we have been considering, which involves appealing directly to the moral significance of the personal standpoint.

Moderates might appeal to the fact that the partially moralized view of the personal standpoint, in combination with the view that an acceptable account of morality's demands must take seriously the importance of the values associated with that standpoint, would have implications regarding what is permissible in individual cases that are much more intuitively plausible - that is, much more in line with prevailing common-sense morality - in order to defend the partially moralized account against the standard non-moralized account. This move, however, in addition to directly begging the question against Extremism about Demands,⁷⁶

the pursuit of projects that involve harming or intending to harm others when all of the agent-neutral reasons favor their pursuit, while denying that one's adopting such projects can ever give rise to morally relevant agent-relative reasons to pursue them ("Prerogatives Without Restrictions," *Philosophical Perspectives* 6 (1992): 377-97). I share both Scheffler and Kagan's skepticism about the possibility of justifying agent-centered restrictions, and have doubts about the viability of Scheffler's attempt to maintain something like (P*) while rejecting agent-centered restrictions and denying that it can ever be permissible to harm others in order to promote one's impersonally less weighty interests. I will not, however, assume that such strategies cannot succeed.

⁷⁶ Any argument of this sort that relies on the premise that acceptable moral principles must have implications that are broadly consistent with prevailing common-sense morality begs the question against Extremism about Demands. There may be no alternative to the method of reflective equilibrium in ethics, but it is essential that use of the method balance the weight assigned to intuitions about individual cases and that assigned to the plausibility of principles appropriately. At the very least, any acceptable use of the method must leave open the possibility of reaching counterintuitive conclusions about what is required, permissible, or forbidden in some individual cases, in virtue of convincing reasons for accepting certain principles. For a similar point about the

would undermine much of what is appealing about the general approach of Nagel and Scheffler. An important reason that their approach to defending significant limits on morality's demands is superior to existing alternatives is that they appeal directly to intuitively plausible general principles, such as (M), rather than citing prevailing intuitions about a range of cases and attempting to construct principles that entail the intuitively favored views about what is required, permissible, and forbidden. The latter methodology often yields rather complex principles that most people would, I suspect, find on initial reflection to be quite intuitively implausible candidates for fundamental moral principles.⁷⁷ Since there is no reason to think that our intuitions about individual cases are more reliable than our intuitions about general principles, there is no obvious reason to prefer an approach that begins from intuitions about cases.⁷⁸ And since the defense of the partially moralized account of the personal standpoint that we have been considering relies on intuitions about what is permissible in individual cases, there are good reasons for the Moderate to reject it, and to seek an alternative way of defending the sort of principles that she accepts.

The method of beginning from principles such as (M) has several important advantages for the Moderate's purposes. First, it allows the Moderate to challenge the Extremist directly at the level of fundamental principle, where Extremism may seem most plausible. One important way of motivating Extremism is to cite the extremely intuitively plausible principle, which we will call (E), that every individual is, and therefore every individual's interests are, equally morally important, and to suggest that therefore individuals are morally required to make significant sacrifices of their own interests (at least) whenever doing so would promote the interests of others to a much greater extent than they would impede their own. This view would imply that, for example, well-off individuals are morally required to donate nearly all of what they currently spend on non-necessities to organizations that efficiently prevent death and serious suffering among the world's poorest people.

By citing an intuitively plausible principle such as (M), which, recall, states that morality must allow certain of the interests of individuals, such as the interests that they have in pursuing their most important projects and relationships, to have greater weight in determining their moral obligations than they would have within a fully impersonal account, Moderates can present a clear and powerful challenge to Extremism. Most people are likely to find (M) at least nearly as intuitively plausible as (E). Given the intuitive plausibility of both principles, Nagel and

proper use of the method of reflective equilibrium in the context of a discussion of the limits of patriotic partiality, see Kok-Chor Tan, *Justice Without Borders: Cosmopolitanism, Nationalism, and Patriotism* (Cambridge: Cambridge University Press, 2004), p. 156, footnote 18.

⁷⁷ Consider, for example, Frances Kamm's "Doctrine of Triple Effect", which states that "[a] greater good that we cause and whose expected existence is a condition of our action, but which we do not necessarily intend, may justify a lesser evil that we must not intend but may have as a condition of action" (*Intricate Ethics: Rights, Responsibilities, and Permissible Harm* (New York: Oxford University Press, 2007), p. 118).

⁷⁸ There seems, in fact, to be good reason to be skeptical about the reliability of our intuitions about individual cases. For example, the addition of features generally acknowledged to be morally irrelevant, such as intermediate options in trolley cases, often generates substantially different responses regarding what is permissible and impermissible as compared with the standard two-option versions (see Unger, *Living High and Letting Die*, pp. 88-94 and, for related discussion, Norcross, "Off Her Trolley? Frances Kamm and the Metaphysics of Morality," *Utilitas* 20 (2008): 65-80, pp. 66-8). For discussion of some additional reasons for skepticism about the reliability of our intuitions about cases, and in particular about the common practice among moral philosophers of assigning greater weight to intuitions about cases than to intuitions about general principles, see Kagan, "Thinking About Cases," *Social Philosophy and Policy* 18 (2001): 44-63.

Scheffler's strategy of attempting to develop an account of morality's demands on which both are accepted seems like a particularly promising approach to challenging Extremism.

Extremists about Principles cannot respond to such a challenge by pointing to the greater intuitive plausibility of their principle(s), as they often can in response to views constructed by seeking principles that are consistent with intuitive verdicts on a range of individual cases – that is, views constructed by arguing from a commitment to Moderation about Demands to Moderation about Principles, with the relevant principles determined by seeking coherence with specific commitments involved in the accepted version of Moderation about Demands. Instead, it seems that the Extremist about Principles must, in order to reject Nagel and Scheffler's approach, argue that (M), or any similar principle that the Moderate might appeal to, is incompatible with (E), and that given that incompatibility, we must give up the former. There are, however, no obvious reasons to think that (M) and (E) are in fact incompatible, and so no obvious reason to think that the strategy pursued by Nagel and Scheffler cannot succeed.

Of course, by appealing to intuitively plausible principles such as (M), and refraining from relying on intuitions about what is permissible in individual cases, the Moderate leaves open the possibility that her proposed principles will not have implications that are consistent with her intuitions, or with prevailing common-sense morality, in at least some cases. This will, however, be an implication of any methodologically acceptable approach to resolving the debate between Moderates about Demands and their Extremist opponents. If (M), or a similar principle of its kind, ought to be accepted, it remains an open question whether its acceptance has the implication that, for example, much of the ordinary behavior of typical well-off individuals is permissible.

We have seen that Moderates cannot rely on the initially appealing claim that morality must take the importance of the personal standpoint into account in order to reject Extremism. An acceptable Moderate principle, then, should not make reference to the personal standpoint at all, since there is no acceptable way of doing so that will not result in assigning moral weight to the projects and commitments of the sadist and mercenary.

One way that the Moderate can avoid appealing to the importance of the personal standpoint, suggested by several of Scheffler's claims that we considered earlier,⁷⁹ is to say that each individual is permitted to give her own interests weight that is disproportionate to their importance from the impersonal perspective. This claim, however, faces some difficulties similar to those that we saw with respect to the appeal to the moral importance of the personal standpoint. In particular, it is not clear that the Moderate can make this claim without allowing that the projects of the sadist and mercenary give rise to morally relevant agent-relative reasons.

The Moderate might suggest that morality includes the permission to pursue one's own interests to an extent that is out of proportion to their importance from the impersonal perspective, except when pursuing one's interests would involve harming and/or intending to harm others. On this view, one's projects give rise to morally relevant agent-relative reasons except when they involve harming and/or intending to harm others. As in the case of the personal standpoint, the Moderate who adopts this approach must explain how she can hold both that any acceptable account of morality's demands must allow agents to give weight to their own interests that is out of proportion to their importance from the impersonal perspective, and that morality does not allow agents to do this in a certain range of cases.

Another option for the Moderate is to maintain that morality always allows agents to pursue their own interests to an extent that is out of proportion to their importance from the

⁷⁹ *Human Morality*, p. 122.

impersonal perspective, and to deny that it is actually in the sadist's interests to torture people for fun, or in the mercenary's interests to join the army of the highest bidder, despite the large financial rewards. This approach requires weakening the extent to which one's interests are defined in terms of her projects and commitments. It could never, on this view, be in one's interest to pursue a project that involves harming and/or intending to harm others, even if one has, to a significant extent, structured one's life around such a project.

This sort of account of individuals' interests is not particularly implausible. It sometimes seems not only coherent, but in fact correct to say that it is not in one's interest to pursue a project that one herself values highly and has incorporated into the structure of her life.⁸⁰ For example, if one has adopted the project of advancing the agenda of the Ku Klux Klan, we will likely want to say that, in addition to being morally awful, one's pursuit of the project does not advance one's interests. One would do better in terms of her own interests to eliminate the hatred that caused her to take up the project in the first place, and to develop a healthier and more morally appropriate set of attitudes. The fact that one has adopted the project of advancing the KKK's agenda simply does not affect whether it is in one's interest to continue to pursue that project.

In addition to cases in which one's projects are in themselves morally awful, there are other cases in which it seems to make sense to deny that it is in one's interest to continue to pursue a project that one has adopted. It seems natural, for example, to think that someone who has devoted herself to attempting to become a world-class violinist, despite having very limited musical abilities, would do better in terms of her own interests by abandoning her musical ambitions and pursuing something at which she is more likely to succeed. It seems reasonable to believe this regardless of the extent to which she is invested, from her personal standpoint, in developing her violin skills, which suggests that there is an intuitive understanding of what is in an individual's interests that allows for substantial gaps between one's projects – that is, the projects that one has in fact adopted and structured her life around – and one's interests. To take a perhaps even more compelling example, consider a person who has substantially structured her life around the project of counting all of the blades of grass in Berkeley, California. It would be strange to say that one's adoption of such a project makes it the case that it is in her interest to pursue it, and much more natural to say that it is in such a person's interest to avoid wasting any further time on it, and to pursue something more worthwhile instead.

These thoughts may lead the Moderate to adopt an account of individuals' interests that allows for gaps, even substantial gaps, between one's projects and one's interests, and to employ that account in a way that seeks to avoid the problems presented by the sadist and mercenary cases. On such a view, one's interests would not necessarily be determined to any significant extent by one's actual projects and commitments, and it would be stipulated that it can never be in one's interest to pursue projects that involve harming and/or intending to harm others. The

⁸⁰ For a view that clearly implies that it can fail to be in one's interest to pursue a project that she has adopted, see Stephen Darwall, *Welfare and Rational Care* (Princeton: Princeton University Press, 2002), Chapter IV. Darwall claims that "the best life for human beings is one of significant engagement in activities through which we come into appreciative rapport with agent-neutral values, such as aesthetic beauty, knowledge and understanding, and the worth of living beings." It is important to note that Darwall's view does not imply that it can never be in one's interest to act immorally, nor that the best way to promote one's interests will always be to act in accordance with the weight of all of the relevant agent-neutral reasons. For discussion, see Garrett Cullity, "Demandingness and Arguments from Presupposition," in *The Problem of Moral Demandingness: New Philosophical Essays*, ed. Timothy Chappell (London: Palgrave Macmillan, 2009), pp. 20-21.

Moderate could, then, continue to hold that morality permits one to pursue one's own interests to an extent that is out of proportion to their importance from the impersonal perspective.

One important cost of this approach for the Moderate is that it would substantially divorce the Moderate view from a powerful initial motivation for it, namely that morality must take seriously the importance of the personal standpoint. For this view weakens the connection between the personal standpoint and one's interests by weakening the connection between one's projects and one's interests. The sort of projects that are such that one's adoption of them makes it the case that it is in one's interest to continue to pursue them, and that therefore give rise to morally relevant agent-relative reasons, would be limited. The view would be built upon an account of one's interests that is to a significant degree independent of one's actual projects, and therefore independent of the personal standpoint.

Extremists might ask the Moderate why, given that she accepts an account of one's interests on which her actual projects do not necessarily contribute to her interests (in order to claim that it can never be in one's interest to pursue a project that involves harming and/or intending to harm others), we should not simply accept an account on which it is never in one's interest to act contrary to what all of the agent-neutral reasons prescribe. The Extremist can accept the Moderate's claim that one's interests give rise to agent-relative reasons, but claim that just as, according to the Moderate, we should accept that one's interests can never diverge from the moral requirement to avoid harming and/or intending to harm others, we should also accept that one's interests can never diverge from the prescription of all of the agent-neutral reasons.

The Moderate who adopts the approach that we have been considering must explain why our account of one's interests must be constrained by certain agent-neutral reasons (namely, those that count against harming and/or intending to harm others) and not others (for example, those that count against allowing serious harms, such as death). As in the case of some of the other approaches that we have considered, it is not clear that the Moderate can give an answer to this question that avoids appealing to intuitions about what is permissible in individual cases, and therefore not clear that she can give an answer that preserves the advantages of the methodological approach to defending the Moderate view that we have been pursuing.

V. What is the Moderate View?

Our discussion to this point suggests that what the Moderate is after is a view that must be more complex, and more carefully articulated, than the sort of claims that they have tended to make in order to motivate and characterize Moderate views generally. Specifically, it seems that Moderates cannot claim that the personal standpoint as such must be given weight within morality, given the problems presented by the sadist and mercenary cases. They cannot, therefore, claim that everyone's projects and commitments, no matter what they are, give rise to morally relevant agent-relative reasons. They *can* claim that morality must permit individuals to pursue their own interests to an extent that is out of proportion to their importance from the impersonal perspective (and therefore that one's interests give rise to morally relevant agent-relative reasons), but only by weakening the connection between one's interests and one's projects (and thereby the personal standpoint).

The sort of view that they must adopt, then, if they are to avoid Extremism, is one on which certain projects that diverge from the ones prescribed by all of the agent-neutral reasons are such that it can be in one's interest to pursue them, despite the fact that other such projects, including those that involve harming and/or intending to harm others, are not. The ones that are, on this view, give rise to morally relevant agent-relative reasons to pursue them whenever an

agent adopts them, and these reasons often make it permissible to pursue the projects despite the fact that their pursuit would be impermissible if only agent-neutral reasons were morally relevant.

One way to begin to develop such a view is to suggest that certain projects and commitments, though not others, are objectively valuable, even though their pursuit may not be optimal from the impersonal perspective. Those that are objectively valuable, when adopted by individuals, give rise to morally relevant agent-relative reasons for those individuals to pursue them, which make it often permissible to pursue them to an extent that is out of proportion to their importance from the impersonal perspective.⁸¹

An important feature of this line of thinking is that it begins from a view about the value of certain projects and commitments that is common to both Moderates and Extremists. Extremists, of course, do not deny that the pursuit of the sort of projects that Moderates tend to think it is permissible to pursue, in circumstances like ours, is valuable. They simply claim that the value of their pursuit is often outweighed by the value of pursuing other aims, such as alleviating serious suffering, and that this often makes their pursuit impermissible.

This approach would, it seems, provide a basis upon which the Moderate could potentially defend both the moral significance of the doing/allowing distinction and the Doctrine of Double Effect. The agent-relative reasons that the adoption of a project provide are reasons for the agent to pursue the project that function to counterbalance the force of the relevant agent-neutral reasons, making it permissible, in at least some cases, for agents to pursue the projects that they have adopted despite the fact that doing so is impersonally sub-optimal. Since, on the view that we are considering, only projects that do not involve harming and/or intending to harm others can be such that their adoption by agents generates morally relevant agent-relative reasons, the reasons generated will, it seems, be much more likely to affect the balance of reasons in ways that make it permissible to allow harm than to affect the balance in ways that make it permissible to cause harm oneself. Such reasons are perhaps also more likely to affect the balance of reasons in ways that make it permissible to cause merely foreseeable harm than to make it permissible to intentionally harm others.

It is important to note, however, that to the extent that the agent-relative reasons generated by the adoption of a project fail to make it permissible to cause harm to others oneself, such reasons will fail to make it permissible to cause merely foreseeable harm to others. If there are not any projects that involve harming others that generate morally relevant agent-relative reasons, then the view that we are considering will *not* provide a basis for a Moderate defense of the Doctrine of Double Effect. Such a defense will only be available to those who claim that certain projects that involve harming others do in fact give rise to morally relevant agent-relative

⁸¹ Scheffler suggests a view of this sort in “Morality and Reasonable Partiality,” in *Partiality and Impartiality*, reprinted as Chapter 2 of *Equality and Tradition*; all subsequent page references are to the reprinted version. In a discussion of the way in which our valuing projects and relationships gives rise to “reasons of partiality” that are morally relevant in the sense that they “bear directly on the rightness or wrongness of actions,” Scheffler says that individuals “may on occasion value things [for example projects or relationships] that shouldn’t be valued, and so... may on occasion see [them]selves as having reasons that [they] do not have” (pp. 44-51). Later in the same essay he says of morality that it “tells us not merely that there are limits to what may be done in the name of a personal project or relationship, but also that a project that is evil or corrupt, or a relationship that is destructive or abusive, lacks the value that makes it a source of reasons to begin with” (p. 73). For a similar view, see Cottingham, “Impartiality and Ethical Formation,” also in *Partiality and Impartiality*, pp. 69-70.

reasons, and that at least some of these projects can only be permissibly pursued in the absence of the intention to harm others.

Despite the advantages of this sort of view over the formulations given by Nagel and Scheffler, it is not clear that it can avoid an objection that is very similar to those that created problems for those formulations.⁸² Recall that the problem with the view that morality must take the personal standpoint into account was that it seemed to entail that individuals with, for example, sadistic projects, have morally relevant agent-relative reasons to pursue those projects that serve to counterbalance the agent-neutral reasons against their pursuit. This implication is unacceptable, since it is clear that there cannot be morally relevant reasons to pursue such projects, and since a view that has this implication may not be able to avoid allowing that it is sometimes permissible, given the weight of all of the morally relevant reasons, to pursue them. More generally, it is unacceptable because it is clear that any view that allows that it is sometimes permissible to harm others in the pursuit of one's projects, when the harm to be done is of greater moral significance, from the impersonal perspective, than the value promoted by the pursuit of the project, is unacceptably Minimalist. This is clearly common ground between Extremists and Moderates, so Moderates must structure their view in a way that avoids this implication.

The problem faced by the view that we are currently considering is that it is not clear that it can avoid the implication that individuals will sometimes have morally relevant agent-relative reasons to pursue their valuable projects by means of harming and/or intending to harm others. The projects of the sadist or mercenary raised particularly significant problems for some of the views that we considered because it seems that their pursuit would *necessarily*, or *constitutively*, involve harming and/or intending to harm others. But since it is quite plausible that any project that necessarily or constitutively involves harming others is not valuable, the view that we are currently considering can avoid allowing that those who adopt them have morally relevant agent-relative reasons to pursue them. It is not terribly difficult, however, to imagine circumstances in which one has adopted a project that is itself valuable, and in which the only available means (or perhaps merely the most effective means) of pursuing it would involve harming and/or intending to harm others. If the adoption of a valuable project gives rise to morally relevant agent-relative reasons to pursue it, then it seems that on the view that we are considering individuals will have morally relevant agent-relative reasons to harm and/or intend to harm others, at least when doing so is a necessary means to the pursuit of such a project.

This implication is not obviously decisive against the view. After all, while it is extremely implausible that there could be morally relevant reasons to harm and/or intend to harm others in the pursuit of projects that are not themselves valuable, it is not obviously unacceptable to think that there are morally relevant reasons to pursue *valuable* projects by means of harming and/or intending to harm others. Generally speaking, it does not seem particularly problematic to think that there are reasons to pursue valuable ends by means that involve harm, especially since in many (perhaps most) cases such reasons would be outweighed by the reasons against harming. It seems extremely plausible, for example, that there is a morally relevant reason to intentionally inflict a paper cut on someone if this is the only way to prevent another person from being killed.⁸³ We might think, then, that there are always morally relevant reasons to pursue valuable ends by whatever means are available. With regard to individuals' projects, these reasons would

⁸² Thanks to Niko Kolodny for pointing this out.

⁸³ Indeed in this case it seems clear not only that there is a morally relevant reason to inflict the paper cut, but that this reason is not outweighed by the reasons against harming.

be grounded in the genuine value of the projects that they have adopted, rather than in the mere fact that the individuals happen to be committed to their pursuit.⁸⁴

But even if it is acceptable for the view that we are considering to allow that there are morally relevant agent-relative reasons for individuals to pursue their valuable projects by means that involve harming and/or intending to harm others, the Moderate still faces significant problems. First, it is important to keep in mind that the Moderate claims that individuals' commitments to projects give rise to morally relevant agent-relative reasons that allow them to pursue their projects to an extent that is disproportionate to their importance from the impersonal standpoint. And in order for the principles endorsed by the Moderate to have any chance of providing support for Moderation about Demands, they must allow individuals to pursue their projects to an extent that is *substantially* disproportionate to their impersonal importance.⁸⁵ But if individuals' projects give rise to morally relevant agent-relative reasons that have this effect, then it is difficult to see how the Moderate can avoid the implication that agents will sometimes, perhaps often, be permitted to pursue their valuable projects by means of harming others. Moreover, it seems that such permissions will have to extend to harming others to an extent that is of greater impersonal disvalue than the impersonal value generated by the advancement of the relevant projects effected by means of the harm. If one's adoption of a valuable project, for example developing one's musical abilities, generates morally relevant agent-relative reasons of sufficient strength to make it permissible to spend thousands of dollars on musical equipment rather than contributing the money to causes that efficiently relieve serious suffering, then it is hard to see how the very same agent-relative reasons could not be strong enough to make it permissible to, say, break an innocent person's arm in order to prevent one's equipment from being destroyed. But this implication will surely be unacceptable to both Moderates and Extremists.⁸⁶

The Moderate, then, still faces the challenge of developing a view of the structure of the morally relevant agent-relative reasons that they endorse that succeeds in avoiding the unacceptably Minimalist implications that we have described. In order to present a successful challenge to Extremism about Demands, the Moderate must meet this challenge without simply adjusting the content of her principles so as to avoid the problematic implications while preserving the permissions that she favors. She must, that is, present a convincing case for the principles that she favors without appealing directly to the fact that those principles have the implications regarding individual cases that she already accepts.

Despite these difficulties, there is no obvious reason to think that there is not conceptual space for the sort of view that we have been attempting to develop on behalf of the Moderate. But locating that space and describing it in sufficient detail to make the view plausible, let alone determining how such a view might be argued for in a non-question-begging way, has proven to be a rather difficult task, and is one that no Moderate has yet come very close to succeeding at.

⁸⁴ The commitment of individuals to the pursuit of such projects is, however, a necessary precondition of the reasons' existence, since the reasons are agent-relative.

⁸⁵ If the relevant principles did not allow individuals to give substantially disproportionate weight to their projects relative to their impersonal importance, then it could not be permissible to pursue any project that does not itself contribute significantly to aims such as relieving serious suffering when one could instead contribute to relieving serious suffering.

⁸⁶ Extremists will allow that valuable projects provide reasons for their pursuit, but will either deny that they provide morally relevant agent-relative reasons, or deny that the reasons of this type that they do provide are of sufficient strength to make it permissible for individuals to pursue their projects in preference to acting in ways that are *substantially* superior, from the impersonal perspective, to doing so.

Our reflections here have only begun to suggest the sort of direction that Moderates must move in if they hope to develop a more structured and plausible view than they have so far been able to.

We have, however, made enough progress to begin to consider whether the sort of principles that Moderates must endorse might have the implications that they must if the Moderate is to succeed in defending Moderation about Demands. This question will occupy us in the following two chapters.

Chapter Two

Justice and the Moderate View of Morality

We saw in the previous chapter that Moderates about morality and its demands seek to articulate a view on which two fundamental claims are accepted and integrated. The first of these claims is that all individuals, and all individuals' interests, are equally morally important. The second is that each person's interests, and in particular each person's interest in pursuing and maintaining the projects, plans, relationships, and commitments that are most important to her, have a degree of significance from her personal standpoint that exceeds their importance from the impersonal standpoint. By integrating the second claim into their thinking about morality's demands, Moderates seek to defend the view, which we have called Moderation about Demands, that in circumstances like ours, much of the ordinary behavior of typical well-off individuals is permissible. For example, Moderates claim that many of the ways in which typical well-off individuals employ their free time and discretionary income are permissible, despite the fact that they are impersonally non-optimal. In order for this defense to succeed, it must be the case that the Moderate's principles, properly applied, yield the conclusions that she favors about the permissibility of much of the conduct of typical well-off individuals. That is, the defense requires that the most plausible account of what we have called Moderation about Principles have the implication that Moderation about Demands is true.⁸⁷

Susan Wolf highlights the fact that it is far from clear whether the view articulated by Scheffler in *Human Morality*, which she interprets as primarily a view about the kind of moral *principles* that we should accept, can avoid the Extremist implications about morality's *demands* that Moderates seek to reject:

Scheffler himself links the moderate/stringent distinction with the theoretical issue of whether the interests of the agent can count for more than the interests of others in the determination of what is morally permissible. But, depending on a.) the way in which an agent's interests are to count for more, b.) the degree to which they are to be disproportionately weighted and c.) the theory of an agent's (real) interests that the relevant conception of morality endorses, a moral system that embraces this criterion of moderation can be enormously demanding in concrete terms.⁸⁸

In much of the previous chapter we attempted to determine how a plausible Moderate view would address Wolf's points a.) and c.), among other concerns relevant to the structure of such a view. In this chapter we will focus on constraints on the sort of answer to Wolf's point b.) that

⁸⁷ Recall that Moderation about Principles says that the correct moral principles must not require individuals to always act in ways that take everyone's interests equally into account. Further references to Moderation about Principles should be understood to refer more specifically to views about the correct moral principles that attempt to integrate the equal moral importance of everyone's interests with the fact that each person's interests have a disproportionate significance for her. Thanks to Julia Nefsky for pointing out the need to clarify this point.

⁸⁸ "Moral Judges and Human Ideals: A Discussion of *Human Morality*," *Philosophy and Phenomenological Research* 55 (1995): 957-62, p. 958.

Moderates may have to accept, and ask whether accepting such constraints leaves room for a defense of Moderation about Demands.

Our central aim in this chapter, then, will be to begin to consider whether the Moderate can successfully defend Moderation about Demands, on the assumption that Moderation about Principles is true. In particular, we will consider whether the typical commitments of Moderates regarding the requirements of justice, which seem to follow from Moderation about Principles, are compatible with accepting Moderation about Demands.⁸⁹ Plausible views about the requirements of justice of the sort that Moderates are likely to accept will clearly have among their implications that societies such as the United States are seriously unjust. This presents a challenge to the defender of Moderation about Demands, which will be the focus of much of this chapter, as well as the following chapter. The challenge consists in the need to reconcile the view, deriving from the requirements of justice, that the interests of the victims of existing injustice must be promoted in order that justice is achieved, with the view, deriving from Moderation about Demands, that at least most of the individuals who are well-off in the current unjust state of affairs are not morally obligated to do very much more than they currently do to promote the interests of the victims of existing injustice. If the Moderate cannot successfully respond to this challenge, then she will be forced to give up either her commitment to the sort of view about the requirements of justice that Moderates tend to accept (which would, it seems, amount to giving up Moderation about Principles in favor of what we might fairly describe as a kind of Minimalism about Principles), or to give up Moderation about Demands.

I. The Moderate's Moral Principles

Before we consider in more detail the challenge that the Moderate faces, it will be helpful to recall some of the key features of the sort of principles that we concluded Moderates must endorse if they are to develop a successful defense of Moderation about Demands. We saw, first, that Moderates claim that morality permits individuals to give their own interests weight that is disproportionate to their importance from the impersonal standpoint. We also saw that this claim is only plausible if we adopt a view of what is in one's interest on which only certain projects⁹⁰ that individuals might adopt are such that, if one adopts them, then it is in her interest to continue to pursue them. In particular, projects that necessarily or constitutively involve harming and/or intending to harm others cannot be such that it is in one's interest to pursue them, even if one has adopted such a project and substantially structured one's life around it. This suggests that Moderates should hold that only projects that are objectively valuable are such that, if one adopts them, it is in her interest to continue to pursue them.⁹¹ If this claim is accepted,

⁸⁹ Jamie Mayerfeld suggests an alternative strategy for challenging the view that Moderation about Principles and Moderation about Demands are compatible. After suggesting that our ordinary moral thought reflects a lack of "an adequate recognition of the badness of suffering," Mayerfeld suggests that a moral view that does take sufficiently seriously the badness of suffering might "permit...some bias in favor of our [own] interests. But if so, the bias permitted is much less than what is permitted by commonsense morality" (*Suffering and Moral Responsibility* (New York: Oxford University Press, 1999, p. 213)).

⁹⁰ Throughout the remainder of this chapter we will use the term 'project[s]' to refer to agents' projects, plans, relationships, commitments, and any other category of personal attachment that Moderates might claim give rise to morally relevant agent-relative reasons.

⁹¹ There may be additional constraints on when the continued pursuit of a project that one has adopted is in one's interest that must be accepted in order to make the Moderate's account plausible. For example, the Moderate may need to claim that it can only be in one's interest to continue to pursue certain kinds of objectively valuable projects, such as that of becoming a professional musician, if one has a reasonable chance of succeeding. An account of one's interests that lacks this constraint, when combined with the view that individuals are permitted to

then the Moderate can say that many of the projects pursuit of which she is inclined to think permissible are such that, when agents adopt them, they give rise to morally relevant agent-relative reasons that function to counterbalance the weight of agent-neutral reasons, which will often militate against the continued pursuit of such projects and in favor of the pursuit of impersonally superior aims, such as the relief of serious suffering or the promotion of justice.

The most plausible version of Moderation about Principles, then, says that agents are permitted to act in ways that deviate from what would be required if only agent-neutral reasons were morally relevant when, and only when, the morally relevant agent-relative reasons that they have to pursue the projects that they have adopted are strong enough to sufficiently counterbalance the weight of the agent-neutral reasons to, for example, relieve serious suffering or promote justice.⁹² In order to sufficiently counterbalance the weight of the agent-neutral reasons, the morally relevant agent-relative reasons must be such that the agent's adoption of and commitment to the relevant project makes the pursuit of the project at least as important, given all of the reasons relevant to determining the agent's moral obligations, as all of the impersonally better alternatives that are available to the agent.

A successful defense of Moderation about Demands must show that it is plausible to think that, in circumstances like ours, it is often the case that the projects of typical well-off people give rise to morally relevant agent-relative reasons that sufficiently counterbalance the weight of the agent-neutral reasons that they have to pursue all of the impersonally better alternatives that are available to them. Making this claim plausible requires showing that it is consistent with the claim, which Moderates are committed to accepting, that each individual is, and each individual's interests are, equally morally important.

It is widely accepted by Moderates and others that the claim that all individuals, and their interests, are equally morally important implies that the requirements of *justice* must be understood impartially. It is a relatively uncontroversial requirement of justice, then, that each person's interests must be *equally* taken into account, in whatever sense justice requires the interests of individuals to be taken into account.⁹³ Because Moderates accept that the

give their own interests weight that is disproportionate to their importance from the impersonal standpoint, is likely to be unacceptably Minimalist. It would, for example, be clearly wrong for me to spend many thousands of dollars trying to develop my musical abilities in the hope of becoming a rock star, given that this effort is sure to fail, and that I could use the money instead to help relieve serious suffering or promote justice. This seems true even if it would be permissible for me to spend the same amount of money to pursue my musical ambitions if I were reasonably likely to succeed.

⁹² As was suggested in footnote 88 above, the term 'project' is here meant to capture a rather broad range of personal pursuits and attachments. Many pursuits that are not in any ordinary sense "projects" are, on the view that we are considering, at least candidates for giving rise to morally relevant agent-relative reasons. For example, one may have such reasons to go see a movie that one thinks she will enjoy, even if attending movies is not a "project" in the ordinary sense for her.

⁹³ Of course there are many views about how the requirement that each individual's interests are taken equally into account should be understood; as Samuel Freeman rightly points out, "to say we ought to give equal consideration to everyone's interests does not, by itself, imply much of anything about how we ought to proceed or what we ought to do" ("Utilitarianism, Deontology, and the Priority of Right," *Philosophy and Public Affairs* 23 (1994): 313-49, reprinted as Chapter 2 of *Justice and the Social Contract: Essays on Rawlsian Political Philosophy* (New York: Oxford University Press, 2007), p. 61 (this and all subsequent page references are to the reprinted version). The requirement to give everyone's interests equal consideration does, it seems to me, eliminate a range of possible views about what justice might require; it does not, however, by itself provide us with any way to decide between the views that are not so eliminated. Examples of views about how individuals' interests ought to be taken into account include, of course, utilitarianism. Other views can be found in John Rawls, *A Theory of Justice, Revised Edition* (Cambridge: Harvard University Press, 1999); Ronald Dworkin, "What is Equality? Part Two:

requirements of justice must be understood impartially, a significant part of the task that they face in attempting to define and defend their view involves showing that the permissions to pursue one's projects that they favor are, given our current circumstances, consistent with the requirements of impartial justice.⁹⁴ Before we begin to consider whether the Moderate can show such permissions to be consistent with the requirements of justice, it will be helpful to define more clearly than we have so far what, for our purposes, the requirements of impartial justice that the Moderate is committed to are.

II. The Requirements of Justice

Given that Moderates accept that all individuals, and their interests, are equally morally important, and that justice must therefore be understood impartially, it is natural to think that Moderates are committed to some sort of strongly egalitarian account of the requirements of justice, and in particular of *distributive* justice.⁹⁵ It is true that many Moderates are attracted to rather egalitarian views of distributive justice, and the problem that is our central concern in this chapter is particularly acute for such Moderates.⁹⁶ For our purposes, however, it is not necessary to attribute to Moderates a commitment to a strongly egalitarian view of the requirements of justice. A significantly weaker commitment, which it is difficult to imagine any Moderate rejecting, is enough to generate the problem with which we are concerned.⁹⁷ If it can be shown that the Moderate view cannot be made consistent with even this weaker commitment regarding the requirements of justice, then to the extent that one is attracted to more strongly egalitarian requirements of justice, one ought to be led toward greater skepticism about the Moderate view.

Equality of Resources," *Philosophy and Public Affairs* 10 (1981): 283-345, reprinted as Chapter 2 of Dworkin's *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge: Harvard University Press, 2000); G.A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906-44; and Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 55 (1989): 77-93.

⁹⁴ It is important to keep in mind that it is not enough for Moderates to show that the pursuit of the projects that they think permissible would be consistent with the requirements of justice in a society (or world) that has already achieved justice and established effective mechanisms for maintaining it. This is a view that Extremists will likely accept, but it has no implications for what is permissible in circumstances like ours, in which substantial injustice prevails.

⁹⁵ We will, for the sake of brevity, use the term 'justice' in the remainder of this chapter to refer exclusively to distributive justice. Other requirements of justice may be subject to a problem similar to that which we will consider with respect to distributive justice. We will not, however, explore that possibility here.

⁹⁶ Nagel says that he is "drawn to a strongly egalitarian social ideal" (*Equality and Partiality*, p. 63), and that he "might even defend something more egalitarian than priority to the worse off [that is, Rawls's view]" (p. 121). But, due to the fact that he is also attracted to significant limits on morality's demands (as we saw in the previous chapter), along with skepticism about the prospect that human psychology can be made compatible with egalitarian social arrangements, he says that he "do[es] not see how to embody [a strongly egalitarian social ideal] in a morally and psychologically viable system" (p. 63). While Nagel's central concern is whether it is possible to develop a set of social and political institutions that could maintain an egalitarian distribution in a morally acceptable and psychologically plausible way, he is very much aware of the potential conflict between commitment to egalitarianism, given a substantially non-egalitarian status quo, and commitment to Moderation about Demands. In the end, however, he neither claims to have shown the two commitments to be compatible nor endorses a view about which commitment we should abandon if they are indeed incompatible.

⁹⁷ Speaking of the sort of "sufficientarian" view that we will assume that the Moderate is committed to, Paula Casal says that "except among Hobbesians and libertarians, it is increasingly difficult to find views that do not accept *some* version of the...thesis, at least as a statement about domestic political morality" ("Why Sufficiency is Not Enough," *Ethics* 117 (2007): 296-326, p. 299).

Any account of the requirements of distributive justice that takes seriously the fact that everyone, and everyone's interests, are equally morally important must, at the very least, entail that it is unjust if some people in a society, through no fault of their own, have lives that are avoidably lacking in certain basic goods.⁹⁸ A plausible account of the relevant basic goods must include at least the following: adequate food, shelter, clothing, health care, and education.⁹⁹ And insofar as justice requires that everyone have access to adequate quantities of these basic goods, it will require either that everyone have sufficient funds to purchase them, or that access to them is reliably provided in some other way.

What counts as "adequate" with regard to at least some of these goods will sometimes depend in part on the total stock of resources available in the relevant society. This claim does not, as some might suspect, unfairly stack the deck against the Moderate by implicitly assuming a strongly egalitarian view of the requirements of justice. The Moderate will, after all, accept that it is clearly unjust if, for example, some individuals have easily affordable access to the best modern health care available, while others have no access to care at all, or are forced to pay astronomical rates for emergency room visits whenever they require care; or if some can send their children to expensive private primary schools to receive a high quality education, while others are forced to send their children to failing public schools with little hope that they will be adequately prepared for college or stable, fulfilling employment.¹⁰⁰ Education and health care are examples of goods the just distribution of which seems to preclude at least extreme inequalities, because the opportunities that one has to successfully pursue a wide range of other goods depends not only on the quantity and quality of these goods that one has access to, but also on the relative degree of one's access to them in comparison to others. If a society only has the

⁹⁸ We will confine the current discussion to individual societies in order to avoid the question whether there are requirements of justice that apply across national borders. For those who are both attracted to Moderation about Demands and think that we have any moral obligations to those outside our national borders that go beyond an obligation not to actively harm such people (and perhaps even if we think our obligations are limited to not harming them; see Onora (Nell) O'Neill, "Lifeboat Earth," *Philosophy and Public Affairs* 4 (1975): 273-92, and Thomas Pogge, *World Poverty and Human Rights: Cosmopolitan Responsibilities and Reforms* (Malden: Polity Press, 2002), pp. 18-26, and "Moral Universalism and Global Economic Justice," *Politics, Philosophy, and Economics* 1 (2002): 29-58, reprinted as Chapter 4 of *World Poverty and Human Rights*, pp. 115-17; this and all subsequent page references are to the reprinted version), a version of the problem that is our central concern in this chapter arises, even if it is conceded that, strictly speaking, there are no requirements of *justice* that apply across national borders. And since it is difficult to imagine anyone who is committed to the view that everyone, and everyone's interests, are equally morally important denying that we have any positive duties to those beyond our national borders, this is clearly a problem that at least nearly all Moderates face. I intend to consider what sort of transnational obligations might be implied by Moderation about Principles elsewhere.

⁹⁹ This list is rather minimal. Some additional goods that could plausibly be added include employment opportunities, leisure time, and what Rawls refers to as the "social bases of self-respect" (*A Theory of Justice*, p. 54), among others.

¹⁰⁰ By attributing these views to the Moderate, I assume that she will reject certain views about what justice requires, for example that of Robert Nozick in *Anarchy, State, and Utopia* (New York: Basic Books, 1974). Most Moderates will surely reject Nozick's view, since it is incapable of plausibly accounting for the requirement that justice treat each individual's interests as equally important. That is, it seems that Moderates are precluded from endorsing Nozick's view in virtue of their commitment to Moderation about Principles. A Moderate who is convinced by Nozick's argument against the legitimacy of state involvement in ensuring that everyone's share of resources meets the minimum standard required by justice must assign the responsibility for doing so entirely to the individuals with shares above that minimum. This sort of view is quite unattractive, however, since it mandates that outcomes required by justice be pursued in a way that is substantially less efficient and substantially less likely to be reliable over time than the rejected alternative.

resources to educate all of its children until age 12, and all children up to that age have access to roughly the same quality of education, then surely the distribution of education is not unjust. But if a society is such that some children have access to high quality education until age 18, while others are limited to a much lower quality of education, and are only able to pursue it until age 12, then the distribution of education is clearly unjust. The disadvantaged children will in effect be precluded from the pursuit of a wide range of valuable goals, almost certainly including the pursuit of the most sought after and desirable jobs in the society. Any society with this degree of inequality of opportunity is surely unjust.¹⁰¹

The case for thinking that substantial inequalities in the distribution of the other basic goods (food, shelter, and clothing) are necessarily unjust is less immediately compelling. After all, if I have sufficient clothing to keep me warm, sufficient nourishing food to eat, and a reasonably comfortable place to live, there is no obvious reason to think that it is problematic if others have closets full of designer suits, standing reservations at a number of fine restaurants, and a much bigger and more expensively furnished home.¹⁰² We might think, then, that as long as both the quantity and quality of these goods that everyone has exceeds some minimum standard, it is not unjust if some have more and/or better, and even much more and/or better, than others.¹⁰³

Even if this is true, however, a reasonable account of the minimum standard that everyone's share must exceed will surely be much greater than the share that many individuals in, for example, the United States, actually have.¹⁰⁴ Harry Frankfurt, in discussing how much money one must have in order to meet the standard of sufficiency that he endorses, says that

It is essential to understand that having enough money differs from merely having enough to get along, or enough to make life marginally tolerable... The point of the

¹⁰¹ Note that this a *much* weaker claim than that made by those, such as Rawls, who believe that justice requires "fair equality of opportunity"; see *A Theory of Justice*, pp. 63, 72-3. To the extent that one finds the requirement of fair equality of opportunity a plausible requirement of justice, the injustice of the distribution of education described should seem even more obvious.

¹⁰² For an argument that those with sufficient resources to live a satisfying life make a mistake if they demand a greater share of society's resources on the ground that their current share is less than that of others, see Harry Frankfurt, "Equality as a Moral Ideal," *Ethics* 98 (1987): 21-43, reprinted as Chapter 11 of *The Importance of What We Care About* (New York: Cambridge University Press, 1988); all subsequent page references are to the reprinted version. Frankfurt does not explicitly claim that economic inequalities are not unjust, but he does claim that "[t]he prevalence of egalitarian thought... tends to divert attention from considerations of greater moral importance than equality" (p. 137). The main such consideration that Frankfurt discusses is ensuring that all individuals have enough to live a satisfying life.

¹⁰³ There are other goods that I have not included among the basic goods, but which plausibly are such that justice requires that everyone have access to them. These are goods that are, like education, necessary for the opportunity to pursue certain valuable goals, such as fulfilling employment, given the current conditions of one's society. One candidate for such a good in our own society is Internet access. The "digital divide" – that is, the gap in access to the Internet and other information technology – is regarded by many as unjust in virtue of the fact that those lacking access to the relevant technology are seriously disadvantaged with regard to their opportunities to achieve certain extremely important goals, such as getting into top colleges and, relatedly, getting certain highly desirable jobs.

¹⁰⁴ There are, I think, good reasons to reject this sort of account of the requirements of justice, and to endorse a more egalitarian alternative. For our purposes, however, it is not necessary to commit ourselves to a view about the requirements of justice that calls for greater deviation from the status quo than the view that we are currently considering.

doctrine of sufficiency is not that the only morally important distributional consideration with respect to money is whether people have enough to avoid economic misery. A person who might naturally and appropriately be said to have just barely enough does not, by the standard invoked in the doctrine of sufficiency, have enough at all.¹⁰⁵

A Moderate who endorses the sort of view about the requirements of justice that we have been considering is clearly committed to endorsing a minimum standard of the sort that Frankfurt proposes, rather than one on which it is consistent with justice if some have just enough food or clothing (or income that they need to purchase food or clothing) to avoid “misery.” No plausible interpretation of the requirement that justice equally account for the interests of everyone is consistent with the latter view. This suggests that with respect to even the basic goods of food, clothing, and shelter, it will sometimes be the case that as a society’s total stock of resources increases, the minimum that justice requires everyone to have will increase. For example, if a society that formerly had little more than rice among its total stock of food comes to have enough of a wide range of food products available to supply everyone with a healthier and more desirable diet, it is surely unjust if some people continue to have access to little, if anything, more than rice. Even on a view of justice that requires only that everyone’s share of basic goods exceeds some minimum standard, then, it will not be the case that any society that is just at one time need never provide everyone with more than the minimum that is provided at the time that the society is just. Sometimes increases in the total stock of resources available can raise the minimum standard with respect to some, or all, of the relevant goods.

The rough view about the requirements of justice sketched here demands the least radical transformation of the status quo of any view that is even remotely available to the Moderate, and of any view that most Moderates would in fact be at all inclined to endorse.¹⁰⁶ No one who accepts that justice requires that everyone’s interests are equally taken into account could accept that it is consistent with justice for some to be without the resources necessary to live a fulfilling life, so long as there are sufficient resources to provide everyone with enough to meet that standard.¹⁰⁷

Given that our society clearly possesses sufficient resources to provide everyone with enough to live a fulfilling life,¹⁰⁸ Moderates are committed to thinking that it is unjust if some do

¹⁰⁵ “Equality as a Moral Ideal,” p. 152.

¹⁰⁶ In fact, most Moderates surely endorse views about the requirements of justice that demand substantially more radical transformations of the status quo.

¹⁰⁷ Those who interpret the requirement that everyone’s interests must be equally taken into account in a utilitarian manner must allow that it is at least conceivable that justice could not only permit, but in fact require that some are left below the minimum standard for a fulfilling life, if more utility could be produced by allotting the resources that could bring them above that standard to others who are already above it. But in practice this is extremely unlikely, given the strong tendency for resources such as income to exhibit diminishing marginal utility (for discussion, see Nagel, *Equality and Partiality*, p. 65). Utilitarians, then, should (and do) agree with those who hold more explicitly egalitarian views about the requirements of justice that, in the actual world, distributions in which some fall below the minimum standard necessary for a fulfilling life, while others are significantly above it, are clearly unjust.

¹⁰⁸ I do not mean to suggest that having enough of the basic goods is sufficient for living a fulfilling life, nor that justice requires that everyone in fact have a fulfilling life. Some people will not have fulfilling lives even if they have substantially more than the minimum share of the basic goods that justice requires, and this is, at least in many cases, clearly not unjust. For discussion of this issue with regard to money in particular, see Frankfurt, “Equality as a Moral Ideal,” p. 153. Having a sufficient share of the basic goods is, however, generally a necessary condition for having a fulfilling life, and this fact helps to explain why justice must require that everyone have such a sufficient share. For a helpful discussion of this issue as it relates to individual duties to others, see Joseph Raz,

not have a share of the basic goods that meets that minimum standard. And given a plausible view about what minimum standard we should think is required, it is clear that many millions of people in our own society currently fall below the standard, and that at least some, perhaps a rather significant proportion, do so through no or little fault of their own.

In order to see this more clearly, it will be helpful to consider some relevant statistics. According to the U.S. Census Bureau, the poverty rate in the United States in 2008 was 13.2 percent, and 39.8 million people were in poverty.¹⁰⁹ In addition, the poverty line was \$11,201 in income for a single individual (\$10,326 for individuals over age 65), \$14,051 for a couple, \$14,840 for a single parent of one child, and \$17,330 for a couple with one child.¹¹⁰ These figures should strike us as remarkably low, much lower than the minimum threshold that justice must require. After all, individuals with only \$11,201 in income are extremely unlikely to have the resources necessary to achieve a fulfilling life, and couples with a child who have only \$17,330 are, I suspect, even less likely to meet that standard. At best, they will have enough to avoid what Frankfurt calls “economic misery.”¹¹¹ This suggests that the number of people who fall below the minimum standard that justice requires is *significantly higher* than the 39.8 million who fall below the official poverty line.

It is instructive to contrast the meager incomes of those below the poverty line, and the somewhat less meager incomes of those who are above it but below the minimum standard that justice requires, with the relevant per capita figures for the U.S. in 2008. According to the Central Intelligence Agency, the U.S. Gross Domestic Product per capita in 2008 was \$48,000,¹¹² and the Bureau of Economic Analysis at the U.S. Department of Commerce reports that per capita personal income was \$40,166.¹¹³ So long as we assume, rather plausibly, that the minimum standard required by the view of the requirements of justice that we have outlined can be met with substantially less than \$40,000 in income, it is clear that the resources available to us are more than sufficient to provide everyone with enough.

We should note that some will object that attempts, whether by the state or by individuals using their own resources, to achieve a distribution that provides enough to everyone will reduce the total stock of resources (both money and otherwise) available, and therefore limit our ability to provide enough to everyone. This may be true, but in itself it is of questionable relevance with regard to the requirements of justice.¹¹⁴ No plausible view of the requirements of justice, and in particular no view that requires that everyone’s interests are equally taken into account, could require that we simply maximize the total stock of money, or of money and certain other

“Duties of Well-Being,” in *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (New York: Oxford University Press, 1995).

¹⁰⁹ “Poverty: 2008 Highlights.” 12 Apr. 2010 <<http://www.census.gov/hhes/www/poverty/poverty08/pov08hi.html>>

¹¹⁰ “Poverty Thresholds for 2008 by Size of Family and Number of Related Children Under 18 Years.” 12 Apr. 2010 <<http://www.census.gov/hhes/www/poverty/threshld/thresh08.html>>. A table specifying the poverty lines for households of differing total sizes and with differing numbers of dependent children is available on this site.

¹¹¹ “Equality as a Moral Ideal,” p. 152.

¹¹² “The World Factbook.” 12 Apr. 2010 <<https://www.cia.gov/library/publications/the-world-factbook/geos/us.html>>

¹¹³ “State Economic Profiles.” 12 Apr. 2010 <<http://www.bea.gov/regional/spi/action.cfm>>

¹¹⁴ For discussion of this issue, see G.A. Cohen, *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), Chapters 1 and 2.

resources, available in society.¹¹⁵ A lower total stock of resources that is distributed in a way that provides enough to everyone will, for example, almost certainly produce greater total utility than a greater stock distributed in a way that leaves many below the minimum standard required by the view of justice that we have outlined; utilitarians, then, should sometimes (perhaps often) favor a distribution that includes a lower total stock of resources (assuming that it is true that distributions with less inequality will often include a lower total stock of resources than distributions with more inequality). In addition, those who hold views on which the requirement that everyone's interests are equally taken into account is not interpreted in a utilitarian manner (examples include the minimum standard view that we have been considering, as well as Rawls's Difference Principle) are even more likely to be committed to favoring distributions that include a total stock of resources that is lower than the maximum possible stock (again, assuming that allowing greater inequality can reduce the total stock of resources produced).

This suggests that unless any attempt to achieve a distribution that provides enough to everyone would result in a very significant reduction of the total stock of resources available – that is, a reduction that is either significant enough to prevent us from actually having sufficient resources to provide enough to everyone, or perhaps significant enough to require extremely great reductions in the resources available to the better-off in order to achieve modest gains for those currently below the minimum standard – the Moderate is committed to thinking that justice requires that we achieve a distribution in which everyone has enough. And since it is implausible to think that pursuing such a distribution will very substantially reduce the total stock of resources available, it seems that the Moderate is committed to thinking that, in our actual circumstances, justice does in fact require that we achieve a distribution in which everyone has enough.

It is clear, then, that the Moderate should think that our society is unjust. Indeed, given the significant poverty rate, and the fact that many above it do not, according to the relevant standard, have enough, it seems that the Moderate is committed to thinking that our society is *extremely* unjust.¹¹⁶ This should not be particularly surprising. Most Moderates do in fact believe that our society is unjust. But the specific implications of this widely recognized injustice with regard to the moral obligations of the well-off have not, it seems to me, been carefully enough explored. Our next task is to begin to explore this vitally important issue.

III. Injustice and Obligation

The difficulty that the Moderate faces is that her position seems to generate an internal inconsistency. She begins by endorsing Moderation about Principles, believing that this commitment can be shown to yield Moderation about Demands. But because Moderation about Principles includes the proposition that everyone, and everyone's interests, are equally morally important, she is led to a view of the requirements of justice that requires, at the very least, that

¹¹⁵ Those who argue against redistributive policies on the ground that enacting them will, for example, reduce Gross Domestic Product, then, appeal to a fact that is of no intrinsic significance on any plausible view of what justice requires. For a related point see Jeremy Waldron, "The Primacy of Justice," *Legal Theory* 9 (2003): 269-94, pp. 276-8.

¹¹⁶ Note that those who are inclined to think that justice requires more than that everyone's share of resources exceed the sort of minimum standard that we have been considering should think that our society is *even more* unjust. This is particularly true of those with egalitarian sympathies, given the extraordinarily high shares of income and wealth enjoyed by the richest few percent of individuals in our society, as well as the substantial gap between the incomes of the poorest segments of the population and those whose incomes fall near the average.

everyone have a share of resources that meets a plausible minimum standard. Because the current distribution in our society is such that many millions of people have shares that fall below the minimum standard – and a significant number of these people have shares that fall *far below* that standard – the Moderate is committed to thinking that the current distribution is extremely unjust, and therefore must be altered substantially. This suggests that there must be a set of obligations such that, if they were all met, the current distribution would be transformed into a just distribution, that is, a distribution in which everyone’s share of resources at least meets the minimum standard.¹¹⁷ But Moderation about Demands says that much of the behavior of the well-off, including the decisions that they make about how to use their current shares of resources, is morally permissible. If such behavior is morally permissible, then those who engage in it violate no obligations. But if those who possess shares of resources that far exceed the minimum standard are generally not obligated to employ those resources in ways that promote justice, for example by transferring them to those who fall below the minimum standard, or to organizations that effectively aid those who fall below the standard, then it is at least initially unclear where the obligations to eliminate existing injustice might lie.¹¹⁸

In order to see more clearly the internal tension that seems to afflict the Moderate view, it will be helpful to consider a relatively simple example.¹¹⁹ Suppose that a society consists of ten people, and that the society has a total stock of resources amounting to 50 units. The distribution of these units is as follows:

A has 1 unit
B and C have 2 units
D and E have 3 units
F and G have 7 units
H and I have 8 units
J has 9 units

Suppose that the minimum standard that justice requires everyone to have in this society is 4 units. In order for justice to be achieved, then, it is clear that those who currently have more than 4 units must sacrifice some of what they have in order to ensure that the others have enough to meet the minimum standard. The only way for everyone to have enough is for at least some of those who currently have more to give up some of what they have. Now suppose that those with more are not in the habit of using any of their resources to improve the conditions of those with less, and that prevailing common-sense morality in their society suggests that by using significant portions of their resources instead to pursue the projects that are most important to them, they do not violate any moral obligations. This society’s analog of Moderation about Demands, then, says that the better-off are not obligated to do much more than they currently do to improve the conditions of those who have fewer than 4 units. The proponent of Moderation about Demands, then, might suggest that all of those who have more than 4 units ought to

¹¹⁷ We will examine this claim in more detail later in this and in the following chapter.

¹¹⁸ In Chapters Four and Five we will consider whether these obligations can be assigned to institutions, and in particular the institutions of what Rawls calls the “basic structure of society,” (*A Theory of Justice*, pp. 6-9, 47-9; see also *Justice as Fairness: A Restatement*, ed. Erin Kelly (Cambridge: Harvard University Press, 2001), pp. 10-12), rather than to well-off individuals.

¹¹⁹ In the following chapter we will consider whether this example presents a set of circumstances that is sufficiently similar to our actual circumstances to warrant drawing conclusions about our obligations in the actual world that are similar to those that we will be led to draw about the obligations of the better-off in the example.

sacrifice 1 unit in order to improve the conditions of those who have less, rather than persist in their existing practice of sacrificing nothing (after all, Moderation about Demands says only that morality is not *much more* demanding than prevailing common-sense morality suggests; this is consistent with its being *mildly* more demanding). But notice that even if all five of those who have more than 4 units sacrifice 1 unit, there will still not be enough to bring all of those who have less than 4 up to that minimum standard.¹²⁰ In order to have enough for that purpose, F, G, H, I, and J would have to sacrifice another 4 units between them. But any requirement that some (or all) of them sacrifice more than 1 unit would, it seems, conflict with Moderation about Demands. At the same time, the lack of such a requirement seems inconsistent with accepting that justice really does require that everyone's share of resources meet the relevant minimum standard.

The problem that the Moderate faces should now be clear. One way to understand how the problem arises is to recognize that Moderation about Demands seems to limit the degree of deviation from the status quo that can be required, since it limits the amount of sacrifice relative to the status quo that can be required of well-off individuals. Moderation about Principles, however, seems to imply a view about the requirements of justice that demands a very significant transformation of the status quo, that is, a transformation that far exceeds what could be required on the assumption that Moderation about Demands is true.

If Moderation about Demands were true, then in our example each of F, G, H, I, and J could legitimately deny that they are obligated to do much more than they currently do to improve the condition of those whose shares of resources fall below the minimum standard required by justice. But if each of their claims to not be obligated to contribute much more than they are in the habit of contributing were true, then injustice could persist despite the fact that all of those with shares that exceed the minimum standard have fulfilled their obligations in respect of justice. This, however, conflicts with a principle, which we will call *Injustice entails Obligations*, that seems extremely plausible:¹²¹

Injustice entails Obligations: The existence of injustice entails the existence of unfulfilled obligations to contribute to the elimination of injustice.

It is difficult to see how this principle could be denied. After all, when we say that something is unjust, it seems that part of what we mean is that it ought to be otherwise.¹²² In particular, to say that a *distribution* is unjust is to say that the relevant resources should be distributed in a manner

¹²⁰ Such a sacrifice would yield only 5 units to be distributed among A, B, C, D, and E. It would, however, require 9 units to bring all of them up to the minimum standard of 4.

¹²¹ I am inclined to think that this principle is not only extremely plausible, but that it is a conceptual truth. I do not deny that people often refer to states of affairs as 'unjust' without believing that there are any agents who are under an obligation to act in ways that will contribute to remedying the alleged injustice, either because the state of affairs cannot be remedied (for example, one might say that it is unjust that a person has become paralyzed, especially if her paralysis was caused by the actions or negligence of others), or because they believe it would be unfair or unacceptably demanding for any agent to be under such an obligation. I believe, however, that terms such as 'unjust' and 'injustice' are misapplied in such cases, and that what is often meant when they are used is simply that the state of affairs is unfortunate or regrettable. For our purposes, however, I will not insist that such usage must always be, strictly speaking, mistaken, and so will not insist that the principle is a conceptual truth. Thanks to Niko Kolodny for a helpful discussion of this issue.

¹²² Rawls suggests this quite clearly when he says that "laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust" (*A Theory of Justice*, p. 3).

that differs from how they are currently distributed. And to say that something, for example a distribution, ought to be otherwise, is to say that there exist obligations to make it otherwise. Furthermore, to say that there are obligations to make something such as a distribution of resources otherwise entails that there are *subjects* of those obligations, that is, agents to whom the obligations apply. And in our example it seems clear that the only candidates for the agents to whom the obligations to eliminate the prevailing injustice apply are those whose shares of resources exceed the minimum standard that justice requires.¹²³ If, then, we are to maintain that justice requires that everyone's share of resources exceed a plausible minimum standard, which we have seen is a commitment that is implied by Moderation about Principles, we must, it seems, endorse a set of obligations that apply to the better-off that exceeds what Moderation about Demands allows. The Moderate view consisting of the conjunction of Moderation about Principles and Moderation about Demands, then, appears to be internally inconsistent. Moderation about Principles seems to imply Extremism about Demands, at least for (some of) those who are the beneficiaries of injustice in substantially unjust societies.

IV. The Concept of Justice

Before we examine the apparent inconsistency in the Moderate view more closely, it is important to say a bit about the concept of justice that is appealed to in Injustice entails Obligations.¹²⁴ First, the demands of justice are limited to what is under the voluntary control of agents. Dale Dorsey makes this point effectively, pointing out that the fact that

[a]ny society will have people with adolescent cancers or various genetic defects...is not a failure of justice. 'Justice' is a *normative* term properly ascribed to the actions and intentions of political actors. This is the key difference between 'unjust' and 'bad' or 'tragic'. Though adolescent cancers are surely tragic, they do not involve injustice insofar as they are beyond the reach of political action.¹²⁵

Although we might sometimes speak in ways that suggest that, for example, the fact that some children get cancer, or the occurrence of natural disasters, is itself unjust, the concept employed in such claims is distinct from that employed in Injustice entails Obligations.¹²⁶ There can, in the relevant sense, be nothing unjust about the mere occurrence of a natural disaster. This means that, in the immediate aftermath of such a disaster, it is not unjust if some people's shares of resources fall below the minimum standard required by justice (assuming that their share was at or above the minimum prior to the disaster). The fact that they have less than the minimum standard may, however, become unjust if others do not contribute sufficiently to ensuring that

¹²³ In the following chapter we will consider whether such obligations can be thought of as collective obligations that apply jointly to, for example, all of those with shares of resources that exceed the minimum standard required by justice, as well as whether such a view might be helpful to proponents of Moderation about Demands.

¹²⁴ Thanks to several members of the audience at a talk that I gave at the 2009 Berkeley/Stanford/Davis Graduate Student Conference, and in particular to Eugene Chislenko, for encouraging me to clarify this point, as it was made in the earlier formulation of this argument presented there.

¹²⁵ "Toward a Theory of the Basic Minimum," *Politics, Philosophy, and Economics* 7 (2008): 423-45, p. 427, italics in original.

¹²⁶ We might call the former "cosmic injustice," although that term has also been used by Elizabeth Anderson to refer to a slightly different phenomenon, namely the alleged injustice, which, according to some, demands compensation, of bad brute luck, such as being born "stupid, talentless, [or constitutionally] bitter" ("What is the Point of Equality," *Ethics* 109 (1999): 287-337, p. 288).

their shares return to a level that matches or exceeds the minimum standard.¹²⁷ Justice can require that those who were not negatively affected by a disaster contribute to improving the conditions of those who were, and failure to do so sufficiently can make the resulting state of affairs unjust.¹²⁸

While the implications of Injustice entails Obligations seem unproblematic with respect to the injustice that can be generated by the failure of agents to respond appropriately to natural disasters, other cases raise difficulties that may lead some to question whether we should accept the principle. Consider, for example, a case in which a person has become paralyzed due to an attack for which the perpetrator is fully morally responsible.¹²⁹ Since her paralysis was brought about by an action that was under the voluntary control of an agent (rather than by, for example, an untimely gust of wind that blew her over a cliff), we might think that the resulting state of affairs, in which she is paralyzed, is unjust. Of course justice will require that the perpetrator compensate the victim for causing her paralysis, perhaps by paying her a substantial sum of money. But we may think that even if such money is paid, the resulting state of affairs is still unjust, simply in virtue of the fact that the victim is paralyzed as a result of another's voluntary action. But since no one is in a position to cure the victim's paralysis, if the fact that she is paralyzed is itself unjust, then Injustice entails Obligations must be false, since there can be no obligations to contribute to eliminating an injustice that cannot be remedied.

In response to cases of this sort we can note, first, that it is plausible to deny that the state of affairs in which the victim is paralyzed is, strictly speaking, unjust in virtue of the fact that she is paralyzed, once the paralysis has occurred and is irremediable.¹³⁰ The concept of injustice, we

¹²⁷ Dorsey makes a similar point, and adds that, contrary to what Martha Nussbaum says about such cases, if in the aftermath of, say, a flood, there are not enough resources to ensure that everyone has a share that meets the minimum standard, justice cannot require that everyone have such a share. Nussbaum's view is that in cases in which it is not possible to ensure that everyone has a share that meets the minimum standard, "it becomes purely a practical question what to do next, not a question of justice. The question of justice is already answered: justice has not been fully done" (*Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard University Press, 2006), p. 175). Dorsey points out, however, that Nussbaum herself surely thinks that "there are right *and wrong* answers to these [practical] questions," and says that "[w]e should say...that answering these...questions correctly (however that might be) *is* what justice requires in tragic cases," since Nussbaum's view "requires a radical rejection of 'ought implies can'" ("Toward a Theory of the Basic Minimum," p. 428, italics in original). Dorsey seems to be relying here on the sort of considerations that we noted above in support of Injustice entails Obligations. For example, it would seem strange to say that a distribution is unjust if there are no better alternatives that could be brought about, and indeed if everyone involved has done exactly what he or she ought to do.

¹²⁸ This should be uncontroversial, at least for those who accept Moderation about Principles. The interests of those who suffer as a result of a natural disaster generate strong agent-neutral reasons to aid them, and these reasons can in turn generate obligations for the better-off to make sacrifices in order to help, in the same way that the reasons generated by the interests of a drowning child can ground an obligation to rescue her even at the cost of one's expensive clothes.

¹²⁹ Thanks to Niko Kolodny for raising the question whether the past actions of an agent can have caused an irremediable injustice that persists into the present.

¹³⁰ In his discussion of justice between generations, Rawls says that "the question of justice does not arise" when a situation is "unalterable," and suggests that therefore it is a mistake to think that there is any injustice in the fact that later generations will tend to benefit from the actions of, and thereby be better off than, earlier generations (*A Theory of Justice*, p. 254). Though the issue of justice between generations is importantly different from the issues involved in cases in which a person has suffered significant irreparable harm at the hands of another, if we take seriously Rawls's suggestion that unalterability is sufficient for rejecting any claim that the unalterable state of affairs is itself unjust, we should reject the challenge to Injustice entails Obligations presented by the latter sort of cases.

might think, can be correctly applied only to features of states of affairs that, going forward, can be altered through the voluntary acts of agents.¹³¹

It is not, however, necessary for us to deny that the concept of injustice can be properly applied to irremediable features of states of affairs in order to maintain what, for our purposes, is the important insight of Injustice entails Obligations. If we think that there are injustices that are irremediable, then we should simply reformulate the principle to say that the existence of *remediable* injustice entails the existence of obligations to contribute to the elimination of such injustice.¹³² Nothing of any significance is lost by accepting this reformulation.

A more substantive challenge to Injustice entails Obligations can be presented by those who believe that there are cases of remediable injustice that are such that there are no agents who, going forward, have an obligation to contribute to eliminating it. Imagine that one has a substantial portion of her possessions stolen by a thief, who proceeds to burn everything that she stole and then kill herself.¹³³ If the loss of the possessions stolen leaves the victim below the minimum standard of resources that justice requires, can other agents, who were not in any way responsible for her possessions being stolen, now be obligated to contribute to bringing her level of resources back up to the minimum standard? In other words, can the past wrongdoing of some increase the demands made by morality on others, by making it the case that they now have obligations that they would not have had if the wrongdoing had not occurred?¹³⁴

While it might initially seem unfair for the demands on innocent agents to increase as a result of the wrongdoing of others, on reflection it is clear that any view that denies that this is possible is unacceptably Minimalist, and therefore incompatible with Moderation about Principles. Any such view would, for example, imply that one is not obligated to incur any loss in order to rescue a child drowning in a pond if, rather than falling in accidentally, she was pushed in by another agent who was wrongfully trying to kill her. It would also imply that if someone who had been self-sufficient becomes paralyzed as a result of an attack and rendered unable to work, others are not obligated to contribute to providing her with an income that meets the minimum standard required by justice, even if the attacker is too poor to sufficiently satisfy this obligation herself, and even if the attacker is now dead. Since these are clearly unacceptable implications that will surely be rejected by both Moderates and Extremists, we must allow that the past wrongdoing of others can generate obligations that would not have existed had the wrongdoing not occurred. This is not surprising, since Moderation about Principles entails that everyone's interests are equally morally important. Since one's interest in having her life saved, or in having sufficient resources to live a satisfying life, is not weaker when those needs result from another's wrongdoing than when they result from natural events beyond anyone's control, others have just as much reason to contribute to aiding those whose needs result from wrongdoing as they have to aid those whose similar needs do not.

¹³¹ I find this view quite plausible, and it must be accepted in order to maintain that Injustice entails Obligations is a conceptual truth.

¹³² For ease of presentation, I will continue to employ the original formulation of the principle in the remainder of this chapter. Those who believe that there can be irremediable injustices should read the principle as limited to remediable injustice.

¹³³ Thanks to Niko Kolodny for raising this issue, and for suggesting a case of the sort that we are considering.

¹³⁴ For discussion of this question, see Liam Murphy, "The Demands of Beneficence," *Philosophy and Public Affairs* 22 (1993): 267-92, p. 281, and *Moral Demands in Nonideal Theory* (New York: Oxford University Press, 2000), pp. 112-15.

These considerations strongly suggest that Injustice entails Obligations ought to be accepted. The deprivations that constitute distributive injustice, especially on the relatively limited view of what justice requires that we have been operating with, are of substantial moral significance, and we have seen no reason to think that Moderation about Principles does not imply that those who can are obligated to contribute to eliminating such deprivations, whether they are the result of natural events or the wrongdoing of others.

A final point that we should note is that the concept of justice employed in Injustice entails Obligations assumes that injustice can be predicated of states of affairs, and indeed that, at least with respect to distributive justice, it is primarily states of affairs, that is, actual distributions of resources, that matter.¹³⁵ Of course a distribution can only be unjust if the features that allegedly account for its injustice (for example, that some people's shares of resources fall below a minimum standard) are such that agents could make it the case that the distribution lack those features.

It is important to keep in mind that the view that injustice can be predicated of states of affairs, even in combination with the view that it is primarily states of affairs with which distributive justice is concerned, does not imply that determining whether a state of affairs is just requires only that we consider facts about the state of affairs itself, and not, for example, facts about how the state of affairs came about. On the view of the requirements of justice that we have been considering, for example, it is a necessary condition of a state of affairs being just that everyone's share of resources meet the relevant minimum standard.¹³⁶ It is, therefore, a sufficient condition of a state of affairs being unjust that some people have shares that fall below that minimum standard. It need not, however, be a sufficient condition for a state of affairs being just that everyone's share of resources meet the relevant minimum standard. If the process by which this was achieved failed to meet certain standards that constitute further requirements of justice, then the state of affairs may not be just, despite the fact that it meets the necessary conditions for a just distribution. If, for example, A steals 4 units from I and 5 units from J, and proceeds to give 1 of the stolen units to each of D and E, and two to each of B and C, the resulting distribution may be unjust due to the process by which it was achieved, despite the fact that it meets the necessary condition for a distribution being just.¹³⁷

V. Conflicts of Projects and Justice

We have seen that Moderates are committed to the view that justice requires (at least) that everyone's share of resources meet a minimum standard. We have also seen that, given Injustice entails Obligations, this commitment is difficult to reconcile with Moderation about Demands. This apparent conflict between the pursuit of many projects and the requirements of justice has received relatively little attention from those who have been concerned to defend the

¹³⁵ For this view see Cohen, *Rescuing Justice and Equality*, p. 126 and Waldron, "The Primacy of Justice," pp. 277-80.

¹³⁶ One might, of course, hold a view on which it is not unjust if someone's share of resources falls below the minimum standard due to her own voluntary choices, that is, if she is somehow responsible for her lack of resources. I will omit this qualification in the remainder of our discussion. Because it is implausible to think that most of those in our society who fall below the relevant minimum standard are sufficiently responsible for their lack of resources, for our purposes nothing significant hangs on it.

¹³⁷ This issue, and several other important issues regarding the concept of justice, will be considered in greater detail in Chapter Four.

permissibility, or at least the substantial moral significance, of individuals' pursuit of their projects.¹³⁸

This lack of attention makes it somewhat difficult to determine how those who are attracted to the Moderate view might seek to defend Moderation about Demands from the threat posed by the apparent conflict between it and the requirement that injustice is eliminated. This difficulty is compounded by the fact that those who most persuasively defend Moderation about Principles, including Nagel and Scheffler, often seem deeply conflicted about either endorsing or rejecting Moderation about Demands.¹³⁹ While both are clearly motivated to defend Moderation about Principles by the thought that Extremism about Principles has implications that are unacceptably demanding,¹⁴⁰ they are also clearly aware of conflicts that are at least similar to the one that has been our focus in this chapter, and that may make Moderation about Demands untenable.¹⁴¹

While the ambivalence that both Nagel and Scheffler exhibit toward Moderation about Demands reflects both the degree to which they take seriously the impartial component of Moderation about Principles and the general complexity of the issues that are their concern, it also sits somewhat uneasily with what seem to be important features of their more general projects. For example, we noted that both are motivated to pursue a defense of Moderation about Principles by a conviction that Extremist views about the moral principles that we ought to accept have implications for what we are morally required to do that they believe are unacceptably demanding. In addition, an important reason that they find the implications of Extremism about Principles unacceptably demanding is that Extremist principles seem to imply that individuals are very often morally required to sacrifice the pursuit of their projects in order to advance impersonally superior aims, such as relieving serious suffering or promoting justice. The thought that the implications of the correct moral principles must be such that, even in circumstances like ours, it is often permissible for individuals to pursue their projects, seems at times to play an important role in Scheffler's thinking in particular.¹⁴²

¹³⁸ There has been much discussion of what we can call the Problem of Stability – indeed, this is Nagel's central concern in *Equality and Partiality*. This is the problem of determining what set of institutional arrangements might be devised that meet at least three crucial conditions. These conditions are: 1) that their development and persistence is compatible with general facts of human psychology; 2) that their existence is consistent with the pursuit of at least many of the kinds of projects that individuals are currently committed to, in particular relationships that include a significant commitment to partiality; and 3) that their existence serves to ensure a stable and substantially egalitarian distribution of resources. Our central concern, however, is with what we will call the Problem of Transition. This is the problem of accounting for the requirement that unjust states of affairs are transformed into just states of affairs, and adequately addressing it requires accepting a set of obligations such that, if they are all met, justice will be achieved.

¹³⁹ See also Cottingham's acknowledgment, despite his strong commitment to what he calls "partialism," that "it may... be true that many of us assign too much weight to [self-referential characteristics – that is, one's own projects, goals, and those to whom one has special relationships]" ("Partiality, Favouritism, and Morality," *Philosophical Quarterly* 36 (1986): 357-73, p. 373).

¹⁴⁰ See, for example, *The View From Nowhere*, p. 205 and *Human Morality*, p. 6.

¹⁴¹ See, for example, *The View From Nowhere*, pp. 206-7 and *Human Morality*, pp. 139-40. Fishkin also acknowledges the sort of conflict with which we are concerned, and suggests that resolving it in a way that avoids an unacceptably Extremist view about demands may require denying impartiality any role in our moral thinking. He notes, however, that such a wholesale rejection of the ideal of impartiality "would go to the heart of what has commonly been regarded as the constitutive features of morality itself" (*The Limits of Obligation*, p. 160).

¹⁴² The following passage is particularly illuminating: "within generous limits, morality makes room for personal projects and relationships. In ordinary circumstances, it is permissible for agents to develop and pursue a

In his argument for what he calls the “alternative construal of morality” (which is essentially what we have called Moderation about Principles), Scheffler appeals directly to the “commonsense view...that we may, within limits, devote disproportionate attention to those things that matter most to us.”¹⁴³ He adds that, outside of philosophy

Even when...questions [about the degree of personal sacrifice that morality requires] are discussed...the discussion almost always takes for granted the legitimacy of devoting disproportionate attention to one’s basic projects and commitments.¹⁴⁴

This claim clearly refers to discussions of the question what we – that is, *generally well-off people in our actual circumstances* – are morally obligated to sacrifice. Our “commonsense convictions about the moral legitimacy of disproportionate attention to one’s major projects, concerns, and commitments provide direct intuitive support for the alternative construal of morality,” according to Scheffler.¹⁴⁵ It is difficult to see how Scheffler could take our commonsense convictions about the legitimacy of our own pursuit of our projects and commitments to provide support for the alternative construal of morality if he had no inclination to also think that the alternative construal, properly understood, provides the basis of an explanation of the actual permissibility of our pursuit of at least many of our projects, in particular the ones that our common-sense convictions clearly take to be permissible. On the other hand, if the alternative construal, properly understood, has the implication, contrary to Moderation about Demands, that morality is in fact *much* more demanding than common-sense morality suggests, then it is difficult to see how our common-sense convictions about the permissibility of disproportionate attention to our projects could lend support to that construal.

By appealing to common-sense convictions that are at least somewhat closely linked to Moderation about Demands in his argument for the alternative construal, Scheffler seems to commit himself to a view about the demands on agents in circumstances like ours that is at least in the neighborhood of Moderation about Demands. But a bit later in the book he says the following, which is suggestive of the apparent conflict between the requirements of justice and Moderation about Demands which has been our central concern in this chapter:

The more unjust a society is...the greater the demands that morality makes of the individuals in it, and the narrower the range of morally acceptable pursuits that are likely to be open to a person. In a seriously unjust society, therefore, conflicts between moral requirements and the interests of the individual agent may be extremely difficult to avoid.¹⁴⁶

The thought that morality demands more of individuals, and in particular of the well-off, the more unjust the state of affairs that they find themselves in, seems almost undeniable, in particular for anyone who accepts Moderation about Principles. It also seems that recognizing this seemingly undeniable fact about the way in which morality’s demands vary with the state of

wide range of personal projects and to cultivate personal relationships of many different kinds” (“Potential Congruence,” p. 119), italics added.

¹⁴³ *Human Morality*, p. 122.

¹⁴⁴ *Ibid.*, p. 123.

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*, p. 139.

the world in morally relevant respects has potentially damaging implications for Moderation about Demands. In the remainder of this section we will examine the case for thinking that these implications are decisive against Moderation about Demands. If it appears that they are, this will constitute strong evidence that, despite the fact that those who defend Moderation about Principles seem in part motivated by the conviction that Extremism about Demands, or at least the most extreme views about what morality demands, is unacceptable, the principles that they defend may commit them to at least a relatively Extremist position on morality's demands.

In beginning to consider whether the proponent of Moderation about Demands can defend her view against the line of criticism that we have outlined, it will be helpful to consider some of the reasons that have been given for thinking that it is particularly important that individuals be morally permitted to pursue their projects. Perhaps the most influential early defense of this view comes from Bernard Williams.¹⁴⁷ Williams's argument is directed specifically against Utilitarianism, but the central points apply equally well to any view that implies that individuals can often be morally required to sacrifice the pursuit of their projects in order to advance impersonally superior goals. He says, speaking of a hypothetical individual whom we might think is the subject of such demands, that

he is identified with his actions as flowing from projects and attitudes which in some cases he takes seriously at the deepest level, as what his life is about...It is absurd to demand of such a man...that he should just step aside from his own project and decision and acknowledge the decision which utilitarian calculation requires. It is to alienate him in a real sense from his actions and the source of his action in his own convictions...[it] is to neglect the extent to which *his* actions and *his* decisions have to be seen as the actions and decisions which flow from the projects and attitudes with which he is most closely identified. It is thus, in the most literal sense, an attack on his integrity.¹⁴⁸

If we replace the phrase "utilitarian calculation" in the above quote with "impartial justice," we would have a criticism of the view that individuals can be required to sacrifice the pursuit of their projects in order to promote justice that Williams seems committed to endorsing. His thought seems to be that any requirement that one sacrifice the pursuit of her most important projects is unacceptably alienating because it demands that she act in ways that are inconsistent with her strongest convictions and the attitudes that are most important to her sense of who she is and "what h[er] life is about."

Williams's view, understood in this way, appears clearly in tension with Injustice entails Obligations. Consider again our example: suppose that F, G, H, I, and J all have projects that are central to their lives that they could not pursue if they were to sacrifice more than 1 unit of their resources, and that therefore sacrificing more than 1 unit would cause substantial alienation for each of them. According to Williams's view, none of them can be morally required to sacrifice more than 1 unit. But then it is possible for all of them to fully meet their obligations, and for injustice to persist nonetheless. In addition, if all of them have fully met their obligations, it

¹⁴⁷ As Nagel points out, "[i]t is not always clear whether Williams's argument is about the content of morality or about its authority" (*The View From Nowhere*, p. 191). Our discussion will assume that Williams intends his argument to count against the view that morality can in fact require individuals to sacrifice the pursuit of their projects. The question whether, if morality does in fact require such sacrifice, individuals necessarily have all-things-considered reason to do what morality requires, is one that we will not consider here.

¹⁴⁸ "A Critique of Utilitarianism," pp. 116-17, italics in original.

seems that there is nowhere else to locate further obligations to eliminate the remaining injustice. We are left with injustice, and no one who is responsible for eliminating it.

Despite the appeal of Williams's claims about the importance of individuals' ability to pursue their projects, those who accept Moderation about Principles cannot accept his view.¹⁴⁹ It is important to keep in mind that those who accept Moderation about Principles have among their important convictions that everyone is, and everyone's interests are, equally morally important, and that justice requires (at least) that everyone's share of resources meet a minimum standard. For an agent with these convictions to pursue projects that do not promote justice in circumstances in which Injustice entails Obligations suggests that she has an obligation to promote justice instead, is in an important way for her to act contrary to her own integrity.¹⁵⁰

In addition, Williams's concern that a requirement to sacrifice the pursuit of one's projects amounts to a requirement to endure substantial alienation cannot, it seems, serve as a basis upon which a proponent of Moderation about Principles might reject such requirements. After all, those who are the victims of prevailing injustice tend to suffer tremendous alienation of a sort that is at least quite similar to that which appears to concern Williams.¹⁵¹ They cannot, as Railton puts it, "lead lives expressive of their individuality and goals,"¹⁵² often primarily in

¹⁴⁹ I suspect that Williams's response to the challenge we have developed would be to deny that morality includes a strongly impartial component of the sort that proponents of Moderation about Principles endorse, and therefore to reject either the view that justice requires that everyone's share of resources meet the sort of minimum standard suggested by Frankfurt, or to reject Injustice entails Obligations. Those who find this sort of response plausible will be unconvinced by the arguments in this chapter. Thanks to Jay Wallace for encouraging me to consider how Williams might respond to the objection to his view that we have been considering.

¹⁵⁰ Note that a non-utilitarian agent who acts contrary to utilitarian prescriptions does not, in the same way, act contrary to her own integrity. The problem for the proponent of Moderation about Principles is that her own convictions about what justice requires seem to be capable of implying that her pursuit of projects that are extremely important to her is, given prevailing injustice, morally unacceptable. We might understand such situations as such that the agent cannot avoid acting contrary to her integrity no matter what she does, since she will either act contrary to her commitment to her most important projects, or contrary to her convictions about what justice requires. Those who are convinced by Williams's claim that individuals cannot be morally required to sacrifice the pursuit of their projects, and who are committed to actually continuing to pursue their projects when they find themselves in circumstances like those of F, G, H, I, and J in our example, can, then, only maintain their integrity by giving up Moderation about Principles in favor of some version of Minimalism about Principles. It is questionable, however, whether doing this would amount to maintaining one's integrity in the relevant sense; see Scheffler, *The Rejection of Consequentialism*, p. 18; Ashford, "Utilitarianism, Integrity, and Partiality," *Journal of Philosophy* 97 (2000): 421-39; and Tan's helpful point that "[j]ust entitlements must be established and secured before personal commitments and projects may be pursued, if the integrity of such pursuits is to be preserved" (*Justice Without Borders*, p. 199). Furthermore, Minimalism about Principles is an entirely unacceptable view, whether or not holding it is consistent with maintaining one's integrity.

¹⁵¹ Williams's central concern seems to be that acting in accordance with certain moral prescriptions, for example those of utilitarianism, would alienate agents from their actions, since the kinds of projects and commitments that are central to most people's lives would make it impossible for them to view utilitarian actions as properly their own. While the victims of injustice do not necessarily face the prospect of being *morally obligated* to sacrifice the otherwise possible pursuit of the projects and commitments that matter most to them, they do typically face substantial barriers to the pursuit of their most important projects, and tend to be forced by their circumstances to live in ways that do not reflect their views about what would constitute a good life for them. Those in this kind of position surely have reason to view their actions as less than fully their own, and therefore are likely to experience the sort of alienation from their actions that Williams imagines agents who comply with utilitarian requirements experiencing. Thanks to Niko Kolodny for encouraging me to clarify the relationship between the sort of alienation described by Williams and the sort experienced by the victims of injustice.

¹⁵² "Alienation, Consequentialism, and the Demands of Morality," p. 162.

virtue of their lack of sufficient resources to do so. To hold that individuals can never be obligated to sacrifice the pursuit of their projects, given this fact, “would have the unduly conservative result of favoring those less alienated in the present state of affairs over those who might lead more satisfactory lives if certain changes were to occur.”¹⁵³ This is an implication that is clearly inconsistent with Moderation about Principles, which provides further reason for thinking that those who accept that view must reject Williams’s position.

The changes that Railton is concerned with in his discussion of Williams’s view are primarily changes at the socio-political level, rather than at the level of personal behavior (although he is clearly committed to the view that substantial changes in personal behavior can be morally required as well). He points out, however, that

To speak of social and political changes is, of course, to suggest eliminating the social and political preconditions for a number of existing projects and relationships, and such changes are likely to produce some degree of alienation in those whose lives have been disrupted.¹⁵⁴

Even on a view about the obligations of individuals deriving from the requirements of justice on which such obligations consist mainly in “supporting certain social and political arrangements (or rearrangements),”¹⁵⁵ then, it seems that some individuals are going to be obligated to support social and political changes that would, if achieved, make it impossible for them to continue to pursue their most important projects. There would seem, however, to be something strange about a view on which one can be obligated to support “eliminating the social and political preconditions” for her projects, but is not also obligated to actually give up the projects in order to improve the conditions of the worse-off so long as the social and political preconditions remain.¹⁵⁶

It seems clear, then, that Williams’s argument is unhelpful to those who seek to reconcile Moderation about Principles with the view that it is generally permissible for individuals to pursue their projects, that is, with Moderation about Demands. In a later discussion of the potential conflict between one’s projects and morality, however, Williams suggests that we have some reason to think that in many cases the conflict will not be particularly deep. If this were plausible, then at least Moderates could claim that, as a practical matter, most of us are not obligated to sacrifice the pursuit of our projects, even if in principle there is nothing preventing people from having such an obligation. Williams makes this suggestion in the context of a discussion of Kantian morality, a view that he takes to be less demanding than utilitarianism (and presumably other Extremist views as well). He says that

while [our] projects may present *some* conflicts with the demands of morality...these conflicts may be fairly minor; after all...these projects, in a normally socialized individual, have in good part been formed within, and formed by, dispositions which constitute a commitment to morality.¹⁵⁷

¹⁵³ Ibid. For a similar point, see Raz, “Duties of Well-Being,” p. 24.

¹⁵⁴ “Alienation, Consequentialism, and the Demands of Morality,” p. 162.

¹⁵⁵ Ibid, p. 161.

¹⁵⁶ We will discuss this issue in more detail in Chapter Five.

¹⁵⁷ “Persons, Character, and Morality,” p. 12, italics in original.

The problem with attempting to use this claim as part of a defense of the Moderate view is that it straightforwardly begs the question against opponents of Moderation about Demands. Normally socialized individuals develop their projects within a commitment to the sort of view about morality's demands that normally socialized individuals tend to have. And since normally socialized individuals will tend to be committed to whatever prevailing common-sense morality happens to be in their society, there is no reason to think that the conflicts between the pursuit of individuals' projects and the demands of morality might be "fairly minor" unless one simply assumes that the demands of morality are at most not much greater than prevailing common-sense morality suggests, that is, unless one simply assumes that Moderation about Demands is true. The fact that individuals tend to structure their projects in ways that reflect a commitment to, and minimize conflict with, prevailing views about what morality requires, is not in itself a reason to think that their projects will not radically conflict with what morality *actually* requires.

Scheffler, in the course of arguing that the conflict that is often believed to exist between morality and self-interest is not generally stark, refers to the same psychological phenomenon that Williams describes:

As a person acquires moral motives, one thing that happens is that the person increasingly attempts to shape his or her projects, insofar as it is possible to do so, to avoid conflicts with moral requirements. And since one's projects and commitments help to determine what is in one's interests, this means that the individual in effect shapes his or her own interests in such a way as to avoid perceived conflicts with morality. The upshot is that, in addition to structuring our perceptions and our deliberations, our emotions and our relations to others, moral beliefs also help to shape our projects, our commitments, and our interests themselves...morally motivated individuals shape their own interests in such a way as to minimize conflicts with morality.¹⁵⁸

Scheffler is clearly aware of the point that we noted in response to Williams's articulation of this thought. By noting that individuals shape their projects, and therefore their interests, in order to avoid "perceived conflicts with morality," he implicitly acknowledges that the sort of shaping of their interests that individuals engage in is guided by their beliefs about what morality requires, rather than by what morality actually requires. And, of course, these two things can easily come apart. But at other points in the same discussion, Scheffler does not refer to "perceived conflicts with morality," but instead to "conflicts with moral requirements," or "conflicts with morality." It is therefore worth reemphasizing the need to clearly distinguish the thought that individuals shape their projects so as to avoid what they *believe* to be conflicts with morality, and the radically different thought that they shape their projects so as to avoid conflicts with *morality itself*. Many slave-owners in the antebellum south surely shaped their projects, and thereby their interests, so as to avoid *perceived* conflicts with morality. None, however, shaped their projects in ways that avoided conflicts with *morality itself*.

Despite the somewhat incautious formulations just noted, Scheffler is clearly aware that there are strong reasons to think that the pursuit by the beneficiaries of prevailing injustice of many their projects may not be permissible. Indeed, in the paper from which the quoted passages are taken he defends the view that the relationship between morality and self-interest is

¹⁵⁸ "Potential Congruence," p. 119.

one of “potential congruence.”¹⁵⁹ On this view, the conflict that is often thought to exist between morality and self-interest can be effectively limited (though not necessarily eliminated entirely) by, to simplify somewhat, developing just social and political institutions.¹⁶⁰ Scheffler explains this thought by pointing out that

what morality demands depend[s] on the state of the world in morally relevant respects, and what a person is motivated to do depends on how the person has been educated and socialized. These factors in turn are dependent, in obvious ways, on the institutional structure and broader practices of the society in which one lives.¹⁶¹

These remarks suggest that Scheffler recognizes that there are strong reasons to suspect that the pursuit by the well-off of many of the projects that they will tend to have in substantially unjust societies is not permissible. In the remainder of this chapter we will consider some of these reasons, in light of our discussion to this point, and attempt to determine as best we can the extent to which they count against Moderation about Demands.

There is no doubt that Moderation about Principles has the implication that morality will demand more, and in particular will demand more of the better-off, the more unjust a society is. The fact that Moderation about Principles includes a significant impartial component is sufficient to ensure that this is the case. In addition, Injustice entails Obligations provides us with a relatively clear basis for determining how much more demanding the obligations of the better-off must be in societies that are relatively more unjust than in societies that are relatively less so. Roughly speaking, if society A is more unjust than society B by degree X, then the obligations of the better-off in society A must be greater than the obligations of the better-off in society B by degree X.

Consider again our example. If the amount of resources required to bring everyone who currently has less than the minimum standard of 4 units up to that standard is 9 units, as is the case in the distribution described, then those who currently have more than 4 units must be obligated to sacrifice 9 units between them. If, however, A has 2 units rather than 1, and E has 4 units rather than 3, then those who currently have more than 4 units will only be required to sacrifice 7 units between them.

This way of thinking about demands conceives of them, as we will put it, objectively. The requirement that one sacrifice a specific amount out of a specific total stock of resources, on this way of thinking, amounts to a demand of equal strength regardless of the extent to which one subjectively experiences such a requirement as demanding, and regardless of the extent of the injustice in one’s society and the degree to which others tend to comply with similar requirements.

If J, who has 9 units of resources, is obligated to sacrifice 2 units in order to contribute to bringing A, B, C, D, and E up to the minimum standard of 4, this obligation is no more demanding, in the sense described above, if F, G, H, and I are known by J not to intend to sacrifice any of their resources, than if J knows that all of them will make similar sacrifices. The typical and expected behavior of others, along with one’s own subjective commitment to meeting such moral requirements, does not, on this way of conceiving demands, affect how demanding a particular requirement is.

¹⁵⁹ Ibid, p. 118.

¹⁶⁰ Ibid, p. 118-20.

¹⁶¹ Ibid, p. 118.

As we noted, it is quite clear, in light of Moderation about Principles and Injustice entails Obligations, that more must be required of the better-off the more unjust the society that they occupy. But it is not yet clear that this presents an insuperable problem for Moderation about Demands. If, for example, prevailing common-sense morality recognizes that the demands that the better-off are subject to are greater, given existing injustice, than they would be if there were less injustice, then there would be no obvious inconsistency with either Moderation about Principles or Injustice entails Obligations.

Does prevailing common-sense morality recognize this fact? Is it even possible for prevailing common-sense morality in a substantially and persistently unjust society to do so? There are strong reasons to doubt that it does, or that it can.

As Williams and Scheffler rightly point out, individuals tend to shape their projects in order to avoid perceived conflicts with morality's requirements. Most people, as a result of this shaping, comply (at least for the most part) with prevailing common-sense morality. Such compliance, however, even when it is extremely widespread and persists over a long period of time, tends not to lead to a significant reduction of injustice. Indeed, a plausible explanation of the persistence of injustice over time is that prevailing common-sense morality does not recognize sufficient demands on the better-off to be consistent with Injustice entails Obligations. The persistence of injustice over time, then, is itself excellent evidence that prevailing common-sense morality is insufficiently demanding.

If prevailing common-sense morality were sufficiently demanding, then we should expect that injustice would be substantially reduced, if not eliminated, over a reasonably short period of time. Since most people are "educated and socialized"¹⁶² in a way that results in a commitment to prevailing common-sense morality, we cannot appeal to the failure to comply with the requirements of that morality to explain the persistence of injustice. And since the persistence of injustice entails unmet obligations to contribute to the elimination of injustice, the relevant unmet obligations can only be accounted for on a view of morality's demands that is more demanding than prevailing common-sense morality. In a society that is substantially and persistently unjust, then, there is excellent reason to think that morality must be substantially more demanding than prevailing common-sense morality suggests.

It is important to note that Williams, Scheffler, and others who assert the moral importance of individuals' ability to pursue their projects are at least in part concerned that actual individuals be morally permitted, at least to a significant extent, to pursue the projects that they actually have.¹⁶³ To the extent that this is the case, their concern is not with demandingness in the objective sense described above, but with what Williams describes as "alienat[ion]."¹⁶⁴ A moral requirement is alienating to the extent that satisfying it would make it difficult for an individual to see her actions as properly her own, given her projects, commitments, and the moral beliefs in the light of which she has structured her projects and commitments.¹⁶⁵

It is clear that the better-off in unjust societies will tend to find requirements that they sacrifice substantial portions of their stock of resources quite alienating. After all, the injustices

¹⁶² Ibid.

¹⁶³ As we have seen, Scheffler sometimes says things that suggest that he is not committed to anything this strong about the permissibility of actual individuals' pursuit of their projects, in unjust conditions such as ours. But at other times he does seem committed to thinking that much of the ordinary behavior of typical well-off individuals is permissible – at least it is difficult to make sense of certain of his key claims and arguments in the absence of this commitment.

¹⁶⁴ "A Critique of Utilitarianism," p. 116.

¹⁶⁵ Thanks to Jay Wallace and Niko Kolodny for helping me to clarify the issues in this paragraph.

that consist in the fact that they have large shares of resources while others have less than the minimum standard required by justice will be at least partially explained by the fact that prevailing common-sense morality does not include a requirement that the better-off sacrifice to the extent necessary to bring about a just distribution. And since the better-off in unjust societies will tend to be educated and socialized in a way that results in their internalizing common-sense morality, rather than any substantially more demanding morality, the prospect of complying with a morality that is consistent with Injustice entails Obligations will tend to threaten their pursuit of many of the projects that they have adopted and structured their lives around, and therefore actually complying with such a morality will tend to cause substantial alienation.

But taking these facts as reasons for doubting whether morality can require sacrifices that are much greater than prevailing common-sense morality requires would be to abandon Injustice entails Obligations, and, perhaps even worse, to abandon the extremely compelling thought that morality demands more, objectively speaking, of (at least better-off) individuals the more unjust the society in which they live is. After all, the more unjust a society is, the greater the extent to which the projects of the better-off will tend to conflict with any morality that is consistent with Injustice entails Obligations. If, as it clearly should, morality is to demand more of individuals the worse the world is in morally relevant respects, it must demand of the well-off substantial sacrifices of resources, and therefore of projects that depend on resources, in seriously unjust circumstances.

These considerations cast significant doubt on the possibility of providing a plausible defense of Moderation about Demands. There is excellent reason, it seems, to think that, at least in substantially unjust circumstances, Moderation about Principles will entail Extremism about Demands.

Chapter Three

Projects and Justice: The Conflict in the Real World

In the previous chapter we saw several reasons for doubting that Moderates can reconcile commitments about the requirements of justice that seem to follow from Moderation about Principles, and which Moderates overwhelmingly endorse, with their commitment to Moderation about Demands. In particular, it is unclear whether those who accept Moderation about Demands can account for the requirement that injustice be eliminated, since they deny that the beneficiaries of prevailing injustice are obligated to sacrifice much more than common-sense morality suggests that they must in order to improve the conditions of the badly-off.

Just as the prevailing common-sense morality in our imagined unjust society included the view that the better-off were not morally obligated to sacrifice significantly in order to improve the lives of those whose shares of resources fell below the minimum standard required by justice, prevailing common-sense morality in our society includes the view that the better-off are not morally obligated to sacrifice much in order to improve the lives of our impoverished fellow citizens. Those who accept Moderation about Demands accept at least this element of prevailing common-sense morality.¹⁶⁶ We have seen, however, that Moderation about Principles implies that our society is extremely unjust, and that Injustice entails Obligations implies that there must be a set of obligations that is such that full compliance with them would transform the current unjust state of affairs into a just state of affairs. Since any set of obligations that, if fulfilled, would transform our unjust state of affairs into a just state of affairs would include much more substantial required sacrifices than are acknowledged by prevailing common-sense morality, it seems doubtful that Moderation about Principles can serve as a basis for a successful defense of Moderation about Demands.

There are, however, several responses that might be made in defense of Moderation about Demands. In this chapter we will consider two such responses, both of which raise doubts about whether typical well-off individuals in our society are in sufficiently similar circumstances to the better-off in our imagined unjust society to justify the claim that we must draw similar conclusions about their obligations in respect of justice. The first, which we will call the *Limited Subjects of Obligations Response*, claims that Moderation about Demands is compatible with both Moderation about Principles and Injustice entails Obligations, since nearly all of the obligations to sacrifice in order to aid the victims of prevailing injustice can and ought to be assigned to the very rich.¹⁶⁷ If this claim is correct, then Moderation about Demands can be accepted, since it says only that much of the ordinary behavior of typical well-off individuals is permissible, and not that much of the ordinary behavior of the very rich is permissible.

The second response, which we will call the *Drop in the Bucket Response*, claims that the effect on distributive justice that any typical well-off individual can bring about by sacrificing a portion of her wealth and/or resources is so insignificant that such a sacrifice cannot be morally

¹⁶⁶ More precisely, they accept at least that *most* of the better-off, those whom we have described as “typical well-off individuals,” are not obligated to sacrifice much in order to improve the lives of our impoverished fellow citizens. We will consider shortly whether those who accept Moderation about Demands might be able to make their view compatible with Injustice entails Obligations by assigning nearly all of the obligations to aid the badly-off to the very rich.

¹⁶⁷ Thanks to Jay Wallace for suggesting this response.

required.¹⁶⁸ This is a familiar concern about purported moral obligations to contribute to the achievement of ends that can only be fully achieved by means of contributions from a large number of individuals that, individually, seem to make little or no difference to the achievement of the relevant end.¹⁶⁹ And because it is plausible that an individual cannot be morally required to make sacrifices that will at best have an extremely insignificant effect in terms of the value for which the sacrifice might be made, the response raises a substantial challenge to the argument that we have developed, and in particular to Injustice entails Obligations.¹⁷⁰

I. The Limited Subjects of Obligations Response

In many of the wealthy countries, and in particular in the United States, those in the richest few percent of the population are *very much richer* than nearly everyone else. In 1998, the 13,100 income tax filers in the top one hundredth of one percent of tax units¹⁷¹ had an average income¹⁷² of \$9.97 million, and none had an income of less than \$3.62 million.¹⁷³ The 117,900 filers in the next nine one hundredths of one percent had an average income of \$1.49 million, and none had an income of less than \$790,400.¹⁷⁴ None of the 1.31 million tax units in the top one percent had an income of less than \$230,200.¹⁷⁵ It is, furthermore, well known that

¹⁶⁸ Thanks to Niko Kolodny for encouraging me to consider this response.

¹⁶⁹ See, for example, Derek Parfit, *Reasons and Persons* (New York: Oxford University Press, 1984), pp. 75-82; Michael Otsuka, "The Paradox of Group Beneficence," *Philosophy and Public Affairs* 20 (1991): 132-49; Cullity, "Pooled Beneficence," in *Imperceptible Harms and Benefits*, ed. Michael J. Almeida (Dordrecht: Kluwer Academic Publishers, 2000), and *The Moral Demands of Affluence* (New York: Oxford University Press, 2004), pp. 58-65; and Norcross, "Puppies, Pigs, and People: Eating Meat and Marginal Cases," *Philosophical Perspectives* 18 (2004): 229-45, pp. 231-3.

¹⁷⁰ If Moderation about Principles entails that our society is unjust, and the Drop in the Bucket Response shows that typical well-off individuals cannot be morally required to make sacrifices of their wealth and/or resources in order to remedy the injustice, then we may be left with at least some injustice that would not be eliminated even if everyone fulfilled all of their obligations. Of course, if the Limited Subjects of Obligations Response succeeds, then the Drop in the Bucket Response could be accepted without giving up the view that there are in fact sufficient obligations the fulfillment of which would eliminate the injustice in our society, since it seems plausible that the effect on distributive justice that a very rich individual could have would be significant enough that the Drop in the Bucket Response could not plausibly be made against *their* being obligated to make sacrifices in order to promote justice. Still, anyone who accepts the Drop in the Bucket Response must reject Injustice entails Obligations, since any unjust society without a sufficient number of individuals who are wealthy enough that, first, the Drop in the Bucket Response does not apply to them, and second, the combination of their required sacrifices would be sufficient to eliminate all of the injustice in their society, would be such that all of the relevant obligations could be complied with without justice being achieved.

¹⁷¹ The relevant data were compiled using tax return statistics. A "tax unit" is either an individual filer or a couple filing jointly.

¹⁷² 'Income' here refers to gross income excluding capital gains. Since many of the richest people in the United States also make significant amounts of money from capital gains, these statistics represent low-end estimates of the gross incomes of the relevant tax units.

¹⁷³ Thomas Piketty and Emmanuel Saez, "Income Inequality in the United States, 1913-1998," *Quarterly Journal of Economics* 118 (2003): 1-39, p. 5. I have been unable to find any more recent statistics on the incomes of those in the top one percent. U.S. Census Bureau statistics, which are available through 2008, provide only the income for those at (but not above) the 95th percentile, as well as the ratio of the incomes of those at the 95th percentile to those at the 20th and 50th percentiles. See "Selected Measures of Household Income Dispersion: 1967 to 2008," available at "Income." 30 July 2010
<<http://www.census.gov/hhes/www/income/data/historical/inequality/index.html>>

¹⁷⁴ Piketty and Saez, "Income Inequality in the United States, 1913-1998," p. 5.

¹⁷⁵ Ibid.

the incomes of the richest Americans have grown considerably in the years since 1998, and so current detailed statistics, were they available, would surely reflect this.

In contrast with those in the top one percent of tax units, whose incomes are extremely large, those in the range between the 90th and 95th percentiles in 1998 had an average income of \$94,000, and those at the 90th percentile had incomes of \$81,700.¹⁷⁶ Given the large disparities in income between the very wealthiest Americans and those at the lower end of the top ten percent, we might think that the sacrifices that Injustice entails Obligations tells us must be morally required can and ought to be borne almost entirely by those in, say, the top one percent of the income distribution. This thought is the basis of the Limited Subjects of Obligations Response, and if it can be defended it may be able to serve as the basis for a successful defense of Moderation about Demands.

In order for the Limited Subjects of Obligations Response to succeed, it must, at the very least, be shown that those in the top one percent of the income distribution have sufficient resources to make up for the entire shortfall relative to the minimum standard required by justice suffered by those below that standard, and that a set of obligations that would require them to sacrifice enough to eliminate that shortfall is morally acceptable, given their incomes relative to the incomes of those whom we have described as typical well-off individuals, among whom would certainly be those in the 90th-95th percentiles in the income distribution.¹⁷⁷ In order to determine whether the Response is plausible, then, we must estimate the total income shortfall relative to the minimum standard required by justice, as well as the total income of those in the top one percent of the income distribution.

The figures used here will, of necessity, be no more than extremely rough estimates. We will not account for a range of factors that are relevant to determining the minimum standard required by justice in individual cases, such as the number of children in a household, whether a tax unit consists of an individual or a couple filing jointly, or the atypical but necessary expenses faced by those with, for example, certain disabilities. In addition, we will use the available statistics from 1998, since this is the most recent year for which sufficiently extensive data on the incomes of the very rich has been developed.¹⁷⁸ Despite these significant limitations, our estimates should give us a fairly good idea whether the Limited Subjects of Obligations Response can succeed.

In 1998, 20% of the nearly 131 million total tax units had an income of less than \$16,114.¹⁷⁹ Since this figure seems too low (even in 1998 dollars) to be a plausible candidate for

¹⁷⁶ Ibid.

¹⁷⁷ Despite the fact that those in the 90th-95th percentiles have incomes that are higher than a significant majority of their fellow citizens, there are at least two important reasons for including them among the “typical well-off individuals” referred to in Moderation about Demands. The first is that their incomes are not extraordinarily higher than the incomes of the rest of those in, say, the top half of the income distribution. The mean income in 1998 was \$38,739 (Ibid, p. 10); I have been unable to locate an unadjusted median figure for that year, but generally the median income is somewhat lower than the mean, since the very high incomes at the top skew the mean upward. The second, and perhaps more important reason for including those in the 90th-95th percentiles among the “typically well-off” is that philosophers who defend views in the neighborhood of Moderation about Demands are generally concerned, at least to a significant extent, with the moral obligations that apply (or do not apply) to people like them. And since many such philosophers likely fall somewhere near the 90th-95th percentiles themselves, they clearly intend their views to imply that the demands on those in that region of the income distribution are relatively limited.

¹⁷⁸ Ibid.

¹⁷⁹ This figure was generated by multiplying the \$21,259 in 2008 CPI-U-RS adjusted dollars figure provided by the U.S. Census Bureau in “Selected Measures of Household Income Dispersion: 1967 to 2008” by the conversion factor of .758 provided in “Conversion Factors in 2008 Dollars, Using CPI-U-RS for 1947 to 2008,”

the minimum standard that justice requires, it appears that over 20% of the population fell below the relevant minimum standard. And given recent economic trends, it seems likely that the percentage of people who currently fall below the minimum standard required by justice is at least as high as it was in 1998. The average income of those in the second quintile (that is, those falling between the 20th and 40th percentiles in terms of income) in 1998 was \$23,287.¹⁸⁰ In order to keep our estimate about the minimum standard required by justice as favorable to the defenders of Moderation about Demands as possible, we will assume that this figure is higher than that minimum standard. If we assume that the minimum standard required by justice in 1998 was \$20,000, it seems reasonable to estimate that approximately 25%, or 32.7 million, of the tax units fell below that standard.¹⁸¹

In order to determine the total shortfall relative to the minimum standard required by justice suffered by those falling below it, we can begin by noting that the approximately 13.1 million tax units in the bottom 10% of the income distribution had a *maximum* income of \$9,699.¹⁸² If we (generously, I suspect) estimate that the average income among these tax units was \$8,000, we get a shortfall relative to the \$20,000 minimum of approximately \$157.2 billion. If we then assume that the average income of the remaining 15% of the tax units that fell below the \$20,000 minimum standard was, say, \$14,000, we get an additional shortfall of \$117.9 billion, for an initial total shortfall of \$275.1 billion. \$31.6 billion in Earned Income Tax Credit payments were received by those who were eligible for that credit in 1998,¹⁸³ although a significant percentage of that money was likely paid to tax units with incomes above our minimum standard of \$20,000.¹⁸⁴ If we estimate (generously, I suspect) that \$20 billion in EITC payments went to those who fell below our minimum standard, we arrive at a total shortfall of \$255.1 billion.

available at “Individual Year Conversion Factor Tables,” 14 Aug 2010

<<http://oregonstate.edu/cla/polisci/individual-year-conversion-factor-tables>>

¹⁸⁰ This figure was generated in the same manner described in the previous footnote.

¹⁸¹ Since we will apply the minimum standard to tax units, rather than to individuals, our estimate of the total shortfall relative to the minimum standard will err, to the extent that it errs, on the low end, since the minimum standard required by a couple with many children, or a single parent, is surely higher than the standard required by a single individual. This should, at least to a significant extent, counterbalance the fact that our estimate of the total income of the top one percent will be a low-end estimate due to the exclusion from the relevant statistics of capital gains income.

¹⁸² This figure was generated in the same manner described above in footnote 176.

¹⁸³ See “Earned Income Tax Credit Statistics,” 1 Apr 2011

<<http://www.irs.gov/individuals/article/0,,id=177571,00.html>>. Thanks to Niko Kolodny for reminding me of the need to include EITC payments in these figures.

¹⁸⁴ In 2008, married couples with two children and up to \$41,646 (\$31,568 in 1998 CPI-U-RS adjusted dollars) in income were eligible for the EITC, as were individuals with two children (up to \$29,294 in 1998 CPI-U-RS adjusted dollars), couples with one child (up to \$28,042 in 1998 CPI-U-RS adjusted dollars), and individuals with one child (up to \$25,768 in CPI-U-RS adjusted dollars); see “2008 Tax Year EITC Income Limits, Maximum Credit Amounts, and Tax Law Updates,” 1 Apr 2011

<<http://www.irs.gov/individuals/article/0,,id=215763,00.html>>. All of these income levels, of course, substantially exceed our \$20,000 minimum standard. Unfortunately I have been unable to locate the relevant statistics for 1998, but since EITC policies have not changed dramatically in the intervening years, it seems reasonable to assume that the distribution of payments in 1998 was demographically similar to the distribution of payments in 2008. In addition, the amount that can be paid from the EITC to a tax unit is substantially higher if the tax unit has qualifying children than it is for single individuals and childless couples. It is likely, then, that a substantial amount of the money paid from the EITC went to tax units that had incomes above our \$20,000 minimum standard.

The top one percent in 1998 had a total combined income of approximately \$738 billion.¹⁸⁵ This means that in order to make up for the entire shortfall of \$255.1 billion, the top one percent of tax units would have to sacrifice, on average, approximately 35% of their gross incomes, in addition to paying whatever taxes they are obligated to pay on those incomes.¹⁸⁶ This means that in order for the proponent of Moderation about Demands to endorse the Limited Subjects of Obligations Response, she must claim that (at least most of) those in the richest one percent of the population must sacrifice well over half of their net incomes, while those inside the top ten percent but outside the top one percent are not obligated to sacrifice more than a very small fraction of their net incomes, if anything at all.¹⁸⁷

¹⁸⁵ Piketty and Saez, "Income Inequality in the United States, 1913-1998," p. 5.

¹⁸⁶ It is important to keep in mind that the shortfalls with regard to the minimum standard required by justice suffered by those at the bottom of the income distribution exist *given the existing tax scheme and the government functions that are funded by it*. Surely the government could spend much of the tax money that it collects more efficiently, and redirect some of what is spent on other priorities to providing aid to those at the bottom of the income distribution. We might think that this suggests that justice could be achieved without much in the way of additional sacrifices on the part of the better-off, if only the government would increase efficiency and eliminate waste. And this, we might think, suggests that the challenge to Moderation about Demands that we have been developing will depend on arguing that well-off individuals are obligated to contribute to aiding the badly-off when the state is failing to do what it ought to do to aid them with the tax revenues that it collects. We will discuss this and several related issues in Chapter Five, but we can note here some initial reasons to doubt that we can *both* assign all or most of the responsibility to achieve justice to the state *and* assume that it already takes in sufficient resources to make up the entire shortfall suffered by the badly-off and to do everything else that it ought to be doing. First, there are reasons to think that many of the claims made about outright waste of funds by the government are greatly exaggerated, as well as reasons to think that the potential savings on inefficiencies would be more modest than is sometimes claimed. It is also likely that redirecting wasteful and inefficient government spending toward aiding those at the bottom of the income distribution would have the effect of reducing the gross incomes of many near the top of the income distribution, who benefit from, for example, large subsidies to the energy and agriculture industries. Indeed, much of the potentially helpful (in terms of promoting justice) discussion of wasteful and inefficient government spending focuses on tax breaks and subsidies that go to well-off individuals and large corporations. These tax breaks and subsidies also indirectly benefit many of those who are not extremely wealthy but are in, say, the top ten percent of the income distribution, since such individuals are much more likely to own stocks in the companies that directly benefit than are the badly-off. Finally, the United States has a rather large and much discussed national debt (much of which is owed to various corporate entities, including commercial banks, credit unions, mutual funds, and insurance companies, and also to brokers and other individual investors and their estates; see "The Biggest Holders of U.S. Government Debt," 3 Feb 2011 <http://www.cnbc.com/id/29880401/The_Biggest_Holders_of_US_Government_Debt?slide=1>), has been running large yearly deficits for ten years, and will likely continue to have such deficits at least into the near future. Even if the government could eliminate the deficit by eliminating waste and inefficiency (which is itself highly doubtful), it would still require additional revenue in order to begin to pay down the debt and to ensure that the badly-off are provided with enough to meet the shortfalls relative to the minimum standard required by justice. And this additional revenue could, of course, only be justifiably raised from the better-off. Thanks to Jay Wallace for helpful comments on the issues discussed here and for encouraging me to clarify this footnote.

¹⁸⁷ The Proponent of Moderation about Demands might suggest that we are unfairly ignoring the fact that those in the top one percent of income earners will also tend to have large amounts of wealth saved prior to earning their high incomes in any particular year, and that this fact makes it much more likely that they can very easily meet the burden of making up for the entire shortfall with respect to the minimum standard required by justice. But this argument ignores the fact that there will be similar shortfalls every year for the foreseeable future, so that if we say that the very rich are required to sacrifice not only a very large portion of their incomes for the current year, but also much of their amassed wealth, it would not be long before the complying super-rich are not much wealthier than the typically well-off, in which case the Limited Subjects of Obligations Response would no longer be available as a defense of Moderation about Demands.

But a view on which those in the top one percent are obligated to sacrifice that much, while everyone else has extremely limited obligations, is not particularly plausible, given both the relevant statistics and some key features of the view about the requirements of justice that we have been operating with in this and the previous chapter. First, approximately half of those inside the top one percent of tax units in 1998 had gross incomes of under \$300,000.¹⁸⁸ If someone making \$300,000 were to sacrifice 35% of her gross income (\$105,000), then her remaining after tax income would be substantially *lower* than that of many people whose incomes are not in the top one percent of the income distribution. Any view that requires such a sacrifice while denying that those whose gross incomes are slightly lower are obligated to sacrifice much at all seems clearly unacceptable.

Of course, the proponent of Moderation about Demands could claim that the proportion of gross income that must be sacrificed by those within the top one percent should vary within that group, with those in the top one hundredth of one percent required to sacrifice a much greater percentage than those near the bottom of the top one percent. While this view has obvious appeal, it is not clear that it can provide the basis for a successful defense of Moderation about Demands. This is because the greater the share of the burden a view places on the super-rich, the more the view requires the super-rich to bring themselves down to a level of retained income that is similar to the level permitted to those within the top one percent whose gross incomes are not in the millions. It is difficult to see, however, how a view about what justice requires that mandates only a minimum standard for everyone can require such substantial sacrifices of the super-rich while requiring so much less of those who are somewhat less rich, since such a view would seem to involve a concern about substantial inequalities near the top of the income distribution, while rejecting the importance of equally substantial inequalities toward the bottom of the income distribution.

It is important to keep in mind that the view about what justice requires that we have been operating with implies that there is nothing unjust about even the most radical inequalities in income and wealth, so long as everyone's shares meet the relevant minimum standard. This implies that those whose incomes are just above the minimum standard have no claim of justice on any of the resources of those who are much better off than they are. The proponent of Moderation about Demands must also, given the statistics that we have examined, accept the stronger claim that those just above the minimum standard generally have no legitimate claim *of any sort*, whether a claim of justice or some other type of claim, on the resources of the better-off.¹⁸⁹

The view that justice requires only that everyone's share of resources meets a minimum standard is not, it seems to me, the most plausible of the views available to proponents of Moderation about Principles (nor is it, as we previously noted, a commonly accepted view among those who accept Moderation about Principles). It is, however, much more likely to be compatible with Moderation about Demands than its more egalitarian competitors.¹⁹⁰ But

¹⁸⁸ Piketty and Saez, "Income Inequality in the United States, 1913-1998," p. 5.

¹⁸⁹ Of course proponents of Moderation about Demands will allow for certain exceptions. For example, if someone who happens to be relatively poor is in danger of drowning, they will allow that she has a legitimate claim on the use of a rich person's boat, should such use be necessary for her survival, even if the boat is sure to be substantially damaged. For discussion of related cases involving third-party appropriations of resources, see Unger, *Living High and Letting Die*, pp. 63-70.

¹⁹⁰ Indeed, given that even though we have been operating with a relatively low minimum standard, the shortfall relative to that standard was estimated at 35% of the total gross income of the top one percent of tax units,

because the view implies that those whose incomes are just above the minimum standard have no legitimate complaint against those near, say, the bottom of the top one percent, it is difficult to see how it can also imply that those near the bottom of the top one percent can legitimately demand that the super-rich bear nearly all of the burden necessary to bring everyone up to the minimum standard. If even radical inequalities, such as that between those making \$20,000 and those making \$200,000, give rise to no legitimate claims on behalf of the worse-off, then it seems that the inequalities between those making, say, \$200,000 or \$300,000 and those making several million dollars should not give rise to legitimate claims on behalf of those with less that the millionaires bear nearly the entire burden of bringing everyone up to the minimum standard. And this seems to have the additional implication that those outside of the top one percent, for example those in the 90th-95th percentiles, have no legitimate claim against those in the top one percent that they bear the entire burden of bringing everyone up to the relevant minimum standard.

The underlying thought can be brought out more clearly by thinking about familiar cases in which a burden must be shared among a group of people, and the principles about the appropriate distribution of such burdens that seem plausible. A principle that seems consistent with much of our ordinary thinking about such cases (and is also independently plausible) is that in the absence of inequalities that we think are independently morally problematic, everyone in the relevant group is required to contribute to meeting burdens that must be shared among the group. In some such cases, we think that everyone in the group is required to contribute equally. In others we allow that those with greater resources should bear more of the burden than those with less. But typically we do not think that those with less should be required to contribute very little compared with the better-off, and we certainly don't allow that those with less should not have to contribute anything.

For example, if the roads and other public infrastructure in a wealthy community are damaged in a storm, and the residents of the community decide to organize their efforts to have the damage repaired, we are likely to view a claim by a member of the community with a six figure income to the effect that she should not have to contribute nearly as much as her millionaire neighbors with a great deal of suspicion.¹⁹¹ We will typically not accept such a claim, unless perhaps we hold a strongly egalitarian view about distributive justice, and therefore think that the inequality in income between the individual and her neighbors is independently morally problematic. And we will (or at least we ought to) view the claim as absurd and hypocritical if it is made by someone who also denies that she would have any obligation to sacrifice in order to improve the lives of those making \$20,000 even if there were no millionaires, or indeed anyone richer than her.

The challenge for the defender of Moderation about Demands, then, arises because it seems that any reason that she might give for allocating nearly the entire burden of bringing

it seems clear that any view about the requirements of justice that is substantially more egalitarian than the view that we have been operating with will be incompatible with Moderation about Demands.

¹⁹¹ Although the example involves the pursuit of an apparently mutually beneficial end rather than an end that must, morally speaking, be pursued regardless of whether doing so benefits every contributor, I believe that it is sufficiently similar in structure to be helpful for our purposes. Only those who believe that one cannot have moral obligations to contribute to ends the achievement of which will not benefit oneself, it seems to me, are in a position to deny this. And since those who accept Moderation about Principles are not, I think, in a position to claim that the obligations that we might have are limited to those that involve the pursuit of ends the achievement of which will benefit ourselves, we can ignore this objection to our use of the example.

everyone above the minimum standard to millionaires would have to appeal to the fact that they are so much better off than those making only several hundred thousand dollars, and therefore should shoulder a great deal more of the burden. But any reason of this sort would also seem to pave the way for similar claims on behalf of those making far less than six figures against those making more than six figures, and so would seem to push us in the direction of a much more egalitarian view of the requirements of justice. But since it is clear from the statistics that we have examined that any view about the requirements of justice that is much more egalitarian than the view that we have been operating with will be incompatible with Moderation about Demands, any attempt by the proponent of Moderation about Demands to allocate the obligations to sacrifice that are necessary to ensure that the requirement that everyone be brought above the relevant minimum standard is satisfied entirely to the very rich will be self-defeating, since doing so can only be justified by the sort of reasons that would undermine the relatively minimal view of the requirements of justice that provides the best hope for rescuing Moderation about Demands.¹⁹²

The Proponent of Moderation about Demands might respond to the argument that we have been developing by suggesting that it is misleading to characterize the sacrifices that would be involved in the super-rich bearing all or nearly all of the burdens required to make up for the total shortfall relative to the minimum standard required by justice as “substantial.”¹⁹³ After all, we might think, super-rich individuals could surely sacrifice a great deal of their income and wealth without that sacrifice interfering at all with their ability to pursue a wide variety of valuable projects and relationships. Those whom we have called typical well-off individuals, on the other hand, are less likely to be able to both make significant sacrifices of their resources *and* continue to be able to pursue “the kinds of projects and relationships that make their lives meaningful and rich from their own point of view,”¹⁹⁴ and so their compliance with a requirement that they give up a significant amount of their resources would likely involve substantial sacrifices. Since requiring large sacrifices of resources from the typically well-off would often require such people to sacrifice the pursuit of projects that are central to their lives, there is, it might seem, an objection to requiring such sacrifices that does not apply to requiring even larger sacrifices of resources from the super-rich.

This argument, however, cannot actually help the defender of Moderation about Demands, because there is an important ambiguity in the claim that requiring typical well-off individuals to sacrifice a significant portion of their resources would require them to sacrifice the pursuit of “the kinds of projects and relationships that make their lives meaningful and rich from their own point of view.” This claim can be understood in two different ways, but neither can be helpful to the defender of Moderation about Demands. The first is problematic because it allows a similar claim to be made on behalf of the super-rich, while the second conflicts with a central assumption of the minimum standard view of the requirements of justice that, as we have seen,

¹⁹² It seems to me that the appeal of the view that millionaires are obligated to sacrifice much more than those in the top one percent who make substantially less lends significant support to views about the requirements of justice that are substantially more egalitarian than the view that we have been operating with. If this is right, then those who were initially attracted to the Limited Subjects of Obligations Response should be pulled in the direction of such more egalitarian views, and therefore, given our discussion, away from Moderation about Demands. Casal makes a similar point against “sufficientarian” views, saying that since they “are indifferent...to inequalities among billionaires and those who have barely enough, they cannot support the preference for progressive over regressive taxes when both are capable of securing sufficiency” (“Why Sufficiency is Not Enough,” p. 311).

¹⁹³ Thanks to Jay Wallace for suggesting this response.

¹⁹⁴ Jay Wallace, personal communication.

seems to represent the best hope for allowing a successful defense of Moderation about Demands, and therefore pushes us in the direction of a more egalitarian view of the requirements of justice.

The first way to understand the claim that requiring large sacrifices of resources from typical well-off individuals would require the sacrifice of the kinds of projects that make their lives meaningful takes it that the objection is to the typically well-off being required to give up the particular projects that they have actually adopted, since those are the particular projects that currently provide meaning in their lives. This way of understanding the claim, however, does not necessarily distinguish requirements on the typically well-off from requirements on the super-rich. After all, surely at least some of the super-rich have adopted projects that are central to and provide meaning in their lives that they could not pursue were they to give up a large portion of their income and wealth.¹⁹⁵ And since it cannot be the case that no one is ever required to sacrifice the pursuit of valuable projects that they have adopted (this would conflict with both Moderation about Principles and Injustice entails Obligations), the fact that a requirement that typical well-off individuals sacrifice a significant portion of their resources would sometimes require that they give up important and valuable projects that they have actually adopted cannot be decisive against such requirements.

The other way that we might understand the claim that a requirement that typical well-off individuals sacrifice a significant portion of their resources would require them to sacrifice the pursuit of the kinds of projects that make their lives meaningful takes the relevant point to be that were such individuals to make the suggested sacrifices of resources, they would be left with too little to pursue *any* of the sorts of projects that might make their lives meaningful. They would be unable, that is, to live fulfilling lives.¹⁹⁶ But this claim cannot be accepted by the defender of Moderation about Demands either. Recall that we estimated that the minimum income that is a necessary condition for being able to live a fulfilling life is \$20,000 per year. In other words, we estimated that \$20,000 per year is enough to be able to pursue projects that can make one's life sufficiently fulfilling and rich that she would have no legitimate claim against her fellow citizens to be provided with more, even if everyone else has a significantly higher income. We made this estimate, which, to the extent that it errs, likely errs on the low end, because it seemed that specifying a minimum standard of this sort provided the best prospects for a successful defense of Moderation about Demands. The proponent of Moderation about Demands cannot, however, begin by claiming that those who are currently living in poverty need only \$20,000 in order to have the prospect of living a fulfilling life, and then object to a requirement that someone making, say, \$90,000 per year sacrifice \$30,000 in order to aid the badly-off on the ground that \$60,000 will leave her with too little to be able to pursue projects that would make her life sufficiently meaningful and fulfilling. The resource sacrifices that we have considered as potential obligations of typical well-off individuals may require them to give up some of the

¹⁹⁵ Consider, for example, those who compete in yacht races, or those who deeply value the sense of community that they feel and the particular relationships that they have cultivated at their exclusive country club.

¹⁹⁶ G.A. Cohen takes this thought seriously as a potential justification for rejecting the view that the well-off are obligated to make substantial resource sacrifices in order to aid the badly-off: "Unstarving, decently sheltered poor peasants are often better placed to enjoy a fulfilling life than self-expropriated wealthy people are" (*If You're an Egalitarian, How Come You're So Rich?* (Cambridge: Harvard University Press, 2000), p. 176). In other words, Cohen allows that some people, in virtue of their tastes (natural or acquired), can require more resources than others in order to be able to live a fulfilling life. He discusses the implications of this fact for the requirements of distributive justice in "On the Currency of Egalitarian Justice" and "Expensive Taste Rides Again," in *Dworkin and His Critics: With Replies by Dworkin*, ed. Justine Burley (Malden: Blackwell Publishing, 2007).

projects that they have actually adopted, but would not leave them with so little as to prevent them from developing new, perhaps less expensive projects that are both valuable and potentially meaning-providing.¹⁹⁷

The Moderate might respond by suggesting that whether a certain amount of resources is sufficient to pursue projects that can make a person's life rich and fulfilling from her own perspective will at least sometimes depend on the amount of resources that she is accustomed to having access to and putting toward the pursuit of her projects. On this view, at least some typical well-off individuals, in virtue of being accustomed to having access to a certain amount of resources and developing their projects and plans on the basis of an expectation of continued access to such resources, would be unable to live fulfilling lives if they were to sacrifice or otherwise lose access to a significant portion of those resources. This might be because they are particularly invested in the pursuit of projects that require a significant commitment of resources, and would therefore, in addition to finding it alienating to give up their actual projects (as many people, including many of the super-rich, would), find it extremely difficult to find meaning or fulfillment in any of the projects that they might pursue with a much more limited resource base. This could be true of certain well-off individuals even if the projects that they might pursue if they were to sacrifice a significant portion of their resources are ones that others (who are not accustomed to having the resources available to typical well-off individuals) could lead fulfilling and meaningful lives pursuing. It could also be true of (some) typical well-off individuals without it being even possibly true of any of the super-rich, since we might think that it is not possible that becoming accustomed to being super-rich could make it extremely difficult to live a fulfilling life with substantially fewer resources (for example, an amount of resources comparable to what typical well-off individuals tend to have). This thought is important to the case being considered for Moderation about Demands because if it is true it then it might provide a reason to reject the claim that typical well-off individuals can be required to sacrifice a significant portion of their resources, namely that doing so would prevent them from being able to live fulfilling lives going forward, that would not apply to a requirement that the very rich make much greater resource sacrifices. It might, then, be able to serve as the basis of an argument for allocating all, or nearly all, of the burdens necessary to bring everyone up to the minimum standard required by justice to the super-rich that does not also force us in the direction of a much more egalitarian view of the requirements of justice.

The idea here is not that certain well-off individuals could not live meaningful lives if they had to sacrifice the pursuit of the specific projects that they have actually adopted. That view is not particularly plausible,¹⁹⁸ and, as we have seen, it cannot serve as the basis of an objection to the view that individuals can be morally obligated to make significant resource sacrifices, since even the very rich might have projects that they could not continue to pursue were they to give up a significant portion of their resources. The claim, then, is that at least some

¹⁹⁷ For example, they could still pursue any of the projects available to those who make only the minimum standard, and likely plenty of others as well.

¹⁹⁸ Although giving up the projects that one has actually adopted can, of course, involve substantial alienation, especially if one has invested substantial time and energy into their pursuit, it is difficult to take seriously the claim that one could not live a fulfilling life if one had to give up the pursuit of one's actual projects, so long as one would be in a position to choose from a reasonable range of alternative projects to pursue going forward. People are very often forced to give up projects that are central to their lives (consider, for example, those who lose their jobs and have no choice but to change careers), and it is not at all unusual for them to develop new projects that clearly make their lives meaningful and fulfilling, even if they initially endure a great deal of alienation when facing the (sometimes sudden and unexpected) prospect of substantial change in their lives.

typical well-off individuals could live rich and fulfilling lives were they to give up their actual projects, but only if the alternative projects that they might pursue instead are not limited to those that can be pursued with significantly fewer resources than they are accustomed to putting toward their projects. If this claim is true, we might think that it can ground an objection to a requirement that those individuals who could not live fulfilling lives with significantly fewer resources sacrifice a substantial portion of their resources. And if a significant percentage of typical well-off individuals could not live fulfilling lives with substantially fewer resources, then we might think that this can ground a defense of Moderation about Demands. After all, we might think that proponents of Moderation about Principles need not, and indeed ought not, endorse requirements compliance with which would involve some people sacrificing the resources necessary to live fulfilling lives themselves so that others can have access to sufficient resources to live fulfilling lives.

Although there is something plausible about the claim that one person should not be obligated to sacrifice her ability to live a fulfilling life in order to provide someone else with the resources necessary to do so (indeed this seems to be just the sort of requirement that might follow from Extremism about Principles, and that Moderates would be inclined to reject on intuitive grounds as part of an argument for the Moderate view, or, somewhat more plausibly, for Moderation about Principles), there are reasons to doubt that the proposed defense of Moderation about Demands can succeed. First, if we accept that once they have adopted certain sorts of projects, some individuals need substantially more than the minimum standard that we have assumed justice requires everyone to have in order to live a fulfilling life, then it may turn out that, given the limitations on our resources, there simply is not enough for everyone to live a fulfilling life going forward. This seems like a difficult claim to accept about a society as rich as ours. If, however, we accept that this might be the case, then we would need to face the difficult question of what justice requires in terms of the distribution of resources given that at least some will necessarily be left without enough to have a fulfilling life. The proponent of Moderation about Demands might try to defend the conservative view that no one who currently has enough to live a fulfilling life is obligated to sacrifice so much that they would fall below that threshold, regardless of whether the threshold in their individual case is \$20,000 or \$90,000 or more. This view would entail that, without any wrongdoing, all of those who would lack sufficient resources to live a fulfilling life would be people who, for whatever reason, currently fall below that threshold, and at least in practice this would certainly include mostly people who currently fall below the \$20,000 per year income threshold. This view is not obviously incompatible with Moderation about Principles.¹⁹⁹ We will see, however, that it faces serious problems that strongly suggest that it cannot be accepted.

¹⁹⁹ As Niko Kolodny pointed out to me, defenders of the conservative view would need to explain why it is acceptable for the view to include a substantial bias in favor of the status quo with respect to the ability to live a fulfilling life. This status quo bias might seem especially difficult to defend given that those who require much more than the minimum standard that we have been operating with in order to live a fulfilling life could, were they to make substantial sacrifices, provide enough resources to bring *multiple* others who currently fall below that standard up to it. It is important to note, however, that the endorsement of a substantial status quo bias is simply a particular instance of a more general difficulty that faces any defense of Moderation about Demands, since any view compatible with Moderation about Demands will necessarily include a robust set of permissions for those who are currently much better off than others to favor their own impersonally less significant interests over the impersonally more significant interests of the worse-off. Attempting to defend Moderation about Demands, then, necessarily involves attempting to defend (the permissibility of) a rather strong sort of very general status quo bias.

A second reason to reject the proposed defense of Moderation about Demands is that if we accept that some people, in virtue of having become accustomed to having a certain amount of resources, could not live fulfilling lives were they to come to have substantially less, this would seem to provide us with reasons not only to reject the view that typical well-off individuals can be obligated to sacrifice a substantial portion of their resources, but also to ensure that those who require, say, \$90,000 per year in order to live a fulfilling life continue to have that much income, even if, for example, they lose their jobs and take up positions that pay significantly less than they formerly earned. If we accept (as we saw in Chapter Two that proponents of Moderation about Principles are committed to accepting) that justice requires that everyone is provided with sufficient resources to live a fulfilling life (so long as there are sufficient total resources to meet this requirement), then if we also accept that some people, in virtue of having become accustomed to having a certain amount of resources, cannot live fulfilling lives with substantially less, then we would seem to be committed to the view that (so long as there are sufficient total resources available) those who require substantially more resources in order to be able to live fulfilling lives must be provided with a greater share (and perhaps a much greater share) of the total resources available than those who can live fulfilling lives with only the minimum standard that justice requires everyone to have.

Imagine that P recently had to switch jobs and to accept a pay cut from \$120,000 to \$80,000, and that because she has become accustomed to having a larger income, she can only live a fulfilling life if she has access to \$90,000 per year. Q, on the other hand, earns only \$10,000 per year, and has always been poor. She could, therefore, live a fulfilling life with the \$20,000 minimum standard that justice requires everyone to have. On the view that we have been considering, it seems that we have similar reasons to provide an extra \$10,000 to both P and Q, since both need that much in order to be able to live a fulfilling life. Of course it may be the case that with only \$10,000, Q lacks enough to provide for her basic needs, in addition to lacking enough to pursue the sort of projects that could make her life meaningful and fulfilling from her own perspective. But if we imagine that this is not the case (or, if this seems too implausible, adjust the relevant figures) it should still seem unacceptable to both Extremists and Moderates that there are similar reasons to provide the resources to both P and Q, given that the reasons to provide them to P arise primarily in virtue of her history of pursuing relatively costly projects, which itself depends on her history of having a much larger income than Q. Surely whatever reasons there are to provide the \$10,000 to P pale in comparison to the reasons for providing it to Q.²⁰⁰

Perhaps an even more significant problem for the defense of Moderation about Demands under consideration is that, given the failure of the defenses considered earlier in this section, it seems to have no way of justifying the initial adoption of the sorts of projects commitment to

²⁰⁰ By making this claim I do not intend to be taking a position on the appropriate “currency” (Cohen, “On the Currency of Egalitarian Justice,” p. 921) of justice, although it may commit me to rejecting certain types of fully welfarist accounts. Still, the interest in having enough to live a fulfilling life may be only partially an interest in greater welfare, and surely there are some welfare interests that cannot be satisfied by having more resources. Despite certain structural similarities, then, it is not obvious that rejecting P’s claim to the \$10,000 that she, according to the view under consideration, needs in order to live a fulfilling life is in all morally relevant ways equivalent to rejecting a claim made by a champagne-lover for a greater income than a beer drinker in virtue of her expensive tastes. For discussion of the issue of expensive tastes, see Dworkin, “What is Equality? Part One: Equality of Welfare,” *Philosophy and Public Affairs* 10 (1981): 185-246, reprinted as Chapter One of *Sovereign Virtue*, pp. 48-59 (this and all subsequent page references are to the reprinted version); Cohen, “On the Currency of Egalitarian Justice,” pp. 913-31; Dworkin, *Sovereign Virtue*, Chapter 7; and Cohen, “Expensive Taste Rides Again.”

which might make it the case that one could not live a fulfilling life without substantially greater resources than the minimum standard that justice requires everyone to have. In order to be in the sort of position that the defense of Moderation about Demands claims is possible, in which one cannot live a fulfilling life going forward without substantially greater resources than the minimum standard required by justice, one must, at some time in the past, have adopted and become committed to projects that cannot be pursued without significantly more resources than the minimum standard. In order to have adopted and become committed to such projects, one must have had the resources necessary to pursue them prior to actually adopting them. But prior to having adopted and being actually committed to such projects, it could not have been the case that one could not live a fulfilling life going forward by pursuing the sorts of projects available to those making only \$20,000 per year (remember that the defense of Moderation about Demands being considered requires that all of those²⁰¹ who are accustomed to making less than \$20,000 per year could live fulfilling lives were they to be provided with just that minimum standard; and surely accepting this claim commits one to accepting that *anyone* who has not yet adopted projects that require more than that income could live a fulfilling life by pursuing only projects that are available to those with that income, including those who happen to already make more). The defense of the continued pursuit of relatively costly projects that we have been considering could not, then, have been invoked in defense of one's initial adoption of projects requiring substantially more resources than the minimum standard, since prior to the adoption of such projects it could not have been true that one could not live a fulfilling life going forward without pursuing projects that are that costly. And given our earlier arguments against the Limited Subjects of Obligations Response, it seems likely that those who are committed to (at least) the minimum standard that we have been operating with as a requirement of justice must be committed to accepting that those who make substantially more than the minimum standard can, and in circumstances like ours likely do, have an obligation to refrain from adopting projects that are much more costly than those that could be pursued with only the minimum standard, and to contribute some, and perhaps a substantial portion, of their income above the minimum standard to those who fall below that standard or to organizations that aid those who fall below it. As we have seen, a broad set of such obligations seems to simply follow from the minimum standard required by justice (which is itself the least demanding requirement consistent with Moderation about Principles) in combination with Injustice entails Obligations.

If, however, it is often wrong (at least in circumstances like ours) to adopt projects that are substantially more costly than those that can be pursued with only the minimum standard required by justice, then defenders of Moderation about Demands cannot appeal to the fact that many typical well-off people have in fact adopted such projects, and therefore cannot live fulfilling lives going forward if they were to make substantial resource sacrifices, in order to defend the view that it is permissible for them to continue to pursue the sorts of projects that they have adopted. The wrongness of the initial adoption of the relevant projects clearly undermines any defense of the continued pursuit of those or similarly costly projects that appeals to the loss of fulfillment that those who have adopted the projects might suffer if they were to make substantial resource sacrifices. This seems particularly true when the resource sacrifices that such people might make would provide those who have always been poor through no fault of their own with the opportunity to develop projects that could make their lives fulfilling.

²⁰¹ With the exception, which we will set aside here, of those whose need for more resources than the minimum standard required by justice derives from a handicap or other relevantly similar condition that makes the minimum standard inadequate for a fulfilling life.

Wrongfully putting oneself in a position in which one's fulfillment depends on having substantially more resources than others cannot possibly serve as a justification for refusing to make sacrifices that would benefit those who lack the minimum amount of resources necessary for anyone to live a fulfilling life.

It seems, then, that the Limited Subjects of Obligations Response fails as a defense of Moderation about Demands. Many of the reasons that we might give for exempting those whom we have called typical well-off individuals from the requirement to contribute to bringing everyone above the minimum standard that we have, for the sake of the argument, endorsed, would commit us to a much more egalitarian view about the requirements of justice, and thereby substantially undermine the prospects of Moderation about Demands. In addition, any view on which inequalities above a minimum standard, no matter how extreme, are of no concern in terms of justice will lack the resources to justify allocating nearly the entire burden necessary to bring everyone above the minimum standard to the super-rich.

II. The Drop in the Bucket Response

The extent of the injustice in our society is so extraordinary, even on the rather minimal view of what justice requires that we have been operating with, that we might think that there is little or nothing of any moral significance that a single typical well-off individual can do about it. This thought is the basis of the Drop in the Bucket Response to the view that typical well-off individuals are, or can be, morally required to make significant sacrifices in order to promote justice. This Response can take two importantly different forms, and we will consider both of them in this section.

Before examining the two versions of the Response, however, it is important to note a slightly different thought that might be appealed in order to defend the view that typical well-off individuals are not obligated, as a matter of justice, to sacrifice a significant portion of their incomes in order to aid the badly-off.²⁰² The thought is that justice and injustice are properties of societies as a whole, and that whether or not a society is just does not depend primarily, or perhaps even minimally, on facts about individuals (for example, their shares of resources). On this sort of view, for a society to be just might be little or nothing more than for it to have certain structural features, such as a Gini coefficient lower than a certain specified figure, or for it to have institutions that meet certain specified conditions.²⁰³ If a view of this sort is the correct view of what justice consists in, then it is not clear that by sacrificing a portion of their income in order to aid the badly-off, well-off individuals would, or even could, have any effect on the *justice* of their society.

It is difficult, however, to see how those who accept Moderation about Principles could accept a view with these implications. After all, they accept that all individuals, and their interests, are equally morally important, and it is hard to see how the sort of concern for justice that they ought to have could be plausibly understood as significantly (or, as some views might require, entirely) separable from their general concern for the interests of individuals.²⁰⁴ Justice, it seems reasonable to think, matters at least in part because the interests of individuals matter, and justice must therefore be understood as at least to a significant extent a matter of how

²⁰² Thanks to Niko Kolodny for encouraging me to address this point.

²⁰³ We will consider this last possibility in Chapters Four and Five.

²⁰⁴ This does not, of course, mean that there are not *additional* requirements of justice beyond those having to do with the relevant interests of individuals being met.

individuals are faring in the relevant respects (for example, in terms of their shares of resources).²⁰⁵ Only a view of what justice consists in that allows that, all else equal, many people who had avoidably lacked sufficient resources to live a fulfilling life coming to have such resources counts as an improvement with respect to justice, regardless of whether this change has any effect on (for example) the Gini coefficient or the character of society's institutions, is capable of reflecting the view, endorsed by proponents of Moderation about Principles, that all individuals, and their interests, are equally morally important.²⁰⁶

The claim that justice does not depend in any significant way on facts about individuals should, then, be rejected. But even if it is endorsed, nothing significant in our argument would be affected. We have been using the terms 'justice', 'unjust', and so on, to assess states of affairs that either meet or fail to meet certain conditions, such as everyone's having a sufficient share of resources to live a fulfilling life. But the moral significance of achieving this state of affairs does not in any way depend on this terminology. What our argument has suggested is that those who accept Moderation about Principles are led, in virtue of that commitment, to the view that it is a moral imperative that everyone have a share of resources that is sufficient for living a fulfilling life (so long as there are enough total resources available to satisfy this requirement). This argument could, in principle, be made without invoking the term 'justice' at all. Since we have, however, seen several reasons for thinking that our use of the term is appropriate, we will continue to use it in the way that we have been.²⁰⁷

A. Direct Aid

In order to make the considerations that might motivate the first version of the Drop in the Bucket Response as clear as possible, it will be helpful to consider how a typical well-off individual might employ the Response in order to defend her ordinary behavior. If her income is, say, \$90,000, she might begin with the thought that she could sacrifice \$30,000, giving the money in equal proportion directly to six individuals whose incomes are around \$15,000, and thereby bringing them up to the minimum standard required by justice. She might then think, however, that because she would only be helping six out of the many millions of people whose shares of resources fall below that standard, her impact on the justice of her society would be so insignificant that the large personal sacrifice that she was contemplating cannot possibly be morally required of her. She may even doubt that it would be correct to say that such a sacrifice would make her society less unjust than it had been, given how little of the shortfall relative to the minimum standard would be eliminated in virtue of it. And if her rather large sacrifice would have little or no impact on the extent to which her society is unjust, it may seem that she cannot be required to make such a sacrifice.

Despite the widespread intuitive appeal of this line of reasoning (and, I suspect, the extent to which it actually affects individuals' (un)willingness to make sacrifices in order to aid the

²⁰⁵ Waldron endorses this sort of view, saying that "an interest in justice – defined generally – is an interest in distributive information across individuals... By distributive information, I mean... to refer to information about the way outcomes are in fact distributed across individuals" ("The Primacy of Justice," pp. 277-8).

²⁰⁶ In addition, only such a view, it seems, is capable of reflecting the extremely plausible claim (which it is difficult to see how proponents of Moderation about Principles might reject), that individuals are the fundamental units of moral concern. For a helpful discussion of the reasons for accepting this claim, see Tan, *Justice Without Borders*, pp. 35-9.

²⁰⁷ Those who find our use of the term problematic should keep in mind that nothing in the argument depends on it, and can replace instances of it with something that they find more appropriate.

victims of injustice), it is deeply flawed.²⁰⁸ The fact that there are millions of people in need of help, rather than only so many as (or not so many more than) one can actually help cannot possibly limit one's moral obligation to help those whom one can. If there are a million children drowning in a pond, and one is only in a position to rescue six of them, one is still obligated to rescue the six, even at substantial cost to oneself. Furthermore, this obligation is *no weaker* than it would be if the six whom one could save were the only children drowning; whatever degree of sacrifice can be required of one in the latter case can also be required in the former. This is because the fact that there are many more children in need of help in no way diminishes the moral importance of saving the six. And, of course, the importance *to the six* of their lives being saved is not diminished by the fact that there are many others who cannot be saved.²⁰⁹

Those who accept Moderation about Principles and Injustice entails Obligations are committed, by an identically structured argument, to the view that typical well-off individuals can be required to make significant sacrifices in order to aid the victims of injustice, even if the impact that such sacrifices will have will be quite minimal when compared with the injustice that remains once they have been made. Consider a society in which the following conditions hold:

1. A makes \$90,000
2. A is the only individual above the minimum standard required by justice
3. There are six people below the minimum standard
4. The total shortfall relative to the minimum standard is \$30,000

Injustice entails Obligations straightforwardly implies that A is required to sacrifice \$30,000 in this case. But if one can be required to sacrifice \$30,000 in order to bring six people up to the minimum standard required by justice in this case, then one must also be required to do so in a situation in which there are many more people below the minimum standard whom one is not in a position to help (or whom one is not morally required to help given the extent to which one can permissibly give her own interests greater weight than they would receive if only agent-neutral reasons were morally relevant). After all, the moral importance of the six having sufficient resources to live a fulfilling life is certainly not diminished by the fact that there are many others who also lack such resources.

It is simply a mistake, and one that is all too common in much of our moral thinking, to hold that our obligations to help particular people are more limited when there is a large number of people requiring the sort of help that we can provide, and when we can only help a small fraction of all of them. The case described above involving the one million drowning children shows that we do not always accept such a limitation on our obligations, and our argument

²⁰⁸ For relevant discussion see Unger, *Living High and Letting Die*, pp. 41, 75-82., and Cohen, *If You're an Egalitarian, How Come You're So Rich?*, pp. 162-3.

²⁰⁹ The six may feel a profound sense of regret about the fact that the others could not be saved, and perhaps even a sense of guilt about being able to enjoy continued life while so many others perished. But this surely cannot affect the extent of one's obligation to rescue those whom one can in such situations. In addition, any attempt to employ the relevantly analogous fact in a defense of the view that typical well-off individuals are not required to sacrifice much to aid the victims of existing injustice would be deeply perverse. Such an argument would begin by noting that those who would benefit from one's sacrifices may feel a sense of regret or guilt about now being able to enjoy sufficient resources for a fulfilling life while so many others cannot, and then go on to suggest that because the potential beneficiaries might be prone to such feelings, one is not obligated to sacrifice in order to aid them. But clearly to the extent that it is reasonable to have such feelings about one's favorable position relative to the victims of injustice, the potential benefactors should have them to a much greater extent than the potential beneficiaries, and should therefore be inclined to sacrifice substantially in order to aid them.

strongly suggests that we should *never* accept such a limitation.²¹⁰ And this, in turn, suggests that, at least when the aid that we might provide to those below the minimum standard required by justice is directed from us to particular badly-off individuals, the version of the Drop in the Bucket Response that we have so far considered fails. It is simply a mistake to think that one's society is not made less unjust when a small fraction of the many millions who are badly-off come to have sufficient resources to live a fulfilling life. The impact on justice is small relative to the total amount of injustice, but it is no less morally significant for that.

B. Pooled Aid

For a number of reasons, however, it is generally less than ideal for well-off individuals to direct whatever aid they provide to the badly-off to particular badly-off individuals. First, even given the relatively limited amount of aid that is given by the well-off, there is enough that is given for it to be much more efficient to pool the available resources and then direct them where they will do the most good.²¹¹ And there are a number of organizations within the U.S. to which individuals can donate that efficiently aid the victims of American injustice.²¹² In addition, it may be much more detrimental to the self-respect of those requiring the aid of others to have to accept it directly from particular well-off individuals rather than from an organization

²¹⁰ Unger convincingly argues (*Living High and Letting Die*, pp. 75-82) that in cases in which we can help some, but far from all, of those in a certain kind of danger or with a certain kind of need, the conspicuousness of the danger or need that we might address often “liberates” us from the “futility thinking” that we are prone to when the danger or need is not dramatic or conspicuous. This helps to explain why no one would be convinced by the claim that rescuing six out of a million drowning children would amount to a mere “drop in the bucket,” and that therefore one cannot be required to sacrifice significantly in order to save them. Perhaps even more importantly for our argument here, Unger shows that most people think that even stealing from a very wealthy person is morally good when the stolen funds would be used to save the lives of the only ten people in the world in danger of dying from a curable disease, or even to save ten out of thirty people in danger of dying from such a disease. When the stolen funds would be used to save ten out of three thousand people in danger from the disease, however, most people think that the theft is wrong. Our argument, however, along with much of what Unger himself says about such cases, shows that if the typical responses to the first two cases are correct, then the typical response to the last case must be mistaken.

²¹¹ For a similar point and relevant discussion with regard to global famine relief, see Cullity, *The Moral Demands of Affluence*, pp. 58-65.

²¹² Just one example is Feeding America (<http://feedingamerica.org/>). None of what is said here should be taken to imply that well-off Americans necessarily have more reason to provide aid to badly-off fellow Americans than to even worse-off people in other parts of the world. We have focused on intra-national obligations because the requirements of justice within a single nation that we have been assuming are relatively uncontroversial among proponents of Moderation about Principles, while similar, or even somewhat weaker, obligations to those outside of one's nation are less widely accepted. For relevant discussion see Thomas Nagel, “The Problem of Global Justice,” *Philosophy and Public Affairs* 33 (2005): 113-47 and Samuel Scheffler, “Families, Nations, and Strangers,” *Lindley Lecture Series* (Lawrence: University of Kansas, 1995), reprinted as Chapter 3 of *Boundaries and Allegiances: Problems of Justice and Responsibility in Liberal Theory* (New York: Oxford University Press, 2001); all subsequent page references are to the reprinted version. It is far from clear, however, that those who accept Moderation about Principles can accept that there are much stronger reasons to aid the badly-off in one's own nation than there are to aid the worse-off elsewhere. If they cannot, then it seems that they will be forced to accept significant requirements on the well-off in, for example, the United States to aid the poor around the world, in addition to whatever requirements apply to aid their impoverished fellow citizens. Clearly these requirements would, given our argument to this point, far exceed what Moderation about Demands would allow. I intend to discuss the implications of Moderation about Principles for our obligations to the global poor elsewhere.

whose purpose is to help the badly-off.²¹³ It is clear, then, that we should think that well-off individuals should, in general, direct whatever aid they are obligated to give to organizations that efficiently aid the badly-off, rather than directing it to particular badly-off individuals.²¹⁴

But if well-off individuals generally ought to direct their aid through organizations that help the badly-off rather than directing it to particular badly-off individuals, then the Drop in the Bucket Response can be reasserted in a form that is much more powerful than the version that we considered with regard to cases involving direct aid to particular individuals. Unlike the version of the Response that we considered above, the version that can be directed against purported individual obligations to aid the badly-off by giving to organizations that efficiently help them can plausibly include the claim that the contributions that many individuals might be obligated to make would make no difference, or at least no perceptible difference, to the amount of help provided by the relevant organizations.²¹⁵ When we couple this with the plausible claim that individuals cannot be morally required to make sacrifices that will have no effect, or no perceptible effect, on how much good is done by the organizations to which they might direct such sacrifices, we get a version of the Drop in the Bucket Response that appears to present a substantial challenge to the argument that we have developed against Moderation about Demands, and in particular to Injustice entails Obligations.

Garrett Cullity explains this version of the Response as follows:

If I give a donation to a famine relief agency, it will be added to a fund which the agency will use to buy food, to equip and staff a distribution camp, and to transport the food there. A first, natural thought is that, to calculate the effect of my donation, we should take the total amount of food distributed and the total cost of distributing it, and then work out the proportion of the cost I have met. Suppose, when we do this, the proportion of the cost attributed to me corresponds to enough food to feed one person for the duration of the crisis. It still seems wrong to say that the effect of my action has been the saving of one life. For suppose I had not made my donation. The effect of this would not have been that one of the people who was actually fed would have gone without any food...If I make a donation corresponding to enough food to feed one person, this will

²¹³ To the extent that this is true, much of the reason likely stems from the fact that there is a stigma attached to being poor in our society, such that others tend to assume that one's poverty must be the result of one's lack of effort to "make it on one's own," or some similar reason. Some poor individuals internalize this stigma, and so suffer an unjustified lack of self-respect. If there were no such stigma, it is not clear that accepting aid directly from the better-off would have the same effect on the self-respect of the badly-off. The transfers could, and, it seems to me, should be thought of in the same way that we would think about transfers from those who have more to those who have less in other situations in which those who have less are not at fault for having less. For example, if a group of ten people split up to find food while lost in the forest, and three of them come back with large quantities of food, while the rest have less than what they need to survive, those with less would not typically suffer a lack of self-respect as a result of accepting some food from those who happened to come across more of it. For discussion of a related point, see Cohen, *If You're an Egalitarian, How Come You're So Rich*, p. 167.

²¹⁴ I include the qualifier "in general" to allow for the possibility that there are some circumstances in which it would do more good, on the whole, for the well-off to directly aid particular badly-off individuals.

²¹⁵ At least the very rich are likely obligated to make contributions that are substantial enough that, even given the description of the decision procedures of aid organizations that we will consider shortly, they will make a difference to how much aid is provided by the relevant organizations. It is more difficult to know whether the contributions that typical well-off individuals might be required to make are large enough to make a difference, but it is plausible that at least in many cases they are. A \$30,000 donation, for example, may be large enough to affect the deliberations within an organization about how much, say, food to purchase.

not mean that that amount of food goes to the camp. Relief agencies do not buy food in such small amounts. Instead, they make a large scale calculation of the size of the overall need, the amount of money they are likely to be able to raise from various sources to pay for it, and the extent to which it makes sense to draw on contingency funds in the light of other likely calls on them...they then arrange the shipment of a large quantity of food. The agency's deliberations will thus be conducted on a scale that is simply not sensitive to the difference I would make by donating enough to help one person. My decision to donate, therefore, will...have no effect at all on [the fund's many beneficiaries].²¹⁶

Cullity replies to the Response, in defense of the view that well-off individuals are morally obligated to give to relief agencies, by claiming that the obligation to aid the victims of famine is a collective obligation, and that failing to contribute to the fulfillment of such an obligation is unfair.²¹⁷ Those who could contribute but refuse to do so, even on the ground that their contribution would have no effect on any of the potential beneficiaries, rely on others to contribute without being willing to contribute themselves, without any justification for treating themselves differently from everyone else. Fairness requires, at least in cases of the sort that Cullity is concerned with, that we derive individual requirements from collective requirements.²¹⁸ And since, on the view of what justice requires that we have been operating with, it is clear that we can derive individual obligations to sacrifice in order to promote justice from the collective obligation to achieve justice, if Cullity's reply works for the case of famine relief, then it works for the case that is our central concern as well.²¹⁹

It is, however, not entirely clear that the reply does work. After all, we might think that although fairness is an important value, it does not always override other morally important considerations. In a case in which one is attempting to determine whether she is obligated to make a substantial sacrifice in order to contribute to an aid organization's pool of resources, she might allow that refusing to do so is unfair, but claim that the fairness-based case for accepting the obligation is outweighed by the fact that making the sacrifice would have no effect, or at least no perceptible effect, on any of the organization's beneficiaries. Since making the sacrifice would have a significant negative effect on her, she might argue that, for example, the moral significance of the projects that she would otherwise pursue using the resources is greater than

²¹⁶ *The Moral Demands of Affluence*, pp. 58-9. Part of this passage also appears in "Pooled Beneficence," p. 2.

²¹⁷ To say that the obligation to aid the victims of famine is a collective obligation is to assert a claim in the neighborhood of Injustice entails Obligations. The thought is that there is a certain amount of aid that the members of the relevant collective are, between them, obligated to provide. And in order for the collective obligation to be met, at least some of the individual members of the collective must contribute, since collectives only achieve anything as a result of the actions of their individual members.

²¹⁸ *The Moral Demands of Affluence*, pp. 60-4; see also "Pooled Beneficence," pp. 14-17. Cullity allows that there will be some cases in which we cannot derive individual requirements from collective ones. For example, if we are part of a group that is collectively required to "make a gesture of reconciliation to an unjustly treated group," and it is "not in the power of any member of the group to offer that gesture on his own," then it seems that the collective requirement cannot be divided up among the relevant individuals in a way that would allow any particular individual to do her share even if the others fail to do theirs (*The Moral Demands of Affluence*, p. 61; see also "Pooled Beneficence," p. 13).

²¹⁹ In Chapters Four and Five we will consider whether we can accept a view on which the collective requirement to achieve distributive justice is understood in a way that does not allow us to derive individual requirements on the well-off to sacrifice some of their resources from the collective requirement.

the moral significance of fairness in this case, given that sacrificing the resources would not (perceptibly) benefit anyone, and that therefore making the sacrifice is not required.²²⁰

Even if we reject the fairness-based case for accepting the requirement to contribute, however, Cullity provides the basis for a second argument for accepting it that is compelling.²²¹ The argument is set up so as to show that contributing a certain amount to a pool that will be used to aid the badly-off is morally required when the only alternative is doing nothing, so long as the following conditions hold:

1. A comparable sacrifice would be required if the only way to make it was to direct it to particular badly-off people (that is, if there were no pools available to contribute to)
2. Directing aid to badly-off people through a pool would do more good than directing it to particular badly-off people

The argument also shows, however, that one can be required to make the contemplated sacrifice when one could either direct it to particular badly-off individuals or through a pool.²²²

Injustice entails Obligations, in combination with our rejection of the Limited Subjects of Obligations Response and the earlier version of the Drop in the Bucket Response, implies that typical well-off individuals would be obligated to sacrifice a significant portion of their resources directly to particular badly-off people if there were no pools to which they could contribute that would more efficiently aid such people. So, condition 1, with respect to the case that is our central concern, is met. And, since it is clear that aiding badly-off people through an efficient pool would do more good than aid provided individually from particular well-off people to particular badly-off people,²²³ condition 2 is met as well. Given that aiding through a pool is better than individually aiding particular badly-off people, and that doing the latter would be morally required if one could not do the former, it seems clear that aiding through a pool must be required if aiding particular badly-off people is not possible. And if it is possible to either aid directly or aid through a pool, it is equally clear that, even if both are permissible, one must do

²²⁰ In addition, Cullity's appeal to fairness, as stated, cannot account for obligations to contribute to pools to which no one else is contributing, since by refusing to contribute one does not rely on others to contribute without being willing to contribute oneself. As we will see shortly, however, it seems that the version of the Drop in the Bucket Response that we are currently considering cannot be made against an alleged obligation to contribute to a pool to which no one else is contributing, since it is false that one's contribution would have no perceptible effect on the pool's potential beneficiaries (after all, if one is the only contributor, then any benefits that are produced as a result of the use of the pool's funds will be directly attributable to one's contribution).

²²¹ "Pooled Beneficence," pp. 7-14. For our purposes we can ignore some of the complications that Cullity considers in developing his argument, in particular the fact that there are some cases in which restricting the available alternatives can alter the consequences of choosing those alternatives.

²²² Because I see no reason to prefer directing the aid to particular badly-off people when directing it through a pool would (collectively) do more good, it seems to me that the argument shows that one is required to direct it through a pool when a pool is available. I will not, however, argue for this view, and I will insist only that the relevant sacrifices must be morally required, whether they are directed through a pool or not.

²²³ Aiding through a pool could do more good than the alternative in either of two ways, or in both. First, it could improve the condition of the badly-off to a greater extent at the same cost to the well-off. Second, it could improve the condition of the badly-off to the same extent, but at a lower cost to the well-off (see Cullity, "Pooled Beneficence," p. 11). Finally, it could improve the condition of the badly-off to a greater extent *and* at a lower cost to the well-off.

one or the other. The possibility of aiding through a pool cannot be allowed to generate a version of the Drop in the Bucket Response that makes not aiding at all permissible. Given that we can derive individual requirements to contribute to aiding the badly-off from the collective requirement to achieve distributive justice when there are no pools through which to channel the aid, we must be able to derive individual requirements to make similar sacrifices by contributing to efficient pools when they are available.

Cullity believes that this argument, when applied to cases in which direct aiding is not an option, and therefore when functioning as an argument for a requirement to contribute to a pool, must be supplemented by the appeal to fairness that we considered earlier in order to be fully compelling.²²⁴ In the absence of this appeal, he thinks, the proponent of the Drop in the Bucket Response can claim that individual obligations cannot be derived from the collective obligation to pool a certain amount of resources in order to provide aid to the badly-off, since any individual contribution will fail to make a (perceptible) difference to how much aid is provided.

It may be that the appeal to fairness is sufficient to justify the necessary individual obligations, despite the potential reply to that appeal that we noted earlier. But it does not seem to me to be the only way, or even the most compelling way, to argue for the individual obligations, given acceptance of the collective obligation. Instead, it seems to me preferable to appeal directly to Injustice entails Obligations, and to claim that whatever force the Drop in the Bucket Response has, it is insufficient to warrant abandoning that extremely plausible principle. In other words, given that there is a clear conflict between the Response and the principle, we ought to reject the Response.

One important reason for preferring to reject the Response is that it is not clear how we could make sense of the collective obligations that even proponents of the Response acknowledge were we to reject Injustice entails Obligations instead. Proponents of the Response might claim that in fact there is no conflict between the Response and Injustice entails Obligations, since proponents of the Response acknowledge the collective obligation, and since, given the content of that obligation, compliance with it would result in the elimination of injustice. This is true, they might claim, even if there are no individual obligations to contribute, through the relevant pool, to the elimination of injustice.

But if the collective obligation in this case is not simply composed of individual obligations, it is not clear what it could be. It is certainly not the sort of thing that could be complied with even if the disputed individual obligations are not complied with. The relevant collective, which simply consists of all of the individuals who could contribute to the pool, is not an agent, and so, strictly speaking, cannot be the subject of any obligations.²²⁵ There are not obligations simply floating around that do not apply to any agents capable of discharging them, and such obligations certainly cannot satisfy the requirements of Injustice entails Obligations.²²⁶

²²⁴ Ibid, pp. 12-17.

²²⁵ Stroud explicitly endorses the view that it is a conceptual truth that only agents can be the subjects of moral obligations: "Moral demands are, by definition, addressed to *agents*: anything that is subject to a moral demand is, necessarily, an agent" ("Permissible Partiality, Projects, and Plural Agency," p. 142, italics in original). Stroud allows that multiple individuals who form certain kinds of joint projects can form a "plural agent" (pp. 144-8), but would surely deny that the collective consisting of all of those who are in a position to contribute to pools in order to aid the badly-off meet the necessary conditions for plural agency.

²²⁶ Given that this is the case, it might seem that the claim that there is a collective obligation but no individual obligations can amount to nothing more than the claim that it would be a good thing if the badly-off were aided. It cannot actually mean that there is any kind of *obligation* to aid them.

In cases of the sort that we are considering, to say that there is a collective obligation can, it seems, be nothing more than an alternative way of saying that there are the individual obligations that Cullity says can be derived from the collective obligation. And given that this is the case, we cannot accept the Drop in the Bucket Response without giving up Injustice entails Obligations, and indeed we cannot accept the Response without giving up the collective obligation, which was supposed to be common ground between both proponents and opponents of the Response.²²⁷

A final point to note about the version of the Drop in the Bucket Response that we have been considering is that it appears that there is a way in which how many others are contributing to a pool will affect an individual's obligation to contribute. Specifically, the Response would not apply to a purported obligation to contribute to an available pool to which no one else is contributing. This is because if no one else is contributing to a pool, it will be false that one's own contribution would have no (perceptible) effect on the pool's beneficiaries. In fact, whatever benefits would be produced would be entirely attributable to one's contribution, whatever its size. And so long as the number of people contributing is relatively low, it seems that one's contribution, so long as it is not terribly small, would continue to have (perceptible) effects. So, it seems that as long as few enough people are contributing to such a pool, proponents of the Response must allow that one is obligated to contribute as well. It seems highly implausible, however, that we could come to have no obligation to contribute once a certain number of others are contributing, so long as the relevant pool is still lacking sufficient resources to provide all of the aid that is required.²²⁸

Furthermore, it is illuminating to note that when no one else, or very few others are contributing, we are likely to be influenced by the first version of the Drop in the Bucket Response, which, as we saw, suggests that, at least in certain kinds of cases, we cannot be required to make sacrifices that will aid a small number of people when many others will continue to suffer from similar deprivations. The combined effect of the two versions of the Response, then, is to lead us to think that in a world like ours we are *never, or at least almost never*, obligated to sacrifice in order to aid the badly-off. When very little help is being provided in the relevant way or to the relevant group, we think that contributing is not required because it would have only a small effect relative to the size of the problem. And when a significant amount of help is being provided in the relevant way or to the relevant group, we think that contributing is not required because it would have no (perceptible) effect on the beneficiaries. When this pattern in our moral thinking is seen in this light, it is difficult not to view it as little more than a convenient structure for rationalizing our ordinary unhelpful behavior.

III. The Requirements of Justice and the Moderate View

We have seen that even a relatively minimal view about the requirements of justice presents a substantial challenge to accepting Moderation about Demands, given the relevant facts about the society in which we live. We have limited resources, and justice requires, insofar as it is possible, that they be distributed in a way that differs significantly from how they are currently distributed. Achieving a just distribution, then, is only possible if many people who currently

²²⁷ Accepting this argument for preferring to reject the Response in this case raises certain difficulties regarding cases in which one's ability to contribute to fulfilling a purported collective obligation depends on how many others will contribute. We will not, however, consider these issues here.

²²⁸ If a pool comes to have sufficient resources to provide all of the necessary aid, then of course there can be no further requirement to contribute.

have much more than others, and not just the very rich, come to have less, and in many cases substantially less, than they currently have.

It seems, then, that any commitment about the requirements of justice that is compatible with Moderation about Principles will be, in a society (and world) like ours, radically incompatible with Moderation about Demands. And the more radical the transformation of the status quo that is required by the correct view about the requirements of justice, the more radical the conflict with Moderation about Demands will be.

Any attempt to rescue the Moderate view from the challenge that we have presented in this and the previous chapter must somehow locate (at least most of) the obligations to transform our unjust state of affairs into a just state of affairs somewhere other than with typical well-off individuals. We saw, in our examination of the Limited Subjects of Obligations Response, that we cannot assign all of the necessary obligations to the very rich. In the following two chapters we will consider whether a version of the view, which has been extremely influential at least since the publication of Rawls's *A Theory of Justice*, that the principles of justice apply only to institutions, and in particular to the institutions of the "basic structure of society," and not to individuals, can rescue the Moderate view from the arguments that we have developed to this point.

Chapter Four

Institutionalism about Justice: Some Initial Doubts

The view that the principles of justice do not apply directly to individuals has become so dominant in contemporary political philosophy that many will likely view much of our discussion in the previous two chapters as fundamentally misconceived.²²⁹ The widely acknowledged requirement to eliminate distributive injustice that served as a premise in our argument against Moderation about Demands cannot serve as a basis upon which to derive individual obligations to aid the badly-off, they will claim, since the principles of justice apply only to society's major institutions, or what Rawls calls the "basic structure of society."²³⁰

It is easy to see how those who accept the Rawlsian view that the principles of justice directly apply only to the institutions of the basic structure, which we will call *Institutionalism about Obligations of Justice*, or simply *Institutionalism*,²³¹ might appeal to that view in order to defend Moderation about Demands from the challenge that we have been considering. According to Institutionalism, the failure to ensure that the demands of justice are met is an institutional failure, and the obligation to eliminate existing injustice is an institutional obligation. Institutionalists, then, will claim that we can avoid assigning significant obligations to contribute to the elimination of injustice to typical well-off individuals by assigning them instead to the institutions of the basic structure.²³² And since we can locate these obligations somewhere other than with typical well-off individuals, the apparent threat presented to Moderation about Demands by the widely acknowledged requirement to eliminate existing injustice is, according to this Institutionalist argument, illusory.

In the following chapter we will consider in detail whether the Institutionalist view can provide the basis for a successful defense of Moderation about Demands. In this chapter we will set the stage for that discussion by clarifying the structure of the Institutionalist view, as well as considering some initial reasons for doubting that the view can be defended. In order to have the necessary background for this discussion in place, we must begin by examining in greater detail precisely what the Institutionalist view is, as well as the reasons that its proponents have provided for endorsing the view. This will be our focus in the following two sections.

²²⁹ The dominance of this view is, of course, largely explained by the influence of Rawls's work, and in particular of his *A Theory of Justice*.

²³⁰ Ibid, pp. 6-9 and *Justice as Fairness*, pp. 10-12.

²³¹ Though I was unaware of his article when I initially assigned this label to Rawls's view, Hugo Adam Bedau employed it in his discussion of Rawls's view in "Social Justice and Social Institutions," *Midwest Studies in Philosophy* 3 (1978): 159-175.

²³² Of course Institutionalists claim not only that we *can* locate the obligations to eliminate injustice with the institutions of the basic structure, but that it is necessarily a mistake, perhaps even a conceptual mistake, to locate them anywhere else.

I. What is Institutionalism?

Rawls insists that

The principles of justice for institutions must not be confused with the principles which apply to individuals and their actions in particular circumstances. These two kinds of principles apply to different subjects and must be discussed separately.²³³

Rawls here expresses the view that the principles that ought to guide the behavior of society's major institutions, that is, the institutions of the basic structure, are not identical to the principles that ought to guide individuals in their private conduct within the rules of those institutions. The principles of justice, on this view, determine "the way in which the major social institutions [ought to] distribute fundamental rights and duties and determine the division of advantages from social cooperation."²³⁴ They require, then, that the institutions of the basic structure are set up and function in a way that protects certain fundamental rights, and that will tend to produce a distribution of, for example, income and wealth, that satisfies the conditions specified in the content of the principles. Since the principles do not apply directly to the conduct of individuals, however, they do not require, for example, that individuals who have greater shares of income and wealth than others sacrifice some of what they have in order that the resulting distribution better satisfies the conditions specified by the principles.²³⁵

The institutions that make up the basic structure, according to Rawls, include "[t]he political constitution...the legally recognized forms of property, and the structure of the economy...as well as the family in some form."²³⁶ These institutions, on Rawls's view, must be structured so that their proper functioning over time serves to achieve and maintain "background justice."²³⁷ The maintenance of background justice is necessary, according to Rawls, to ensure that the conduct of individuals within the rules that apply to them (for example the laws regarding various kinds of economic transactions) does not, over time, generate injustice:

the overall result of separate and independent transactions is away from and not toward background justice...in this case the invisible hand guides things in the wrong direction and favors an oligopolistic configuration of accumulations that succeeds in maintaining unjustified inequalities and restrictions on fair opportunity. Therefore, we require special institutions to preserve background justice, and a special conception of justice to define how these institutions are to be set up.²³⁸

The underlying idea behind the Institutional view, as Rawls expresses it here, is that there are certain aims prescribed by the principles of justice that ought to be pursued directly by the institutions of the basic structure,²³⁹ but that need not necessarily be pursued by individuals

²³³ *A Theory of Justice*, p. 47.

²³⁴ *Ibid*, p. 6.

²³⁵ For relevant discussion see Cohen, *Rescuing Justice and Equality*, pp. 124-9.

²³⁶ *Justice as Fairness*, p. 10. For Rawls's earlier statements about the extension of the basic structure, see *A Theory of Justice*, p. 6, and *Political Liberalism* (New York: Columbia University Press, 1993), p. 258.

²³⁷ See *Political Liberalism*, pp. 266-9.

²³⁸ *Ibid*, p. 267.

²³⁹ For Rawls these aims are specified by his two principles of justice, the first of which says that "each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others," and the second of which says that "social and economic inequalities are to be

acting within the rules put in place by those institutions. In other words, the relevant institutions must be structured in a way such that their proper functioning over time will ensure, to the greatest extent possible, that the aims prescribed by the principles of justice are secured, given that the behavior of individuals will not, and need not, be directly guided by those aims.

According to Institutionalism, then, the principles of justice are principles that apply to the design, or the structure, of the institutions of the basic structure. They ought to guide the process of shaping the relevant institutions, as well as the actions and policies of those institutions. As Rawls puts it, the principles of justice

regulate the choice of a political constitution and the main elements of the economic and social system. The justice of a social scheme depends essentially on how fundamental rights and duties are assigned and on the economic opportunities and social conditions in the various sectors of society.²⁴⁰

They do not, however, apply directly to the conduct of individuals. The pursuit of justice is, on the Institutional view, a matter for institutions, and not (or at least not directly) for individuals.

For our purposes, then, we can define the Institutional view as follows:

Institutionalism: The principles of justice apply directly to the institutions of the basic structure of society, and not to the conduct of individuals. In other words, the aims prescribed by the principles of justice are aims that must guide the process of structuring the institutions of the basic structure, as well as the policies and practices of those institutions. They are not, however, aims that individuals must directly promote in their personal conduct.²⁴¹

It is important to note that Rawls's inquiry falls almost exclusively within what he calls "ideal theory."²⁴² Ideal theory assumes full compliance with all of the obligations that apply to all of the relevant bearers of obligations, including both institutions and individuals.²⁴³ So, for example, Rawls asks what principles ought to guide the process of shaping the institutions of the

arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all" (*A Theory of Justice*, p. 53).

²⁴⁰ Ibid, p. 7.

²⁴¹ We will see in the following chapter that Institutionalists tend to accept that individuals must be guided by the aims prescribed by the principles of justice in at least a narrow range of their personal conduct, namely when they are in a position to contribute to the establishment of just institutions without too much cost to themselves, and in particular in their voting behavior. This requirement must be accepted, since rejecting it would clearly make the transition to a just state of affairs from a substantially unjust state of affairs possible only under conditions of massive general supererogation (for a similar point see Murphy, "Institutions and the Demands of Justice," *Philosophy and Public Affairs* 27 (1999): 251-91, p. 290), and would therefore be radically inconsistent with Injustice entails Obligations. Accepting it, however, raises a puzzle for Institutionalism (see Cohen, *If You're an Egalitarian, How Come You're So Rich?*, p. 174), which we will consider in the next chapter.

²⁴² *A Theory of Justice*, p. 8.

²⁴³ This is an extremely rough characterization of ideal theory, but it will suffice for our purposes. For a helpful discussion of the distinction and relationship between ideal and non-ideal theory, see A. John Simmons, "Ideal and Nonideal Theory," *Philosophy and Public Affairs* 38 (2010): 5-36. For criticism of ideal theory generally, and Rawls's focus on ideal theory in particular, see Colin Farelly, "Justice in Ideal Theory: A Refutation," *Political Studies* 55 (2007): 844-64. Farelly's criticism of Rawls is, it seems to me, unconvincing (see Simmons, "Ideal and Nonideal Theory," p. 14, footnote 15).

basic structure, on the assumption that all individuals will follow the rules that the institutions impose on their personal conduct, and will “do [their] part in upholding just institutions.”²⁴⁴ He also asks what principles ought to guide individual conduct, on the assumption that the institutions of the basic structure are fully just, and therefore succeed in preserving background justice over time.

The Institutional answer to these questions that Rawls provides are extremely plausible. For example, when the institutions of the basic structure are just, and therefore succeed in securing the aims prescribed by the principles of justice, Rawls says that individuals are obligated “to support and to comply with [the] just institutions that exist and apply to [them].”²⁴⁵ For example, individuals in a society with just institutions are, on Rawls’s view, obligated to pay whatever income taxes are imposed on them by the state. And, since a just state would surely impose at least enough of a tax burden on those who earn high gross incomes to ensure, through whatever redistribution is necessary, that everyone is reliably provided with a share of resources that meets the minimum standard required by justice that we discussed in the previous two chapters, those with high gross incomes will, in a just society, have an obligation to contribute to aiding those who would otherwise lack sufficient resources to live a fulfilling life through the payment of their taxes.²⁴⁶

Rawls’s Institutional answer to the questions within ideal theory that he considers are, however, also part of an overall view that has implications for non-ideal theory, that is, implications regarding the obligations of both institutions and individuals in circumstances that include an unjust basic structure and/or less than full compliance among individuals with the principles that apply to them.²⁴⁷ Among these implications seems to be that individuals who earn high gross incomes are not, as a matter of justice, obligated to aid those whose shares of resources fall below the minimum standard required by justice, either directly or through the sorts of charitable pools that we discussed in the previous chapter.²⁴⁸ Many seem to view this

²⁴⁴ *A Theory of Justice*, p. 8.

²⁴⁵ *Ibid.*, p. 99.

²⁴⁶ Rawls’s actual view is typically interpreted to require much more than that everyone be provided with sufficient resources to meet a minimum standard, although Joshua Cohen discusses (and rejects) a possible interpretation on which it might require much less (“Taking People as They Are?,” *Philosophy and Public Affairs* 30 (2002): 363-86, pp. 368-72). The difference principle allows inequalities in “primary social goods,” which include “rights, liberties, and opportunities, and income and wealth” (*A Theory of Justice*, p. 79), only when they are necessary to improve the prospects of the worst-off; “some can have more if they are acquired in ways which improve the situation of those who have less” (p. 79). In addition to the interpretive issues that Joshua Cohen discusses, there are subtle difficulties regarding which inequalities are permissible having to do with, for example, improvements for the better-off which leave the worse-off at the same absolute level in terms of primary goods, but for our purposes it is not important to resolve this issue. It seems to me, as it does to most others, that the most plausible version of the difference principle would allow such inequalities. For discussion see G.A. Cohen, *Rescuing Justice and Equality*, pp. 156-61 and 164-5.

²⁴⁷ For discussion of various positions that one might take on the relationship between the principles that ought to be accepted within ideal theory and the principles that ought to guide behavior in non-ideal circumstances, see Michael Phillips, “Reflections on the Transition From Ideal to Non-Ideal Theory,” *Noûs* 19 (1985): 551-70.

²⁴⁸ The view that well-off individuals in an unjust society with an unjust basic structure are not obligated to aid the badly-off directly may not follow directly from Rawls’s various statements of Institutionalism (thanks to Jay Wallace for pointing this out), but he does seem to at least implicitly endorse the view when he says that the natural duty of justice requires those in unjust circumstances to “further just arrangements not yet established, at least when this can be done without too much cost” (*A Theory of Justice*, p. 99), and does not suggest that they might also have a duty to aid the badly-off directly. Murphy also interprets Rawls as committed to the claim that individuals are not obligated to directly promote the aims prescribed by the principles of justice, even when the basic structure of their society is unjust and therefore fails to ensure that those aims are met (“Institutions and the Demands of Justice,” pp.

implication as a virtue of Rawls's Institutionalism, since they are inclined to accept views that are at least in the neighborhood of Moderation about Demands.²⁴⁹ But, as we will see, this implication threatens to make Institutionalism untenable, since, among other reasons to be considered throughout the remainder of this and the following chapter, it may render it incompatible with other views that Institutionalists tend to accept, and that they could not plausibly abandon.²⁵⁰ In particular, we will see that Institutionalist views seem to misconceive what a significant part of our concern for justice is fundamentally a concern about. Before we begin to consider this and other potential reasons for rejecting Institutionalism, however, it will be helpful to consider some of the reasons that proponents have provided for accepting it. This will be our focus in the next section.

II. Motivations for Institutionalism

A. Demands

There are a number of reasons that have been suggested for endorsing Institutionalism. Among them, unsurprisingly, is that Institutionalism provides a plausible basis upon which to defend limits on the demands that can be made on individuals in the name of justice. Rawls suggests this sort of motivation when he characterizes one aspect of the Institutionalist view by saying that

What we look for, in effect, is an institutional division of labor between the basic structure and the rules applying directly to individuals and associations and to be followed by them in particular transactions. If this division of labor can be established, individuals and associations are then left free to advance their ends more effectively within the framework of the basic structure, secure in the knowledge that elsewhere in the social system the necessary corrections to preserve background justice are being made.²⁵¹

278-84), and Cohen endorses Murphy's interpretation (*Rescuing Justice and Equality*, p. 138, footnote 52). In addition, Institutionalists who deny that their view has the implication that the well-off in unjust circumstances are not obligated as a matter of justice to aid the badly-off directly will not be in a particularly strong position to defend Moderation about Demands, for obvious reasons. We will, then, take Institutionalism to include the view that individuals are not obligated to directly aid the badly-off, whether the institutions of the basic structure are just or not.

²⁴⁹ It is not always clear, however, that those who endorse Institutionalism for this reason have given much consideration to non-ideal theory. For relevant discussion, see Murphy, "Institutions and the Demands of Justice," pp. 278-91.

²⁵⁰ It is important to note that showing that Institutionalism has unacceptable implications within non-ideal theory would be sufficient to undermine it with respect to ideal theory as well, since the central Institutionalist claim, namely that the principles of justice do not apply directly to the conduct of individuals, is meant as a general restriction on the subjects of obligations deriving from the principles of justice. If the principles of justice apply to individuals in non-ideal cases, then they apply in ideal cases as well, although satisfying the relevant demands may be much easier when just institutions are in place. Making a related point, Murphy says that "[i]f [a] theory has implausible implications for the nonideal case, the theory may have some intellectual interest, but it would fail as a normative political theory" (Ibid, p. 279).

²⁵¹ *Political Liberalism*, pp. 268-9. Scheffler points out that the phrase "the rules applying directly to individuals and associations and to be followed by them in particular transactions" in the quoted passage refers to the rules regarding individual conduct that are to be implemented and enforced by the institutions of the basic structure, such as the rules that apply to particular economic transactions, and not to the general moral principles that apply to all individual conduct. He claims that Rawls is not, as Murphy suggests ("Institutions and the Demands of Justice," p. 258), motivated to endorse this "institutional division of labor" by a desire to limit the demands that

Similarly, Nagel says of his broadly Institutional approach to the demands of justice that

the aim is to externalize through social institutions the most impartial requirements of the impersonal standpoint... If the most serious impersonal claims can be externalized and met through occupation of a social role, the individual can pursue his remaining personal aims within that framework with a good conscience.²⁵²

Kok-Chor Tan explicitly states that the ability of Institutionalism to limit the demand that individuals sacrifice their “personal pursuits”²⁵³ in order to advance the cause of justice is, on his view, a reason to favor Institutionalism over the alternative view, defended by G.A. Cohen,²⁵⁴ on which the principles of justice apply directly to the conduct of individuals:

My discussion [of Cohen’s criticism of Institutionalism]... begins from what I take to be a central motivation of the institutional approach, namely the need to balance the demands of justice and personal pursuits... I will claim that in rejecting the institutional approach, Cohen denies the moral division of labor that is necessary for preserving space for personal pursuits against the demands of justice.²⁵⁵

And Liam Murphy, a critic of Institutionalism, claims that

Rawls’s division-of-labor argument explicitly links [Institutionalism]²⁵⁶ to the attractiveness of a less intrusive, and in that sense less demanding, theory of justice... [Others]²⁵⁷ also give an important place to the issue of the demands of

apply to individuals, but instead endorses this ideal because individual action alone cannot possibly secure “background justice” (“The Division of Moral Labor: Egalitarian Liberalism as Moral Pluralism,” *Proceedings of the Aristotelian Society*, Supplementary Volume 79 (2005): 229-53, reprinted as Chapter 4 of *Equality and Tradition*, pp. 114-6 and “Is the Basic Structure Basic,” in *The Egalitarian Conscience: Essays in Honour of G.A. Cohen*, ed. Christine Sypnowich (New York: Oxford University Press, 2006), reprinted as Chapter 5 of *Equality and Tradition*, pp. 133-7); these and all subsequent page references are to the reprinted versions. We will discuss this issue further later in this and in the following section.

²⁵² *Equality and Partiality*, pp. 53-4. Although Nagel endorses the aim that he describes, he also expresses substantial skepticism about the possibility of achieving it:

to describe these adequacy conditions on a solution is not to offer one. No such solution has been found, nor is one in sight... The demands of impartiality are so great that even institutions of much narrower scope [than those that would cover the whole world] which try in any considerable degree to meet them threaten to require an inordinate takeover of the individual’s life in their service – a form of mobilization which fails to leave enough scope for the personal standpoint (p. 54).

²⁵³ “Justice and Personal Pursuits,” *Journal of Philosophy* 101 (2004): 331-62.

²⁵⁴ *Rescuing Justice and Equality*, Chapters 1-5.

²⁵⁵ Tan, “Justice and Personal Pursuits,” p. 335.

²⁵⁶ Murphy, here and throughout his article, uses the term ‘dualism’ to refer to what we have called ‘Institutionalism’ (see “Institutions and the Demands of Justice,” p. 254). When discussing Murphy’s article I will substitute ‘Institutionalism’ for his uses of ‘dualism’.

²⁵⁷ Here Murphy refers to, among others, Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989), p. 34 and “A Global Resources Dividend,” in *Ethics of Consumption: The Good Life, Justice, and Global Stewardship*, ed. David A. Crocker and Toby Linden (Lanham: Rowman and Littlefield, 1998), p. 502. Pogge defends Institutionalism against Murphy’s criticisms, as well as those of G.A. Cohen, in “On the Site of Distributive Justice: Reflections on Cohen and Murphy,” *Philosophy and Public Affairs* 29 (2000): 137-69.

justice...the institutional view is presented as more reasonable or plausible with respect to demands than any view that holds people directly responsible for achieving the aims of justice. It is in the issue of demands, I suspect, that the most powerful underlying motivation for [Institutionalism] can be found.²⁵⁸

Clearly, then, concerns about demands, and in particular concerns about demands on the better-off (since they, and not the worse-off, are the ones required to make sacrifices according to views on which the principles of justice apply directly to individuals), have played a significant role in motivating the widespread acceptance of Institutionalism among moral and political philosophers.

B. “*Profound Effects*”

There are, however, additional reasons that have been advanced for endorsing Institutionalism, and it is important to take note of them, since this will help to guide our discussion in the following section of some of the important implications of Institutionalism.²⁵⁹

Rawls suggests three additional reasons for thinking that the principles of justice apply only to the institutions of the basic structure.²⁶⁰ First, he says that

The basic structure is the primary subject of justice because its effects are so profound and present from the start...this structure contains various social positions and...men born into different positions have different expectations of life determined, in part, by the political system as well as by economic and social circumstances...the institutions of society favor certain starting places over others...they affect men’s initial chances in life...It is these inequalities...to which the principles of social justice must in the first instance apply.²⁶¹

Rawls suggests here that an important reason for thinking that the principles of justice apply only to the institutions of the basic structure is that differences in the ways in which these institutions

²⁵⁸ “Institutions and the Demands of Justice,” pp. 288-9. A.J. Julius also interprets Rawls as suggesting that an attractive feature of Institutionalism is that it shields individuals from the demanding requirements that they would be subject to if the principles of justice applied directly to their conduct. After describing the “problem of justice” as “the problem of how people are to pursue good lives for themselves, with every person attaching special importance to her own success, in a way that yet takes account of the equal importance of all their striving,” he says that

Rawls proposes that people carry out this parcellization of moral sovereignty by erecting just institutions whose just-making features are independent of the pattern of people’s decentralized choices from the remaining available spaces of individual action. With institutions of that kind locked in, people can press their own agendas knowing that justice is sustained however they choose...The separation of institutional and personal spaces of decision affords a division of labor whose function is to *externalize* the burdens of attention to justice (“Basic Structure and the Value of Equality,” *Philosophy and Public Affairs* 31 (2003): 321-55, pp. 326-7, italics in original).

²⁵⁹ This discussion will, in turn, provide us with the necessary background to begin, toward the end of this and in the following chapter, to consider whether Institutionalism can serve as the basis for a successful defense of Moderation about Demands.

²⁶⁰ Here I draw heavily on Scheffler’s discussion of Rawls’s Institutionalism in “The Division of Moral Labor,” pp. 114-18 and “Is the Basic Structure Basic?,” pp. 131-8.

²⁶¹ *A Theory of Justice*, p. 7.

are set up, and therefore in the ways in which they function, substantially impact the life prospects of the individuals living within them. The effects on individuals' life prospects of the institutions of the basic structure are, on this view, more "profound" than the effects of anything else. Because the effects of the basic structure are so profound, there is a unique set of principles that must regulate the institutions that compose it. And since the effects of other things to which some might think the principles of justice apply (for example, individual conduct and patterns thereof) are less profound, the application of the principles is limited to the basic structure.²⁶²

C. The Shaping Role of the Basic Structure

The second additional reason that Rawls suggests for endorsing Institutionalism is that the institutions of the basic structure play an important role in shaping the characters of the individuals living within them, including "the kind of persons they want to be as well as the kind of persons they are."²⁶³ Our account of what justice requires, he says, "must take into account how the aims and aspirations of people are formed," and therefore must reflect "not only an institutional scheme for satisfying existing desires and aspirations but a way of fashioning desires and aspirations in the future."²⁶⁴ Just institutions, properly functioning, will "foster the virtue of justice and discourage desires and aspirations incompatible with it."²⁶⁵

Rawls's description of the formative role that the basic structure plays in shaping the characters of individuals is quite plausible, and Joshua Cohen has pointed to the fact that he appeals to this reason in his defense of Institutionalism in order to suggest that the conflict between his view about the requirements of justice and that of G.A. Cohen (on which the principles of justice apply directly to individual conduct) is less deep than the latter suggests.²⁶⁶ We will discuss this important claim in more detail in the following section.

D. Background Justice

The third and final additional reason that Rawls provides for endorsing Institutionalism relates to his view, which we noted earlier, about the need to ensure "background justice." He says that we cannot know whether particular transactions between individuals are fair without knowing the background conditions under which they take place, and that even if fair background conditions obtain at one time, the cumulative effects of numerous individual transactions may erode them over time.²⁶⁷ Most importantly, he says that there is simply no way that individuals can act so as to preserve background justice, and that therefore this essential task can *only* be performed by the institutions of the basic structure:

The fact that everyone with reason believes that they are acting fairly...is not sufficient to preserve background justice...there are no feasible and practicable rules that it is sensible to impose on individuals that can prevent the erosion of background justice...any sensible scheme of rules will not exceed the capacity of individuals to grasp and follow them with

²⁶² G.A. Cohen criticizes Rawls's appeal to this reason for limiting the application of the principles of justice to the basic structure (*Rescuing Justice and Equality*, pp. 136-8). We will examine Cohen's critique in the following section.

²⁶³ *Political Liberalism*, p. 269.

²⁶⁴ *Ibid.*

²⁶⁵ *A Theory of Justice*, p. 231.

²⁶⁶ "Taking People as They Are?," pp. 375-80.

²⁶⁷ *Political Liberalism*, p. 269 and *Justice as Fairness*, p. 53.

sufficient ease, nor will it burden citizens with requirements of knowledge and foresight that they cannot normally meet...It is obviously not sensible to impose on parents...the duty to adjust their own bequests to what they estimate the effects of the totality of bequests will be on the next generation, much less beyond.²⁶⁸

Rawls's claim here is, essentially, that without just institutions justice is unachievable. Individual action alone, no matter how well-intentioned, will inevitably fail to yield a just result, so long as just institutions do not exist to preserve background justice. Scheffler suggests, in light of these remarks, that those (for example, Murphy) who have interpreted Rawls as endorsing Institutionalism out of a concern to limit the demands on individuals have misunderstood his motivation: "Rawls's concern is not that it would be excessively intrusive or costly or burdensome for individuals to achieve background justice, but rather that it is simply beyond their capacity to do so."²⁶⁹

The claim that individual action alone will inevitably fail to secure background justice seems quite compelling. Institutions make possible, among other things, forms of coordination that would otherwise be impossible, including the coordination of the economic adjustments necessary to preserve background justice.²⁷⁰ There is no question, then, that those concerned with achieving and maintaining justice should pay special attention to the policies and practices institutionalized in the basic structure. What is much less clear is whether the truth of the claim that justice is only fully achievable if a just basic structure is in place provides a compelling reason for thinking that the principles of justice do not apply directly to the conduct of individuals. We will consider some doubts about this in the following section.

E. Value Pluralism

Before concluding this section we should note one final motivation for endorsing Institutionalism that has been suggested by Scheffler, although it is not clear to what extent it is actually distinct from the motivation offered by Nagel and Tan, which, as we saw, has to do primarily with limiting the extent to which individuals can be required to sacrifice their personal aims or pursuits in the name of justice.²⁷¹

Scheffler claims that the most compelling reason for accepting Institutionalism is that it "represents a distinctive form of pluralism about value, and...suggests a way of reconciling

²⁶⁸ *Political Liberalism*, pp. 267-8.

²⁶⁹ "The Division of Moral Labor," p. 120.

²⁷⁰ It is important to note, however, that the claim that individual action alone will inevitably be insufficient to preserve background justice is somewhat less plausible if the distributive requirement that we accept is the sort of minimum standard that we have been operating with, rather than something like Rawls's difference principle (for relevant discussion see Cohen, *If You're an Egalitarian, How Come You're so Rich?*, pp. 160-1). There is no question that relatively uncoordinated individual action could not, except by extraordinary coincidence, yield a distribution that satisfies the difference principle. But if all individuals have a standing policy such that whenever they are in a position to bring someone whom they encounter whose share of resources falls below the minimum standard up to that standard, they do so, then there is no obvious reason to think that their individual action alone cannot fairly reliably ensure that justice is achieved and maintained over time (although surely just institutions would still do better in this regard, and at a much lower cost in terms of mental energy to individuals).

²⁷¹ Thanks to Véronique Munoz-Dardé for a helpful discussion about the possible differences between the motivations offered by Scheffler and Nagel, and to Sam Scheffler for a helpful discussion of his views.

diverse values that would otherwise come into conflict with one another.”²⁷² He suggests that the aim of properly reflecting and balancing the plurality of values in our account of the demands of justice is importantly distinct from the aim, which others have mistakenly attributed to Rawls, of limiting the demands that individuals are subject to in respect of justice. The Institutional distinction between the principles that apply to institutions and those that apply to individuals, according to Scheffler, “is not intended to make justice less burdensome or costly for individuals,” but rather “insists on the autonomy of the values and norms governing human interpersonal relations” that are “part of a conceptual and normative repertoire that we are given by virtue of our participation in forms of human interaction and aspiration that are so basic that we cannot really envision what human social life would be without them.”²⁷³ The source of the appeal of Institutionalism, then, is that its assignment of the burdens of maintaining just background conditions to the institutions of the basic structure, if successful, will allow “individual conduct within those institutions [to] be responsive to the various norms and ideals that govern our personal lives and interpersonal relationships.”²⁷⁴ And, Scheffler adds, since some of the norms that apply to our personal lives may be rather demanding, it may not be the case that Institutionalism limits the extent of the demands that individuals are subject to.²⁷⁵

Scheffler is clearly right that the aim of allowing individuals to respond to the values that govern their personal lives and relationships is a more appealing motivation for Institutionalism than, for example, allowing them to pursue as much income and wealth as they can acquire within the rules set by just institutions.²⁷⁶ And it is also true that Nagel at times seems to suggest that Institutionalism is necessary in order to reconcile justice with what he takes to be ineradicable human motives that are “significantly acquisitive.”²⁷⁷ He describes inequalities that, as egalitarians, we ought to regret, but which “our acquisitive demands make necessary” in order to maximally benefit the worst-off, and says that an attitude that we may, for various reasons, need to reconcile with egalitarian attitudes toward inequalities due to talent is that “one is entitled to try to get as much out of the system as one can.”²⁷⁸

But at other times Nagel is clearly concerned with the kinds of values and ideals that Scheffler describes as grounding the proper motivation for Institutionalism. He says, for example, of the “special interest that people take in their relatives, especially their children,” that

²⁷² “The Division of Moral Labor,” p. 123. He also suggests that this is a reason that motivated Rawls’s endorsement of Institutionalism (p. 121).

²⁷³ Ibid, p. 123-4.

²⁷⁴ Ibid, p. 125.

²⁷⁵ What it might do instead, on this view, is give different content to the potentially equally burdensome requirements that individuals must satisfy. Rather than being required to make sacrifices in order to promote the aims prescribed by the principles of justice, individuals might be obligated to make similar sacrifices in order to meet the demands of the “norms and ideals that govern our personal lives and interpersonal relationships.”

²⁷⁶ Of course no one actually attributes *this* aim to Rawls or other Institutionalists, although G.A. Cohen criticizes Rawls’s view on the grounds that it implies that “unlimited self-seekingness in the economic choices of well-placed people” is consistent with justice (*Rescuing Justice and Equality*, pp. 130-1).

²⁷⁷ *Equality and Partiality*, p. 116.

²⁷⁸ Ibid, p. 116-7. Nagel is deeply skeptical about the prospects of such a reconciliation. He says that

While such a division of motives is not self-contradictory, it is not strictly intelligible... The two pull in opposite directions because they respond to different demands... the combination of egalitarian public values and inegalitarian personal aims to which we are forced by motivational logic simply lacks the character of an integrated moral outlook (p. 117).

“[t]here is no possibility of abolishing this interest, and no sane person would wish to do so.”²⁷⁹ In his discussion of nepotism, he notes that “the motive behind nepotism remains acceptable in other contexts,” and suggests that the money that parents often spend on their children’s education, which gives them a competitive advantage over those with poorer parents, may be an acceptable expression of this motive.²⁸⁰ He adds that “[a]ttempts to redraw the personal-impersonal boundary through institutional redesign, by making privately purchased education illegal, for example, are likely to generate fierce opposition,” and that he “do[es] not think such resistance can be simply discounted.”²⁸¹

Although Scheffler seems clearly right that the appropriate guiding concern behind Institutionalism is to allow individuals to respond to values, norms, and ideals other than justice, and not to leave space for the pursuit of self-interest in the narrow economic sense, it seems a bit misleading to suggest that the aim is not to limit the demands that individuals are subject to in respect of justice.²⁸² After all, Scheffler’s own argument for Moderation about Principles, which we examined in Chapter One, relied heavily on the importance of limiting the demands of morality so that individuals can permissibly devote substantial attention to their central projects and relationships. And the same need to limit the force of largely impartial requirements in order to leave sufficient space for the pursuit of important partial values seems clearly to be at issue in his discussion of Institutionalism. For example, he suggests that the norms and ideals that Institutionalists aim to reconcile with the requirement to achieve and maintain justice include parents’ obligations to their children, including those that might be satisfied through parental bequests, and “individuals’ legitimate interest in developing their own projects and plans.”²⁸³ To deny that a concern for these values is a concern about the demands that individuals are subject to is simply not plausible. After all, we saw in the previous two chapters that precisely what is at issue in the debate about what the requirement to achieve justice might demand of individuals is whether, for example, wealthy parents can be obligated to, in the name of justice, sacrifice a significant portion of their wealth in order to aid the badly-off rather than sending their children to exclusive private schools, or whether individuals can be obligated to give up the resources that they would otherwise have put toward a project that they value highly in order to help provide impoverished children access to a decent education that they would otherwise lack. And these are, at least indirectly, questions about the extent to which the pursuit of self-interest in the

²⁷⁹ Ibid, p. 110.

²⁸⁰ Ibid.

²⁸¹ Ibid, p. 112.

²⁸² Perhaps Scheffler’s suggestion is not that the key advantage of Institutionalism is that it limits the extent of the resource sacrifices that individuals are obligated to make, but rather that it limits the extent to which individuals have to spend time and energy *thinking* about how they are morally required to balance the values underlying the principles of justice with the values associated with their personal projects and relationships in deciding what to do (thanks to Niko Kolodny for suggesting this interpretation, and for a helpful discussion of the relevant issues). After all, if individuals were required to respond, in an appropriately balanced way, to both sets of values in their personal conduct, they would surely have to engage in careful and complex deliberation about how to strike that balance, and this would be a significant demand on them that would not consist in a requirement to make resource sacrifices. It is, however, difficult to see how this consideration might favor Institutionalism, since Institutionalists tend to accept that individuals living in unjust societies are required to contribute to promoting the development of just institutions, and satisfying this requirement while appropriately balancing the demands arising from one’s personal projects and relationships would involve deliberative commitments that are at least nearly as substantial as those that would be associated with a requirement to directly promote the aims prescribed by the principles of justice. We will discuss this issue in more detail in the following chapter.

²⁸³ “The Division of Moral Labor,” p. 125.

narrow economic sense is permissible, since the pursuit of personal projects and of advantages for one's children typically requires money, and sometimes a great deal of it.²⁸⁴ The aim of limiting the demands on individuals in the narrow economic sense, then, cannot be neatly separated from the aim of allowing individuals to respond to the norms and ideals that guide their personal lives and interpersonal relationships, since for many people the pursuit and retention of economic gains is a necessary means to complying with what Scheffler seems to suggest are the legitimate "norms and ideals that govern [their] personal lives and interpersonal relationships."²⁸⁵

We have noted five reasons that have been suggested for endorsing Institutionalism:

1. Limiting the demands of justice on individuals
2. The "profound effects" of the basic structure on individuals' life prospects
3. The role of the basic structure in shaping individuals' aspirations and character
4. The inability of individual action to secure background justice
5. Reflecting value pluralism

In the following two sections we will consider whether any of these reasons, or some combination of them, amount to a compelling case for Institutionalism. In order to adequately assess the case for Institutionalism that arises out of these reasons, however, it is important to first consider in more detail exactly what justice must be on an Institutional view. It is to this task that we turn next.

²⁸⁴ One way of interpreting Nagel's apparent wavering between discussion of self-interest in the narrow economic sense and values and ideals such as parental partiality toward children is as a reflection of his grasp of the substantial relationship that tends to obtain between the two. Cullity acknowledges this relationship when he says of an individual who might attempt to comply with a very demanding moral principle governing aid to the worst-off, which he calls "the Severe Demand," that

It is true that aiming to meet the Severe Demand would not itself commit you to the *de dicto* aim to restrict my friendships as much as possible – rather, it would give you the *de dicto* aim to restrict my spending until any further incremental reduction would itself compromise the goods in my life enough to excuse refusing ("Asking Too Much," *Monist* 86 (2003): 402-18, p. 406, italics in original).

But, he continues, "having *that* aim would mean adopting an attitude of vigilant self-constraint towards your friendships, asking yourself whether the...time and money you are spending on them could be further restricted without significant sacrifice" (p. 406, italics in original).

²⁸⁵ "The Division of Moral Labor," p. 125. Indeed, with the exception of cases involving the pathological pursuit of wealth, the pursuit of economic gains beyond what is needed to provide for the basic needs of oneself and one's dependents is nothing more than a means to the pursuit of one's projects in the broad sense that we employed in our discussion in Chapter Two. Of course, in some cases individuals clearly do not need to retain all, or even nearly all, of the income that they make in order to successfully pursue the goals that structure much of their personal lives or to satisfy the obligations that they might have to those with whom they have special relationships (for example, their children). In these cases it seems that Scheffler's appeal to the norms that govern our personal lives and relationships could not ground an objection to *all* possible requirements to make resource sacrifices in order to directly promote the aims prescribed by the principles of justice, and so could not ground a defense of the general Institutional claim that individuals are not obligated to directly promote those aims. Thanks to Jay Wallace for encouraging me to consider cases in which the retention of economic gains is not a necessary means to complying with the norms that govern individuals' personal lives referred to by Scheffler.

III. Institutionalism and Justice

In the previous two chapters we operated with a view on which distributive justice is, at least primarily, a matter of the actual distribution of resources among individuals. We allowed that certain ways of bringing about a distribution that would otherwise be just, such as stealing from the better-off in order to redistribute to the badly-off, might render the distribution unjust. But we did not allow that in order to be just, a distribution must have been brought about in any particular way; that is, we did not accept that there could be necessary conditions, apart from the absence of disqualifying conditions, on the *process* by which a just distribution might be brought about.²⁸⁶ On this view, so long as a distribution meets the necessary conditions for justice, and was not brought about in a disqualifying way, it could be just.

It is not clear that Institutionalism can be understood in a way that is consistent with this view, since it seems to require accepting procedural necessary conditions on the justice of a distribution. Rawls suggests that there are such procedural necessary conditions when he claims that

A fair distribution can be arrived at only by the actual working of a fair social process over time in the course of which, in accordance with publicly announced rules, entitlements are earned and honored... Therefore, if it is asked in the abstract whether one distribution of a given stock of things to definite individuals... is more just than another, there is simply no answer to the question.²⁸⁷

The existence of the sort of procedural necessary conditions suggested by Rawls would imply that if all we knew about two alternative distributions was who had which resources, we would have no basis for asserting that one of the distributions is more just than the other. So, for example, if we consider the following two distributions for our imagined society from Chapter Two, without knowing anything other than the stated distributive facts (for example, without knowing how the distributions came about, or what the basic structure of the society is like), the Rawlsian view says that we would have *no basis* for assessing the relative justice of the distributions:

<i>Distribution #1:</i> A has 0 units	<i>Distribution #2:</i> A, B, C, and D have 4 units
B and C have 1 unit	E, F and G have 5 units
D and E have 2 units	H and I have 6 units
F and G have 3 units	J has 7 units
H and I have 8 units	
J has 22 units	

But since we imagined that 4 units was the minimum resource share necessary to live a fulfilling life, it is simply not plausible that the distributive facts alone provide us with *no basis*

²⁸⁶ There may be necessary conditions of a procedural sort in certain types of cases. For example, if we are distributing a valuable indivisible resource and do not have enough for everyone, then holding a fair lottery may be required, assuming that there are no independent reasons why any particular person should have the resource in question. Since we are operating with a sufficientarian view about the requirements of justice and have assumed that there are sufficient divisible resources to meet the relevant standard, these types of cases will not concern us. Thanks to Niko Kolodny for raising the issue of the distribution of indivisible resources.

²⁸⁷ *Political Liberalism*, p. 282.

whatsoever upon which to conclude that Distribution #2 is more just than Distribution #1. Whatever injustices there may be in Distribution #2 (knowledge of which may require knowledge about how the distribution came about, or about the society's basic structure), they are surely less significant than the injustices in Distribution #1, unless perhaps the distribution in Distribution #1 came about in an extremely unusual way, or the basic structure that (in part) gave rise to Distribution #2 affected the distribution in an extremely unjust way.²⁸⁸ Surely there are other cases in which it is not possible to form a well-justified (though fallible) belief about the relative justice of two distributions without information beyond the current distributive facts. But in comparing the relative justice of Distributions #1 and #2 it seems clear that no further information is required in order to reasonably believe that Distribution #1 is more unjust than Distribution #2. We do not need to know anything about how the distributions came about, or about what the basic structure that gave rise to each distribution is like, in order to reasonably believe that Distribution #2 is (at least) less unjust than Distribution #1.

We noted earlier that Rawls's Institutional view says that the aims prescribed by the principles of justice must be pursued by the institutions of the basic structure, but need not be pursued directly by individuals. This implies that any society with a just basic structure is fully just.²⁸⁹ On Rawls's view, then, so long as a just basic structure is in place, "whatever distributive shares result are just."²⁹⁰ G.A. Cohen explains this element of Rawls's Institutional view, and one of its key implications, in the following way:

for [Rawls] distributive justice obtains just in case the allocation of benefits and burdens in society results from actions that display full conformity with the rules of a just basic structure. When full compliance with the rules of a just basic structure obtains, it follows, on Rawls's view, that there is no scope for (further) personal justice and injustice that affects *distributive* justice, whether it be by enhancing it or by reducing it. There is, Rawls would...agree, scope within a just structure for distribution-affecting meanness and generosity, but generosity, though it would alter the distribution and might make it more equal than it would otherwise be, could not make it more just than it would otherwise be, for it would then be doing the impossible, to wit, enhancing the justice of what is already established as a (perfectly) just distribution by virtue merely of the just structure in conformity with which it is produced.²⁹¹

According to Institutionalism, then, once a just basic structure is in place, nothing that individuals might do, apart from violating the rules put in place by the institutions of that structure, can either undermine or enhance the justice of whatever distribution results from the

²⁸⁸ For example, if Distribution #1 came about as a result of voluntary transfers from those with fewer than 4 units to those with more motivated by religious vows of poverty, and Distribution #2 came about as a result of coerced transfers from some to others motivated by religious prejudice, then a strong case could be made that Distribution #1 is in fact more just than Distribution #2. Thanks to Jay Wallace for suggesting these examples, and for encouraging me to clarify the key points in this paragraph.

²⁸⁹ Of course Institutionalists tend to believe that a just basic structure will have important effects on individual behavior within that structure, and that such effects will tend to promote the aims prescribed by the principles of justice, such as (using an aspect of Rawls's view as an example) improving the prospects and conditions of the worst-off. For discussion see Joshua Cohen, "Taking People as They Are?," pp. 375-86.

²⁹⁰ *Political Liberalism*, p. 282. Rawls qualifies this claim with the precursor "within certain limits," but he does not explain what the relevant limits are.

²⁹¹ *Rescuing Justice and Equality*, pp. 126-7, italics in original.

proper functioning of the relevant institutions. Cohen thinks that this is an implausible view, because he thinks that even if fully just institutions are in place, individual actions can make a society more just than it would otherwise be. For example, he thinks that if a well-off person, unconstrained by any requirements imposed by the institutions of the basic structure, makes sacrifices that contribute to making the worst-off better off than they would have been given different decisions also permitted by the rules put in place by those institutions, the result is a society with less distributive injustice than it would otherwise contain.²⁹²

There is, however, a further implication of the Institutional view that seems significantly more problematic than the one pointed out by Cohen. Cohen notes that on Rawls's Institutional view "distributive justice obtains just in case the allocation of benefits and burdens in society results from actions that display full conformity with the rules of a just basic structure."²⁹³ Distributive justice is, on this view, defined in terms of the existence and operation of a just basic structure, and such a structure is, according to the view, both necessary and sufficient for justice. This means that, according to Institutionalism, being produced by a just basic structure is a necessary condition on the process by which a just distribution can be produced. If this is right, then it seems that it must also be true that in a society with an *unjust* basic structure, the only way to reduce distributive injustice is to reduce the extent to which the institutions of the basic structure are unjust.²⁹⁴ After all, it would be strange for the Institutionalist to claim that distributive justice, which according to her is defined in terms of just institutions, can be promoted by actions that are entirely independent of, and have no effect on, the relevant institutions. The claim that the only way to reduce distributive injustice is to make the institutions of the basic structure less unjust, however, seems deeply implausible, since it seems clear that if the better-off in an unjust society begin, in large numbers, to individually sacrifice some of their resources in order to aid the badly-off, the result will be a society with less distributive injustice than it contained previously.²⁹⁵ Consider again our imagined society from Chapter Two, and the distribution described there. If J and I were to give 3 units to A and B, respectively, it would be implausible to deny that the society has improved with respect to distributive justice simply because the transfers were not brought about or mandated by the basic structure.²⁹⁶

²⁹² Ibid, pp. 101-5.

²⁹³ Ibid, p. 126.

²⁹⁴ This thought helps to make sense of Rawls's view about the obligations of individuals living under unjust institutions. Rather than being required to promote the aims prescribed by the principles of justice directly (which would, if Institutionalism is right, not reduce injustice), Rawls says that individuals "are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to [them]selves" (*A Theory of Justice*, pp. 293-4; see also p. 99). Murphy criticizes this view ("Institutions and the Demands of Justice," pp. 280-4), and we will consider his arguments later in this section.

²⁹⁵ The Institutionalist might claim that the thought that distributive justice would be reduced as a result of, for example, well-off individuals making sacrifices in order to aid the badly-off, while strictly speaking mistaken, can be explained by the fact that such actions would result in morally significant improvements in society of precisely the sort that improvements in the justice of society (that is, improvements in the justice of the institutions of the basic structure) would result in (thanks to Jay Wallace for suggesting this response on behalf of the Institutionalist). If the Institutionalist adopts this view, however, then her disagreement with her opponents begins to seem largely terminological, and it is difficult to see how she might appeal to Institutionalism in order to defend Moderation about Demands.

²⁹⁶ Rawls seems to be motivated to accept the procedural necessary condition that he describes by the thought that we cannot accept what Nozick calls "current time-slice principles" (*Anarchy, State, and Utopia*, p. 153) of distributive justice, which assess the justice of a distribution simply by looking at the structure of the distribution at the relevant time. While it is true that in many cases current time-slice principles seem not to be sensitive to all of

It is, in addition, unclear what an Institutionalists can say about the justice or injustice of the distribution in our imagined society if, rather than having unjust institutions, the society has no basic structural institutions at all. Presumably without such institutions there would be nothing to which the principles of justice apply, and so perhaps there could be no injustice. But this seems unacceptable, since there do seem to be requirements of justice that apply to groups of people engaging in social cooperation, even if they do not engage in such cooperation within the kinds of institutions that Rawls includes in the basic structure. The Institutionalists could claim that the cooperating individuals are now obligated to *create* such institutions, and that the principles of justice would then apply to the institutions once created. But it is not clear why the creation of institutions should be required if a distribution that would be just were it produced by the operations of just institutions can be ensured in the absence of such institutions.²⁹⁷

It is important to keep in mind that the Institutionalists claim that the only way to reduce distributive injustice is to reduce the extent to which the basic structure is unjust is not merely an empirical claim. As Murphy describes Rawls's Institutionalists view, "the significance of institutions is not just causal; in a fundamental way, institutions are what normative political theory is all about."²⁹⁸ For Institutionalists, then, it is not just that, as a matter of empirical fact, just institutions are a necessary means to achieving justice, where justice itself is a matter of (among other things) the distribution of resources meeting a set of substantive conditions, for example that everyone has at least a sufficient share to live a fulfilling life. Rather, to have a just society *just is* to have a just basic structure.²⁹⁹ On this view, no society can be just unless it has a just basic structure,³⁰⁰ and no improvements with regard to justice can occur that are not improvements in the justice of the basic structure.

If we accept that there can be no improvements with respect to justice that are not improvements at the level of the basic structure, it is easy to see why we should accept that the principles of justice apply only to the institutions of the basic structure. There are certain aims prescribed by the principles of justice. One such aim might be ensuring that everyone has a share of resources that meets a minimum standard. But achieving this aim by means of non-institutional individual action, according to the Institutionalists view, would not make the state of

the relevant information, for example information about how a distribution came about (we may need to know, for example, whether a fair lottery was held to determine who would get certain resources, or that certain holdings were not acquired by theft), rejecting such principles does not commit us to anything like Rawls's account of "pure procedural justice" (*Political Liberalism*, p. 282; see also *A Theory of Justice*, pp. 73-8) and the associated procedural necessary condition on the justice of a distribution. For relevant discussion see Waldron, "The Primacy of Justice," pp. 279-80. Thanks to Niko Kolodny for encouraging me to consider Rawls's motivation for accepting the procedural necessary condition.

²⁹⁷ The Institutionalists might claim that if achieving such a distribution is possible without basic structural institutions, then the society in question must fall outside what Rawls, following Hume, calls the "circumstances of justice" (*A Theory of Justice*, pp. 109-12), which include, most importantly, moderate scarcity and limited altruism. But it seems that we can at least imagine a society that can achieve a distribution that meets the necessary conditions for justice without the aid of institutions and despite facing both of the central conditions that characterize the circumstances of justice.

²⁹⁸ "Institutions and the Demands of Justice," p. 252.

²⁹⁹ Of course justice also requires, on the Institutionalists view, that individuals comply with the rules put in place by the basic structure. For ease of exposition, I will omit this qualification in the remainder of our discussion.

³⁰⁰ Consider again Rawls's claim that "[a] fair distribution can be arrived at only by the actual working of a fair social process over time in the course of which, in accordance with publicly announced rules, entitlements are earned and honored" (*Political Liberalism*, p. 282). For criticism of this view see Murphy, "Institutions and the Demands of Justice," p. 287.

affairs in which the aim is achieved just. If we want to achieve justice then, given *what justice is*, we must have just institutions. Individually promoting the aims prescribed by the principles of justice cannot, because of what justice is, make one's society more just.

As we noted above, however, the view that significant changes in the behavior of individuals cannot, so long as such behavioral changes have no effects on the basic structure, make a society less unjust than it had previously been, is quite counterintuitive. Surely, for example, a significant shift among the wealthy in the direction of voluntarily sacrificing large portions of their income in order to improve the lives of the badly-off would make our society less unjust. One plausible explanation for this intuition that will guide much of our discussion in the remainder of this chapter is that it is at least partially a concern for the *interests of individuals*, that is, for the quality of their lives, broadly construed, that grounds our concern for justice.³⁰¹ Institutionalists, it seems, must either reject that this *Individual Interests-Based Account* explains *any part* of the ground of our concern for justice, and provide an alternative account, or argue that their view is compatible with the Individual Interests-Based Account, despite the appearance to the contrary. Since defenders of Institutionalism have not offered a plausible alternative account, we will proceed on the assumption that the Individual Interests-Based Account provides at least part of the appropriate ground of our concern for justice. In the remainder of this and in the next section, then, we will consider whether any of the motivations for Institutionalism that we have noted can succeed in providing support for Institutionalism while remaining compatible with the Individual Interests-Based Account. Before turning to that task, however, it will be helpful to note an initial difficulty that faces those who accept Moderation about Principles, and who hope to find support for Moderation about Demands in Institutionalism about Obligations of Justice.

We saw in Chapter One that those who accept Moderation about Principles accept that everyone, and everyone's interests, are equally morally important. And we saw in Chapter Two that this commitment entails that justice requires (at least) that everyone have a share of resources that meets a minimum standard, specifically a share that is sufficient to live a fulfilling life.³⁰² For those who accept Moderation about Principles, then, it is at least in part a concern for people's interests that generates conclusions about the requirements of justice. Justice requires that everyone have a share of resources that meets a minimum standard because it is necessary to the satisfaction of the interests that ground our concern for justice that they have such a share. Given this (extremely plausible) motivation for accepting the requirements of justice with which we are concerned, it is difficult to see what reason the Moderate could have for denying that the requirements of distributive justice are met under conditions in which everyone's share of resources in fact meets the relevant minimum standard (or whatever distributive standard she

³⁰¹ This claim should seem particularly plausible to those who are committed to accepting Moderation about Principles, for obvious reasons. It is important to note, in addition, that the reasons that we will discuss in the remainder of this and in the next section for doubting the plausibility of Institutionalism rely only on the thought that a concern for people's interests is *one among perhaps many* grounds of our concern for justice. Nothing in our discussion will be incompatible with that concern being partially grounded in other considerations as well. For example, we may, with respect to certain requirements of justice, be motivated by a concern that individuals are treated *fairly*, even when their interests are not advanced by such treatment. We may also be concerned in certain cases to ensure that the legitimate *claims* of individuals are met, where the grounds of the relevant claims do not lie with their interests in having them met.

³⁰² This requirement applies, as we have noted previously, only when there are sufficient total divisible resources available to meet the requirement.

endorses), but in which this is not the result of the functioning of just institutions.³⁰³ And it is equally hard to imagine what reason there could be for denying that individual actions that directly improve the conditions of the badly-off can make a society less unjust.³⁰⁴ It is, therefore, difficult to see how the Moderate can accept that there can be no improvements with respect to justice that are not improvements in the justice of the basic structure of society.

Given the substantial reasons for doubting that all improvements in the justice of a society must be improvements in the justice of the institutions of its basic structure, it is reasonable to consider whether the reasons provided by Rawls for endorsing the view that the principles of justice apply only to the basic structure succeed in supporting that view, on the assumption that there *can* be improvements with respect to justice that do not consist in improvements at the level of the basic structure. Some may think that this way of proceeding unfairly stacks the deck against Institutionalism. Given the strong case against the view that all improvements with respect to justice must be improvements in the justice of the basic structure provided by the thought that what ultimately motivates our concern about justice is a concern for individuals' interests, however, it seems that the best hope for motivating acceptance of that view is to motivate the view that the principles of justice apply only to the basic structure on grounds that are independent of the view, and to then argue that the limited application of the principles to the basic structure can only be maintained if it is accepted.

A. *The "Profound Effects" Criterion*

Consider, then, Rawls's claim that "the basic structure is the primary subject of justice because its effects are so profound and present from the start."³⁰⁵ One important thing to note about the appeal to this "profound effects" criterion is that it seems clearly to be best understood as an attempt to reconcile Institutionalism with the Individual Interests-Based Account of (part of) the ground of our concern for justice. The claim, after all, is that the principles of justice apply to the basic structure, to the exclusion of other possible subjects, because the basic structure has significantly greater effects on people's life prospects than those other possible subjects, including individual action and patterns of such action.

If the appeal to the "profound effects" criterion is to succeed in motivating Institutionalism at least three things must be true:

1. The effects of the basic structure really are more profound than the effects of anything else, including individual actions and patterns of such action
2. The basic structure can be plausibly defined in a way that excludes individual actions without undermining 1
3. The view that the principles of justice apply directly only to the basic structure (that is, Institutionalism) is plausible, given 1 and 2

³⁰³ There may, of course, be additional requirements of justice that cannot be met in the absence of a just basic structure. Even if this is the case, however, it will not provide support for Institutionalism, that is, for the view that individuals are not obligated to directly promote the aims prescribed by the principles of justice, since we have seen that individuals, at least if they are living under unjust institutions and in unjust conditions, can make their societies *less unjust* by directly promoting at least some of the aims prescribed by the principles of justice, namely those aims that are relevant to distributive justice.

³⁰⁴ For a similar point, see Murphy, "Institutions and the Demands of Justice," p. 280.

³⁰⁵ *A Theory of Justice*, p. 7.

Are the effects of the basic structure really more profound than the effects of, say, individual action and patterns thereof? More precisely, are the effects of the basic structure on an individual's life prospects really more profound than the effects on her life prospects of the patterns of individual action that occur within it? In order to answer this question we must specify more clearly than we have so far exactly which institutions might be part of the basic structure, and in virtue of what and in what way they are to be included. There has been much debate about how to define the basic structure, and two main positions have emerged, both of which present difficulties for the attempt to motivate Institutionalism by appeal to the "profound effects" criterion.³⁰⁶

The first way to understand the basic structure, which we will call the *Coercive Account*, is as limited to a society's *legally coercive* institutions.³⁰⁷ On this view, the basic structure consists in, as G.A. Cohen puts it, "the *broad coercive outline* of society."³⁰⁸ So, as Rawls says, the political constitution, legislation protecting private property, and state-enforced taxation schemes are all part of the basic structure. An institution such as the family, on this view, belongs to the basic structure "only insofar as [it is] (legally) coercive."³⁰⁹ The legal recognition of monogamous marriage would, then, be included, as would laws and regulations governing divorce proceedings and inheritance. Non-legally mandated patterns of family structure, such as the assignment of the majority of household and childcare labor to women, even in families in which both parents work outside the home, would, however, be excluded, and therefore not subject to the principles of justice.³¹⁰

This is problematic for the Institutionalists who wish to endorse the Coercive Account for two reasons. The first is simply that any society with such a pervasively sexist pattern of family labor division is clearly unjust, even if its laws are in no way sexist.³¹¹ The Institutionalists who accept the Coercive Account, however, cannot acknowledge this injustice, since by hypothesis such a society's coercive structure could be fully just.³¹² In addition, the injustice of a society with a pervasively sexist distribution of family labor is surely entailed by Moderation about Principles, so it seems that Institutionalists defenders of the Moderate view cannot accept the Coercive Account.

The second reason that the exclusion of non-coercively enforced family structure is problematic for the Institutionalists is that it conflicts with the "profound effects" criterion. A

³⁰⁶ Much of the discussion has also involved attempts to interpret Rawls's position on the extension of the basic structure, which is a difficult and complex task. We will not attempt to determine what Rawls's considered view on this question was. For our purposes, it is enough to consider whether either of the main available options is consistent with both the "profound effects" criterion and Institutionalism.

³⁰⁷ Tan endorses this view, both as the correct account of the basic structure to employ within an Institutionalists framework, and as the correct interpretation of Rawls's view ("Justice and Personal Pursuits," p. 346, footnote 29).

³⁰⁸ *Rescuing Justice and Equality*, p. 133, italics in original.

³⁰⁹ *Ibid.*, p. 132.

³¹⁰ *Ibid.*, p. 137.

³¹¹ As G.A. Cohen says, "sexist family structure is consistent with sex-neutral family law" (*Ibid.*).

³¹² The Institutionalists could say that the law ought to require an equal division of labor within families, so that the injustice that we have described is precluded at the level of the basic structure. But it is difficult to see how a plausible theory of justice could allow the sort of coercion by the state that would be necessary to *enforce* the requirements of justice that are at issue. Such coercion is surely precluded by Rawls's first principle of justice, and by any view of justice that gives significant weight to individual liberty or autonomy (in the sense of freedom from coercion).

dominant pattern of unequal distribution of labor within families that favors men over women, or “a regular practice of favoring sons over daughters in the matter of providing higher education,”³¹³ clearly has effects on the life prospects of men and women, respectively, that are just as profound as the effects of the coercive outline of society, which may be entirely sex-neutral and therefore just. Similarly, a pattern of personal economic choices in which the well-off refrain from making substantial sacrifices in order to aid the badly-off has effects on the life prospects of the badly-off that are at least nearly as profound as the state’s refraining from taxing the well-off more heavily in order to aid the badly-off. Those who seek to support Institutionalism by appeal to the “profound effects” criterion, then, cannot endorse the Coercive Account of the basic structure, since the claim that the effects of the coercive outline of society are more profound than the effects of patterns of individual choice is false.³¹⁴

The Institutionalist proponent of the “profound effects” criterion, then, must endorse an account of the basic structure other than the Coercive Account. Such an account, which we will call the *Major Institutions Account*, would, as Rawls sometimes suggests, include all of the “major social institutions,”³¹⁵ whether they are legally coercive or not. Proponents of the “profound effects” criterion might define ‘major institutions’ such that an institution is included if and only if, and insofar as, its effects are sufficiently profound.

Accepting the Major Institutions Account allows the Institutionalist to avoid the problem of being unable to condemn as unjust pervasive patterns of sexist family structure within sex-neutral and therefore just coercive institutions. On this view the institution of the family would be included in the basic structure not only insofar as it is legally coercive, but insofar as its effects are sufficiently profound. And since historically dominant and still common patterns involving the unequal distribution of labor within families clearly have profound and detrimental effects on the life prospects of women, the principles of justice would, on the Major Institutions Account, apply to the institution of the family in a way that would preclude such patterns.

The problem that now arises for the Institutionalist proponent of the Major Institutions Account and the “profound effects” criterion is to explain how her account of the “major institutions” can avoid the implication that the principles of justice apply directly to individual conduct. After all, if the principles apply to the institution of the family in a way that precludes an unequal distribution of household and childcare labor so long as both parents work outside the home, then it seems that they must apply to the non-legally mandated choices that individuals make within families, since it is those choices that determine whether the division of labor is unjustly unequal.³¹⁶ Similarly, since the economic choices that individuals make within the legally coercive aspects of our economic institutions have profound effects on the life prospects of the badly-off, the principles of justice must apply to our economic institutions in a way that limits the non-coerced individual choices that are acceptable with respect to justice. The

³¹³ Cohen, *Rescuing Justice and Equality*, p. 136.

³¹⁴ Cohen makes this point effectively when he says that we can ask of the Institutionalist proponent of the Coercive Account and the “profound effects” criterion:

why should we care so disproportionately about the coercive basic structure, when the major reason for caring about it, its impact on people’s lives, is also a reason for caring about informal structure and patterns of personal choice?...the similarity of our reasons for caring about these contrasting matters will make it lame to say: ah, but only the caring about coercive structure is a caring about justice (Ibid, p. 138).

³¹⁵ *A Theory of Justice*, p. 6.

³¹⁶ See Cohen, *Rescuing Justice and Equality*, p. 137.

character of non-legally coercive institutions, and of the non-coercive elements of institutions with coercive components (such as the family), is at least partially determined by the sum of the relevant individual choices that are made within the institutions; individual choices are at least partly constitutive of non-coercive institutions.³¹⁷ The Major Institutions Account, then, seems to lack the resources to maintain a robust distinction between institutions and individual choices as subjects of the principles of justice, and therefore lacks the resources to deny that the principles of justice apply directly to individual choices.

The “profound effects” criterion, then, can provide no support for Institutionalism, and fails in its attempt to reconcile Institutionalism with the Individual Interests-Based Account of (part of) the ground of our concern for justice. Any definition of the basic structure that is narrow enough to exclude individual actions will leave patterns of individual choice with precisely the sort of profound effects that are supposed to motivate Institutionalism beyond the scope of application of the principles of justice. And any definition that is broad enough to satisfy the “profound effects” criterion will fail to exclude patterns of individual choice, including choices regarding individuals’ use of their legally owned economic resources, from the scope of application of the principles of justice.

B. The Shaping Role of the Basic Structure

Does the fact that the institutions of the basic structure play an important role in shaping the characters of the individuals living within them provide support for the view that the principles of justice apply only to such institutions? In other words, does the fact that the aims that individuals adopt and pursue are to a significant extent shaped by the basic structure support the claim that only the institutions of that structure are required to directly promote the aims prescribed by the principles of justice? There are several reasons to doubt that it does.

The principles of justice prescribe certain aims, for example the aim of ensuring that everyone has a share of resources that is sufficient to live a fulfilling life. They prescribe such aims because justice requires that they be met. Anything that is necessary for those aims to be met is, then, required by justice. And presumably anything that is necessary for the aims to be met is necessary either because it promotes those aims itself, or because it is a necessary condition of their being promoted in some other way. In order for the shaping role of the basic structure with respect to individuals’ behavioral dispositions to have any prospect of supporting Institutionalism, then, it would seem that at least three things must be the case:

1. Achieving at least some of the aims prescribed by the principles of justice requires that individuals have behavioral dispositions of a certain sort
2. A just basic structure is a necessary condition of individuals having such dispositions
3. A just basic structure is a sufficient condition of individuals having such dispositions

Institutionalism, then, can only be acceptable if certain empirical claims are true, for example, that individuals cannot develop the sort of behavioral dispositions that are necessary for justice to be achieved in the absence of a just basic structure, and that individuals will certainly develop such dispositions once a just basic structure is in place.

These empirical claims, were they true, might be thought to support Institutionalism for several reasons. First, if individuals cannot, in the relevant sense, have or develop the dispositions necessary for ensuring that the aims prescribed by the principles of justice are met in

³¹⁷ Ibid, p. 136.

the absence of a just basic structure, then it is not the case that they ought to have them so long as a just basic structure is not in place – ought implies can.³¹⁸ In addition, if the existence of just institutions were sufficient to produce the necessary behavioral dispositions in individuals, then ensuring the existence of just institutions would be sufficient to ensure justice, and we would therefore not need to endorse any additional, independent requirements that apply to individuals.³¹⁹

Joshua Cohen accepts that the plausibility of Institutionalism depends on the empirical claims described above, which he places under the heading of “institutional determinism.”³²⁰ He says that there is an “essential role” played in Rawls’s Institutionalism by “substantive claims about social order and human motivation: in particular, claims about the pervasive influence of institutions on political-economic outcomes and on culture and identity.”³²¹

The claim that institutions have pervasive effects on political-economic outcomes and on individuals’ behavioral dispositions may be true.³²² But the claims upon which the three conditions outlined above depend are stronger, and unless they are met the claim about the pervasive effects of institutions, even if true, will not provide any support for Institutionalism. For our purposes, the important conditions are 2 and 3. Condition 1 seems clearly true, and I know of no one who denies it.³²³

Consider, then, condition 3. Are just institutions a sufficient condition of individuals having the sort of behavioral dispositions that they must have if justice is to be achieved? If not, then it is clear that the principles of justice cannot apply only to the basic structure, since a fully just basic structure would not guarantee that individuals have the sort of dispositions that are a necessary condition of the achievement of justice. Whatever other factors might be necessary to the achievement of justice, such as individuals developing the necessary dispositions in a way that is not determined by the basic structure, would need to be subject to the principles of justice as well, otherwise all of the demands that the principles of justice give rise to could be met without justice being achieved.³²⁴ This clearly conflicts with Injustice entails Obligations, and so cannot be acceptable.

If, however, a just basic structure is in fact a sufficient condition for the development of the dispositions necessary for the achievement of justice, then the claim that the shaping role of

³¹⁸ We need not consider here precisely what the relevant sense of ‘can’ is.

³¹⁹ Joshua Cohen employs a claim of this sort in his defense of Institutionalism; see “Taking People as They Are?,” p. 384.

³²⁰ Ibid, p. 364.

³²¹ Ibid.

³²² I will not challenge the claims here, although I believe that once they are spelled out in sufficient detail, including detail about the ontological status of institutions vis-à-vis individuals, reasons to doubt them become apparent.

³²³ At the very least, individuals have to have characters that motivate them to comply with and support just institutions that are securely in place in order for justice to be maintained.

³²⁴ In the Preface to his *Social Justice and Individual Ethics in an Open Society: Equality, Responsibility, and Incentives* (Heidelberg: Springer, 2001), Frank Vandebroucke suggests that the experience of supporters of existing reasonably just institutions tells against the view that such institutions are a sufficient condition of the sort of character development that is a necessary condition of justice being maintained over time:

The experience of social democrats in the 1980s was that we had to argue and struggle from morning to night to maintain more-or-less just institutions, where they were in place. Admittedly, the European welfare states are far from just societies, but the notion of a virtuous circle of stability in societies with just formal institutions nevertheless sits uneasily with our political experience (p. vii).

the basic structure supports Institutionalism will, if it is to have any chance of succeeding, depend on condition 2. Is it plausible to think, as condition 2 suggests, that a just basic structure is a necessary condition of the development of such dispositions? This seems unlikely, for a very simple reason: it is undeniable that some individuals develop the necessary dispositions even under extremely unjust institutions. Some individuals, that is, have dispositions that are such that they would comply with and support just institutions, were they to be put in place. In addition, some of these individuals are disposed to actively support the development of just institutions (which Institutionalists tend to believe is obligatory where unjust institutions prevail), and even to promote (at least some of) the aims prescribed by the principles of justice (for example, the aim of ensuring that others have a share of resources that is sufficient to live a fulfilling life) directly. Some individuals have dispositions of this sort even though they have spent their entire lives in societies with terribly unjust institutions.³²⁵

Clearly, then, there are ways that individuals can develop the sort of dispositions that are necessary for the achievement of justice in the absence of just institutions. If justice requires that individuals have such dispositions, then it requires whatever means are necessary to their developing them. But if there are multiple ways that the relevant dispositions could be developed, then presumably justice requires only that they be developed in some way or other. The fact that their development *could* be promoted by the basic structure is, in itself, not a reason to think, as the Institutionalist does, that the basic structure is a necessary condition of their development, or that there are no obligations to promote their development in other ways. If their development could also be promoted by parents raising their children in a way that emphasizes the value of promoting the aims prescribed by the principles of justice, then the fact that the basic structure, if just, could also promote their development is, in itself, no reason to think that parents are not required to do so.³²⁶

Those who point to the shaping role of the basic structure in order to motivate Institutionalism, then, illicitly argue from the claim that a just basic structure *could* produce the dispositions necessary to the achievement of justice, to the Institutionalist conclusion that the principles of justice apply *only* to the basic structure.³²⁷ Joshua Cohen, for example, begins his

³²⁵ The Institutionalist might accept that *some* individuals can, and indeed do, develop the dispositions necessary for the achievement of justice in the absence of just institutions, but claim that *others* cannot, in the relevant sense, do so, and that therefore just institutions are a necessary condition of *everyone* developing such dispositions (thanks to Niko Kolodny for suggesting this response). This claim, however, requires accepting that some individuals are, in certain conditions, incapable of a kind and/or degree of moral commitment that others are capable of achieving, *and* that *only* a just basic structure could provide the conditions necessary for them to achieve it. While it seems plausible that certain conditions that are strongly correlated with an unjust basic structure (for example poverty or lack of education) undermine the ability of the victims of such conditions to develop the dispositions necessary for contributing effectively to the achievement of justice, many of these conditions tend to affect the *victims* of injustice, and not those who are potential subjects of obligations to make sacrifices in order to promote justice. In addition, other conditions that might plausibly limit a person's capacity to develop the dispositions necessary for contributing to the achievement of justice, such as being raised by parents who fail to instill proper concern for the needs and interests of others, seem not to be eliminable by even a fully just basic structure.

³²⁶ If, as seems plausible, being raised in a way that emphasizes the value of promoting the aims prescribed by the principles of justice is *more* likely to lead to the development of the dispositions that are necessary to the achievement of justice, then there is a strong case to be made that, in the relevant sense, parents are required to promote the aims prescribed by the principles of justice by raising their children in a way that will lead to their being disposed to promote those aims when they become able to do so. This case is especially strong when the basic structure is unjust and therefore unlikely to foster the development of the necessary dispositions.

³²⁷ G.A. Cohen makes a similar point in response to Joshua Cohen (*Rescuing Justice and Equality*, p. 380).

defense of Institutionalism by suggesting that justice can require “changes in the social ethos,”³²⁸ but only because “that is *how* institutional changes lead to a more just distribution.”³²⁹ The guiding idea, simplified somewhat, is that justice requires that individuals not be disposed to make excessive inequality-generating incentive demands, since if they were so disposed then the functioning of even fully just institutions would lead to a substantively unjust distribution of resources.³³⁰ This is supposed to be consistent with Institutionalism so long as the empirical claim that the basic structure significantly shapes the social ethos is true.³³¹ But if well-off individuals *can* avoid making excessive incentive demands, and, relatedly, *can* sacrifice some of what they have in order to directly aid the badly-off, then the fact that they are also susceptible to having their disposition to do so enhanced by just institutions is no reason to think that they are not required by justice to do so even in the absence of just institutions.³³² After all, unless we accept the view that all improvements with respect to justice must consist in improvements of the justice of the basic structure, which we have so far been given no reason to do, their refraining from making excessive incentive demands, and their sacrificing in order to aid the badly-off, would make their society less unjust than it would otherwise be. The fact that the basic structure substantially shapes the social ethos in itself provides us with no reason to think that individuals are not required to directly promote the aims prescribed by the principles of justice when they can. Because of this, it also provides no support for Institutionalism.

C. *The Basic Structure and Background Justice*

Can the fact that individual action alone, regardless of how well-motivated, will fail to secure background justice provide the support for Institutionalism that Rawls’s first two purported reasons for endorsing it could not? The prospects for such support seem bleak. This is because there is, in general, no reason to think that the fact that individual action will fail to fully achieve some aim implies that individuals are not required to directly promote that aim.³³³

³²⁸ “Taking People as They Are?,” p. 364. By “social ethos” Cohen means, roughly, changes in individuals’ behavioral dispositions.

³²⁹ Ibid, italics in original.

³³⁰ Ibid, p. 380.

³³¹ As Joshua Cohen puts it, on this view “the social ethos is important but so pervasively shaped by institutions and the political culture that it does not require independent treatment by principles of justice” (Ibid, p. 384). It is not clear whether what Cohen calls “the political culture” can plausibly be thought of as part of the basic structure as Rawls and others understand it. If it cannot, then this statement by Cohen can be interpreted as potentially inconsistent with Institutionalism, if the underlying thought is that the principles of justice do apply to the political culture.

³³² And, of course, it would be absurd to deny that individuals can refrain from making excessive incentive demands, or that they can sacrifice in order to aid the badly-off. As G.A. Cohen points out, the well-off do not suffer from a “pathological *paralysis* of the will” that prevents them from donating to organizations that aid the badly-off (*If You’re an Egalitarian, How Come You’re So Rich?*, p. 172, italics in original). They could easily “sign...an appropriate banker’s order” (p. 171) that would regularly transfer some of their earnings to such an organization.

³³³ It is important to note that those who reject Institutionalism do not deny the importance of establishing and maintaining just institutions (see, for example, Murphy, “Institutions and the Demands of Justice,” p. 252). On any plausible view we ought to focus much of our efforts with regard to promoting justice on whatever attempts to make our institutions more just are reasonably likely to succeed. What those who reject Institutionalism object to is not that the view that we should try to make our institutions just, but rather the view that the well-off are *not required* to promote justice directly by, for example, sacrificing some of their resources in order to aid the badly-off.

The argument for Institutionalism that appeals to the necessity of just institutions to the preservation of background justice, though never explicitly formulated, seems to admit only of formulations that are clearly invalid. One possible such formulation is the following:

1. Individual action alone, no matter how well-motivated, will inevitably fail to achieve justice
2. Only just institutions can ensure that justice is fully achieved
3. Therefore, only institutions are required to promote the aims prescribed by the principles of justice; individuals are not required to directly promote such aims

To see just how deeply flawed this sort of argument is, consider an argument with precisely the same structure:

1. Individual action alone, no matter how well-motivated, will inevitably fail to achieve the aim of rescuing all children from drowning
2. Only a well-organized lifeguarding institution can fully achieve this aim
3. Therefore, only lifeguarding institutions are required to directly attempt to rescue drowning children; individuals are not required to do so³³⁴

Clearly, this argument is absurd. The fact that individual action alone cannot fully achieve a certain valuable aim is no reason at all to think that individuals are not required to directly promote that aim when they can do so. Individual action alone will inevitably fail to fully achieve justice, and this is good reason to think that we are required to do what we can to promote the development of just institutions. But insofar as our concern for justice (like our concern for rescuing drowning children) is at least partially grounded in the interests of the relevant individuals (as the Individual Interests-Based Account claims), it is no reason at all to think that the well-off are not *also* obligated to promote justice directly, for example by directly aiding the badly-off. And since the appeal to the need to secure background justice does not seem to offer support for any alternative ground of our concern for justice that would *exclude* individual interests, we have been given no reason to doubt that such direct aid would make the resulting state of affairs less unjust than the preceding state of affairs. The fact that even if all of the well-off did their best to aid the badly-off justice might still not be fully achieved is no reason to think that they are not required to provide the aid, since doing so would make it the case that the aims prescribed by the principles of justice are *better* achieved than they otherwise would be.

It is important to note that the Institutional view cannot be defended against this argument by appeal to the empirical claim that individuals will always do more good by devoting their resources and energy to promoting just institutions than by promoting the aims prescribed by the principles of justice directly.³³⁵ Those who reject Institutionalism will, of course, agree that when it will better promote the aims prescribed by the principles of justice to promote

³³⁴ This sort of view, in order to fully parallel standard versions of Institutionalism, would ascribe to individuals an obligation to contribute to the establishment of efficient lifeguarding institutions. This, of course, does not make the view any more plausible, since it would be morally abhorrent to respond to a crisis in child drownings only by, for example, voting for candidates for office who pledge to create efficient lifeguarding institutions, when one could also save some of the endangered children directly at no more than a moderate cost to oneself.

³³⁵ Thanks to Zack Bruce for encouraging me to consider this response, and for some helpful thoughts about the relevant issues.

institutional reform, individuals should do that rather than promoting the relevant aims directly.³³⁶ They will agree, therefore, that if it were true that promoting institutional reform is always the most effective way to promote the aims prescribed by the principles of justice, then individuals' obligations in respect of justice would be limited to promoting institutional reform.³³⁷ What critics of Institutionalism reject, and what Institutionalists are committed to accepting, is that *even if the aims prescribed by the principles of justice could be better promoted by individuals directly*, the obligations generated by the principles of justice would be limited to promoting institutional reform. The truth of the claim that the aims prescribed by the principles of justice are in fact always best promoted by efforts at institutional reform might, for critics of Institutionalism, support a set of obligations that is coextensive with the set of obligations entailed by Institutionalism; but it will not provide any support for Institutionalism itself.³³⁸

IV. Institutionalism and Demands

Given the lack of support provided for Institutionalism by the three Rawlsian reasons considered in the previous section, it makes sense to return to the issue of demands, and to consider whether any support for Institutionalism can be found there. This issue will figure prominently throughout our discussion in the following chapter. In the remainder of this chapter we will simply note some reasons for doubting that considerations about the demandingness of the obligations entailed by alternative views can provide support for Institutionalism. This discussion will provide the basis for the detailed consideration of what we will call the Problem of Transition that will occupy us in much of the next chapter.

Institutionalist views must assign to individuals living in societies with unjust institutions, and in particular to better-off individuals in such societies, obligations to promote just institutional reforms. Any view that denies that individuals have such obligations would be radically inconsistent with Injustice entails Obligations, and therefore clearly unacceptable.

Rawls says relatively little about the obligations of individuals living in unjust societies. These obligations, according to Rawls, derive from the "natural duty of justice,"³³⁹ which includes, among others, the obligation "to further just arrangements not yet established, at least when this can be done without too much cost to ourselves."³⁴⁰ In order to be compatible with Injustice entails Obligations, the set of obligations that apply to individuals in societies with unjust institutions has to be sufficiently extensive that full compliance with them will transform currently unjust institutions into just ones. So, in order for the demandingness of alternative views to stand any chance of supporting Institutionalism, it must be the case that the obligations to contribute to the establishment of just institutions that derive from the natural duty of justice, and that Institutionalists must endorse, would, under all possible unjust conditions, be less demanding than the obligations to promote the aims prescribed by the principles of justice directly that are entailed by plausible alternative views.

³³⁶ See Murphy, "Institutions and the Demands of Justice," p. 280.

³³⁷ It seems to me extraordinarily unlikely that this empirical claim could be true. We will not, however, consider this issue here.

³³⁸ It will also provide no basis for thinking that the obligations of the better-off will be limited in a way that is consistent with Moderation about Demands. After all, efforts to promote institutional reform can be extremely costly.

³³⁹ *A Theory of Justice*, pp. 99-100.

³⁴⁰ *Ibid.*, p. 99.

Are there reasons to think that the obligations to contribute to the establishment of just institutions that Institutionalists must endorse would necessarily be less demanding than the obligations to directly promote the aims prescribed by the principles of justice endorsed by those who reject Institutionalism? Given the amount of time, effort, and resources that tends to be required to bring about even modest and relatively uncontroversial institutional reform, it is not obvious that there are. Indeed, once we recognize that contributing meaningfully to the promotion of institutional reform often requires a significant investment of both time and resources, including financial resources, the thought that Institutionalism might provide a basis for a successful defense of Moderation about Demands might begin to seem somewhat puzzling.³⁴¹

We might think, however, that under full compliance by all individuals with the obligation to contribute to just institutional reforms that Institutionalists endorse, what each well-off person would have to do would be relatively minimal, since large-scale cooperation in the collective project of bringing about justice through institutions would surely be more efficient, in terms of promoting the aims prescribed by the principles of justice, than relatively uncoordinated efforts by the same number of individuals to promote those aims. The obligation might be discharged by simply voting for candidates and policies that will advance the cause of justice, and perhaps also by contributing a bit of time and/or money toward efforts to elect such candidates and promote such policies. If everyone contributed their fair share to such efforts, then it would be up to those holding public office to implement the reforms required by justice and to enforce enacted just policies. The obligations of ordinary citizens, including the well-off, might then be limited to supporting the implementation of just policies and complying with them once they are in place.

This Institutionalist view is clearly less demanding than the relevant alternatives if we assume that the demands on individuals do not increase as compliance by others decreases. Murphy defends the view that noncompliance by others with their obligations to aid the badly-off should not increase the extent of the demands that complying agents are subject to,³⁴² but rejects Institutionalism. He explains his view that noncompliance by others should not increase the demands that compliers are subject to, which we will call the Fair Share Principle, as follows:

Fair Share Principle: We should do our fair share, which can amount to a great sacrifice in certain circumstances; what we cannot be required to do is other people's shares as well as our own.³⁴³

While there are reasons to doubt that Murphy's "fair share" view about morally required sacrifices to aid the badly-off can ultimately be defended,³⁴⁴ we will consider only whether

³⁴¹ Murphy makes a similar point, noting that an alternative to Institutionalism that

requires people to do as much as they can to promote [the aims prescribed by the principles of justice], seems to be extremely demanding on many well-off people... But a requirement that people do whatever they can to bring about the existence of just institutions would be just as demanding. [Institutionalism] changes the content of the demands of justice but does not evidently reduce their extent ("Institutions and the Demands of Justice," p. 289).

³⁴² "The Demands of Beneficence," pp. 277-92 and *Moral Demands in Nonideal Theory*, Chapters 5-7; see also "Institutions and the Demands of Justice," p. 290-1.

³⁴³ "The Demands of Beneficence," p. 278.

accepting it is compatible with accepting Institutionalism. If the Fair Share Principle is incompatible with Institutionalism, this will undermine the claim that Institutionalism can better accommodate concerns about substantial demands on well-off individuals than the relevant alternative views.

Since Institutionalism views assign to well-off individuals obligations to promote just institutional reform, and not obligations to promote the aims prescribed by the principles of justice directly, a Fair Share version of Institutionalism would hold that individuals are obligated to do whatever would be their fair share with respect to the promotion of just institutional reform, and only that much, regardless of whether or not others are doing their shares. If, as seems plausible, a well-off individual's fair share of the total burden necessary to bring about fully just institutions would involve only a modest commitment of time and money, then Fair Share Institutionalism entails that such a modest sacrifice is what is required of such an individual, regardless of how much time and money anyone else is giving.

But this view cannot be correct. If most other well-off people are not contributing anything, or are contributing much less than their fair share, to the efforts necessary to promote just institutional reform, then an individual who complies with the demands of Fair Share Institutionalism by contributing her fair share of time and money to the relevant efforts is likely to be sacrificing in vain.³⁴⁵ Efforts to promote just institutional reform can only be successful if a very large number of people contribute meaningfully (or, perhaps, if a smaller number of very powerful people contribute substantially), and if it is known that few others will contribute, a potential contributor is likely to know that her efforts would be futile.³⁴⁶ Fair Share

³⁴⁴ For a compelling criticism of the Fair Share Principle, see Cullity, *The Moral Demands of Affluence*, p. 74-7. Michael Ridge argues that a view that takes the value of fairness seriously will require a fair distribution of the "burdens of non-compliance" between compliers and those to whom obligations are owed; for example, with respect to obligations to aid the badly-off, the burdens associated with the non-compliance of some, on Ridge's view, should be shared fairly between the badly-off and well-off compliers, such that compliers are obligated to take up some, but not all, of the burdens that non-compliers have wrongly refused to accept ("Fairness and Non-Compliance," in *Partiality and Impartiality*). Ridge's view, then, is, like Cullity's, more demanding (on the well-off) than Murphy's Fair Share View.

³⁴⁵ The likelihood that one's efforts to promote just institutional reform will be in vain will, of course, also depend on how many people are actively opposing just reforms, or promoting alternative reforms that would make our institutions even more unjust, and on how wealthy and powerful such people are.

³⁴⁶ I am not suggesting that the only possible beneficial result of efforts to promote just institutional reforms is getting the aimed at policy changes implemented, or that such efforts, when they do not achieve this result, generally do not have other beneficial results. Surely such efforts, for example, sometimes convince additional people to support changes in the direction of justice in the future, and thereby make it more likely that improvements in the justice of our institutions will eventually occur. And these effects, of course, are quite important, since significant institutional changes in the direction of justice tend to occur only after years, sometimes decades, of advocacy by those who support such changes. Still, there are surely also cases in which the amount of time and sacrifice that Fair Share Institutionalism would require of an individual to promote just institutional reforms would be unlikely to have even the more indirect beneficial effects just noted, and other cases in which the magnitude of the beneficial effects of the relevant sacrifice would be too limited to make it plausible that the sacrifice is obligatory (consider a case in which a significant sacrifice of resources would have the effect of convincing one additional person to vote for just policy changes). In addition, dedicating a certain amount of time, effort, and resources toward promoting the aims prescribed by the principles of justice directly will sometimes do a great deal more good in terms of promoting those aims than would dedicating the same amount of time, effort, and resources toward attempts to promote just institutional reforms (see Murphy, "Institutions and the Demands of Justice," pp. 280-4), even if doing the latter would have sufficient positive results to make the latter actions required if the former were not available. Thanks to Jay Wallace for reminding me of the importance of the range of positive effects that efforts to promote just institutional reforms can have.

Institutionalism, then, conflicts with the principle, which we will call Required Sacrifice entails Benefits, that sacrifices can only be morally required if they will, or have a sufficient chance to, result in benefits for others, or will, or have a sufficient chance to be, one of a set of sacrifices by multiple individuals that will together result in benefits for others.³⁴⁷ Since this principle is quite unlikely to be denied by either Moderates or Extremists, the fact that Fair Share Institutionalism conflicts with it seems to be a decisive reason to reject that view.

We might think that Fair Share Institutionalism can be modified so as to address this problem by simply adding to the requirement to do one's fair share the caveat 'unless the sacrifices involved in doing one's fair share would be in vain, or very likely to be in vain, due to the certain or probable noncompliance of others'. But this view is unacceptable as well, since it implies that so long as few enough others will contribute, no one is obligated to contribute. The badly-off could continue to be unnecessarily deprived of the necessary means to a fulfilling life, despite the fact that no individual will have failed in her duty to contribute to eliminating such deprivation, since every individual would be able to claim that any effort that she might have made to promote just institutional reform would have been futile. Fair Share Institutionalism, then, implies that sufficient noncompliance by others can make it the case that well-off individuals are not required to sacrifice to an extent that they would be required to if others were complying, even if they could (in the cases that we are concerned with here they could do so by giving directly to badly-off people, or to organizations that aid the badly-off), and even if such sacrifice would do just as much good for the badly-off. Any view with this implication cannot be thought to properly reflect the fact that everyone, and everyone's interests, are equally morally important, and so any such view is inconsistent with Moderation about Principles, as well as with the associated Individual Interests-Based Account of (part of) the ground of our concern for justice, unless some *other* plausible ground of concern for justice can be cited that would explain why individuals have an obligation to sacrifice in order to promote just institutional reform, but no obligation to sacrifice an equivalent amount in order to promote the aims prescribed by the principles of justice directly.³⁴⁸ Since Institutionalists have not cited any plausible ground of concern for justice that would provide such an explanation, it seems that the modified version of Fair Share Institutionalism, then, must be rejected.

Our discussion has revealed that the following four views cannot all be held together:

1. Institutionalism
2. The Fair Share Principle

³⁴⁷ The claim that sacrifices can be required if they will, or have a sufficient chance to be, one of a set of sacrifices by multiple people that will together result in benefits for others is necessary in order to avoid denying that individuals can be obligated to contribute to group efforts that will, or have a sufficient chance to, produce significant benefits, when each individual contribution will make no difference, or an imperceptible difference, to the total amount of benefit produced by the group effort. We discussed cases of this sort and their relevance to our thinking about the obligations of individuals to promote the aims prescribed by the principles of justice in Chapter Three. In addition, what counts as a sufficient chance of resulting in benefits for others for a sacrifice to be required will depend on several factors, including the likelihood of the relevant benefits obtaining, the moral significance of the benefits, and the magnitude of the sacrifice that would be involved for the agent. In some cases, then, even a 1 in 1,000,000 chance of producing benefits for others will be sufficient to make a sacrifice required; for example, if a well-off person can sacrifice 25 cents in order to obtain a 1 in 1,000,000 chance of saving a person's life, it seems that it would be wrong not to make the sacrifice.

³⁴⁸ It also seems to be inconsistent with Injustice entails Obligations, although this is less obvious, since it is *noncompliance* by others that undermines each individual's obligation to contribute.

3. Required Sacrifice entails Benefits
4. Moderation about Principles

As we saw, Fair Share Institutionalism conflicts with Required Sacrifice entails Benefits, and the modified version of Fair Share Institutionalism conflicts with Moderation about Principles (as well as with the associated Individual Interests-Based Account). Since we cannot plausibly reject either Moderation about Principles or Required Sacrifice entails Benefits, we must reject the Fair Share Principle if we are to maintain Institutionalism. We saw, however, that modifying the Fair Share Principle by allowing the noncompliance of others to *reduce* the demands on compliers leaves us with a view that is incompatible with Moderation about Principles.

We might, alternatively, accept an Institutional view that allows that noncompliance by others can *increase* the demands on compliers.³⁴⁹ On such a view, the fact that most people are not doing much to promote just institutional reform might make it the case that a complying individual is obligated to do much more than her fair share; so long as further efforts are reasonably likely to be successful, such efforts can be required.³⁵⁰ This view, however, is not likely to be appealing to those concerned with the demands that well-off individuals are subject to. It seems extremely likely that any view on which the noncompliance of others can increase the demands on compliers will be incompatible with Moderation about Demands; it therefore seems unlikely that this sort of Institutional view can be motivated by the thought that its demands on the well-off are more limited than the demands entailed by the relevant alternative views.

There seems to be no clear reason, then, to think that concerns about the demandingness of alternative views can provide the support for Institutionalism that the appeals to the “profound effects” criterion, the shaping role of the basic structure, and the need to secure background justice could not. And without any strong reason to favor Institutionalism over the relevant alternatives, we have no reason to accept that there can be no improvements with respect to justice that are not improvements at the level of the basic structure, given the implausible implications of that view that we noted earlier in this chapter. Nevertheless, it is worth examining some of the important implications of Institutionalism further, given its widespread acceptance among moral and political philosophers. In the following chapter we will focus specifically on the obligations that are relevant to the transition from an unjust state of affairs, such as ours, to a just state of affairs.

³⁴⁹ Strictly speaking, noncompliance by some would, on such a view, increase the demands on *everyone else*, whether they are compliers or not. For relevant discussion see Murphy, “The Demands of Beneficence,” pp. 283-4.

³⁵⁰ This view would still face the difficulty that enough noncompliance by others is likely to make it the case that *any* amount of effort and sacrifice that one could make would be futile. So long as this is possible, the view, when combined with Required Sacrifice entails Benefits, will have implications that are incompatible with Moderation about Principles.

Chapter Five

Institutionalism and the Problem of Transition: Cost, Difficulty, and Relative Disadvantage

Any view about the obligations deriving from the principles of justice must meet a range of conditions in order to be plausible. In the previous chapter we saw several reasons to doubt whether an Institutional view can meet some of these conditions. In addition, we saw that those who are motivated to endorse Institutionalism at least in part by the aim of limiting the demands on well-off individuals relative to the relevant alternative views face a particular kind of challenge. Specifically, we saw that there seem to be only three possible Institutional views about the obligations of well-off individuals living in unjust societies with unjust institutions, all of which either fail to meet at least one clear constraint on the plausibility of such a view, or else fail to limit the demands on individuals to an extent that would be acceptable to proponents of Moderation about Demands. The view that well-off individuals must do their “fair share” in terms of promoting just institutional reforms, regardless of the extent to which others are complying with that requirement, will, in many circumstances (specifically those involving substantial noncompliance by others), entail requirements on well-off people to make sacrifices that are certain (or at least nearly certain) to do no good whatsoever for the badly-off (or anyone else), thereby violating Required Sacrifice entails Benefits. The view that well-off individuals must do their fair share (again, in terms of promoting just institutional reforms), except when doing so would be certain, or at least extremely likely, to do no good, in which case they would have *no obligations* in respect of justice, is clearly inconsistent with Moderation about Principles and its commitment to the equal moral importance of all individuals and their interests.³⁵¹ Finally, the view that noncompliance by others can *increase* the demands on compliers³⁵² is sure to entail demands on the well-off in at least some unjust circumstances that far exceed what Moderation about Demands allows, and therefore will be rejected by proponents of the Moderate view.

The difficulty faced by those who might try to articulate a plausible Institutional view that is consistent with Moderation about Demands arises for reasons that are similar to those that arose when we considered what Moderation about Demands implies about the obligations of the well-off in our imagined unjust society in Chapter Two. Acknowledging the existence of substantial injustice seems to necessitate acknowledging substantial obligations to contribute to the elimination of that injustice, and those obligations, it seems, should be such that full compliance with them is sufficient to eliminate the relevant injustice. Our account of the obligations of the well-off in unjust circumstances such as ours, then, must properly reflect the imperative of transitioning from our prevailing unjust circumstances to a state of affairs in which justice has been achieved. And it is difficult to see how any view that is consistent with Moderation about Demands could, without inconsistency, properly acknowledge this transitional imperative.

³⁵¹ This is because when there is nothing that an individual beneficiary of prevailing injustice can do that would be likely to have any effect on her society’s basic structural institutions, she could always, presumably, act so as to benefit the victims of prevailing injustice in other ways, for example by transferring resources directly to such people, or to organizations that aid them.

³⁵² Again, strictly speaking such a view would hold that noncompliance by some increases the demands on everyone, including both compliers and noncompliers.

In this chapter we will consider whether the Institutionalists can provide a plausible account of the obligations of well-off individuals in circumstances like ours, characterized by substantial injustice and substantially unjust institutions, keeping in mind the need for any such account to properly reflect the imperative to transition to justice. Any such view must not only include a set of obligations that, if complied with, would ensure that justice is achieved, but must also meet several other related conditions. We will refer to the challenge that views about our obligations in unjust circumstances face in virtue of the need to meet this set of conditions as the *Problem of Transitional Obligations*, or the *Problem of Transition* for short. The difficulties that we will encounter when we consider how proponents of Institutionalism might attempt to meet the challenge presented by the Problem of Transition will, as we will see, provide us with further reasons to reject the Institutionalists' view.

I. The Problem of Transition

In order to adequately address the Problem of Transition, an Institutionalists' (and, of course, any other) view must:

1. Include a set of obligations that, if fully complied with, would transform an unjust state of affairs into a just state of affairs (Injustice entails Obligations)
2. Have implications regarding the obligations of individuals under conditions of partial compliance that are plausible, and in particular that are consistent with Moderation about Principles and its commitment to the equal moral importance of all individuals and their interests
3. Provide a morally plausible rationale for its distinctions between required and unrequired sacrifices
4. Avoid positing an implausible causal or ontological relationship between institutional structure/actions and individual actions/dispositions, and in particular accounts of these relationships that leave little or no room for a plausible explanation of how individuals can be expected to satisfy the requirements that the view assigns to them³⁵³

We have already noted some reasons to doubt that an Institutionalists' view that satisfies condition 1 can also satisfy condition 2, at least without endorsing demands that greatly exceed what Moderation about Demands allows. Our focus in the remainder of this chapter will be primarily on condition 3, although it will be important to keep conditions 1 and 2 in mind, since in some cases they will help to explain why certain Institutionalists' claims and arguments seem to fail.³⁵⁴

³⁵³ This list is not meant to be exhaustive, but merely to highlight certain clear conditions on the acceptability of views about our obligations in unjust conditions that Institutionalists' views are likely to have a particularly difficult time satisfying.

³⁵⁴ I intend to discuss condition 4 in more detail elsewhere.

II. The Natural Duty of Justice

Most Institutionalists follow Rawls in thinking that the obligations³⁵⁵ that individuals have in respect of justice in unjust circumstances characterized by unjust institutions are limited to supporting changes in the direction of justice at the institutional level. Those Institutionalists who are also inclined to accept views in the neighborhood of Moderation about Demands will also follow Rawls in claiming that the duty to support such institutional changes may need to be limited by a cost caveat, so that individuals are not subject to excessively demanding obligations.³⁵⁶

Rawls says relatively little about the obligations of individuals, and relatively little about non-ideal theory, so it is not surprising that his discussion of the obligations of individuals in unjust circumstances is rather limited. In one of the few places where he says anything about this issue, he states that the “natural duty...of justice...constrains us to further just arrangements not yet established, at least when this can be done without too much cost to ourselves.”³⁵⁷ There is very little discussion in Rawls’s work about the implications of this account of our obligations in unjust circumstances, but certain of the implications seem clear enough. For example, the account surely implies that we are obligated to vote for candidates who support changing existing unjust policies in the direction of justice,³⁵⁸ as well as directly for policy changes in the direction of justice, should we be in a position to vote directly on policy matters (for example, in the case of referenda).³⁵⁹ It also seems to imply that we can, if we are sufficiently well-off, be obligated to give resources, including money, to candidates who and organizations that are working toward policy changes in the direction of justice, so as long as doing so is reasonably likely to have a positive effect (in terms of justice) on the relevant policies.

The Institutionalist surely cannot reject the claim that we are obligated to vote for just policies, or policy changes in the direction of justice, since doing so would render her view

³⁵⁵ We will continue to use the term ‘obligation’ to refer to moral requirements generally, and to use that term and ‘duty’ interchangeably. We will, then, ignore Rawls’s distinction between obligations (which, for him, are voluntarily undertaken) and duties (which, for him, apply to all individuals regardless of their voluntary acts); see *A Theory of Justice*, p. 98. Obviously, nothing in our argument depends on this distinction.

³⁵⁶ In fact, Institutionalists who explicitly endorse the Moderate view are likely to be much more insistent than Rawls about the need for a cost caveat, since the absence of one would very likely have implications that are substantially at odds with Moderation about Demands, for reasons similar to (but broader than) the reasons that the view that noncompliance by others with the duty to contribute to establishing just institutions can increase the demands made on compliers would have implications that are inconsistent with Moderation about Demands. Murphy notes that Rawls is relatively non-committal with regard to the cost caveat; see “Institutions and the Demands of Justice,” p. 290. Thanks to Sam Scheffler for a helpful discussion of Rawls’s thinking about the cost caveat and demands on individuals more generally.

³⁵⁷ *A Theory of Justice*, p. 99. There is nothing in the section on the natural duties (section 19) about the obligations of individuals in unjust circumstances beyond this single sentence. In a later section on the arguments for the natural duties (section 51), Rawls repeats, in slightly different terms, the view about the content of the obligations of individuals in unjust circumstances mentioned in section 19, saying that “we are to assist in the establishment of just arrangements when they do not exist, at least when this can be done with little cost to ourselves” (pp. 293-4). Again, however, there is nothing more said about this duty.

³⁵⁸ Specifically, I take it that the account implies (roughly) that we are obligated to vote for that candidate in each race, of those who have a reasonable chance of winning, whose policy positions are, on the whole, best in terms of justice. Surely this view requires additional qualifications (for example, presumably we should not vote for a candidate who endorses policies that are slightly more just than those endorsed by one of her opponents, but who is much more unlikely than that opponent to be able to effectively contribute to getting policy changes in the direction of justice implemented if elected); we will not, however, consider this issue further.

³⁵⁹ For relevant discussion see Cohen, *If You’re an Egalitarian, How Come You’re So Rich?*, p. 174.

radically inconsistent with Injustice entails Obligations.³⁶⁰ An important challenge for the Institutionalists, then, is to provide a morally plausible explanation for the distinction between the obligation to vote for and otherwise support certain policy changes in the direction of justice, which she endorses, and the lack of an obligation to directly promote the aims that would be achieved if the relevant policy changes were implemented (this challenge is, of course, based on condition 3 of the Problem of Transition). Since we can imagine (not even terribly unrealistic) cases in which the cost to the relevant individuals of doing each of these things is at least roughly equal, it is difficult to see how the Institutionalists might defend this distinction. This issue will be our focus in the remainder of this chapter.

III. Just Tax Rates, Votes, and Voluntary Sacrifices

Institutionalists who accept Moderation about Principles are, as we saw in Chapter Two, committed to thinking that our society is seriously unjust. And for reasons that we noted in Chapter Three, if we accept the view about the requirements of justice, of those available to the Moderate, that requires the least radical transformation of the status quo (namely, the view that justice requires only that everyone is provided with a minimum standard of resources sufficient to live a fulfilling life), then there is no morally consistent way that we can assign the entire burden of making up for the shortfall relative to the minimum standard to the super-rich; a substantial portion of this burden must be assigned to typical well-off individuals. As we also noted, if we accept a more egalitarian view, which would require a more radical transformation of the status quo, then although we will be in a position to require greater sacrifices of the super-rich, we will still be committed to requiring substantial sacrifices of typical well-off individuals, since the total amount of resources that would need to be transferred from the well-off to the worse-off would be much greater. Any acceptable account of the tax rates that Institutionalists must think that justice requires the state to impose, then, will include rates for typical well-off individuals that are higher, and likely significantly higher, than the current rates. And since the duty to support changes at the institutional level in the direction of justice, which Institutionalists must (and typically do) endorse, includes the obligation to vote for policy changes in the direction of justice, Institutionalists are committed to the view that typical well-off individuals, should they have the opportunity, are obligated to vote for significant increases in their own tax rates.

Institutionalists also believe, however, that although the state ought to impose substantial sacrifices on typical well-off individuals, such people are not obligated to make the same sacrifices on their own when the state does not impose them. One reason that has been given for accepting this view, unsurprisingly, is that a requirement to make such sacrifices on one's own would be unacceptably demanding. Nagel defends this position, saying that

Most people are not generous when asked to give voluntarily, and it is unreasonable to ask that they should be. Admittedly there are cases in which a person should do something although it would not be right to force him to do it. But [with regard to aiding the badly-off] I believe the reverse is true. Sometimes it is proper to force people to do something even though it is not true that they should do it without being forced. It is

³⁶⁰ Strictly speaking, it seems that it would render her view *either* inconsistent with Injustice entails Obligations *or* inconsistent with a commitment to broadly democratic government (and perhaps both). We will assume that the commitment to democracy is not in question, as it is not for any of the Institutionalists with whose views we will be concerned.

acceptable to compel people to contribute to the support of the indigent by automatic taxation, but unreasonable to insist that in the absence of such a system they ought to contribute voluntarily. The latter is an excessively demanding moral position because it requires voluntary decisions that are quite difficult to make. Most people will tolerate a universal system of compulsory taxation without feeling entitled to complain, whereas they would feel justified in refusing an appeal that they contribute the same amount voluntarily. This is partly due to lack of assurance that others would do likewise, and fear of relative disadvantage; but it is also a sensible rejection of excessive demands on the will, which can be more irksome than automatic demands on the purse.³⁶¹

Nagel's central claim here is that the difficulty involved in voluntarily sacrificing some of one's resources justifies well-off people in unjust societies in refusing to make such sacrifices on their own, despite the fact that they would have no legitimate objection against the state were it to coercively impose monetarily equivalent sacrifices on them (and, presumably, despite the fact that they ought to support changes in state policy that would involve the imposition of such sacrifices, for example by voting for such changes, or for candidates who support them). In other words, the "demands on the will" that would be endured by those who choose to give on their own are sufficiently onerous, according to Nagel, to ground an objection on behalf of the well-off against any set of moral principles that entails an obligation to give on their own an amount comparable to what the state would be justified in taking (and indeed is required by justice to take) in the form of tax in order to aid the badly-off.

G.A. Cohen suggests several problems with Nagel's appeal to the demands on the will that tend to be involved in giving on one's own in his defense of the refusal of well-off people to give when the state does not force them to do so.³⁶² One such problem is, Cohen suggests, that Nagel seems to overestimate the difficulty of consistently giving on one's own. As Cohen puts it,

Nagel appears to ignore the individual's ability to avoid such recurrent difficult voluntary decisions: I can bind my own will, once and for all, or once in a long while, by signing an appropriate banker's order...Giving then becomes a relatively unoppressive routine.³⁶³

Institutionalists might respond that deciding to sign such a banker's order, knowing how much money doing so would cost one over time, would itself be quite difficult, in the sense of involving a substantial demand on the will. Our ability to bind our wills in a way that will make *future giving* much less difficult does not, they may suggest, reduce the demand on the will that would be involved in making the *initial decision* to so bind oneself. And since it is the question whether there is an obligation to make the initial decision that is at issue, the fact that once that decision has been made future giving might become much less difficult³⁶⁴ is beside the point,

³⁶¹ "Libertarianism Without Foundations," *Yale Law Journal* 85 (1975): 136-49, pp. 145-6.

³⁶² *If You're an Egalitarian, How Come You're So Rich?*, pp. 169-74.

³⁶³ *Ibid.*, p. 171. Jan Narveson makes a similar point in response to Nagel, although for very different purposes, in his *The Libertarian Idea* (Philadelphia: Temple University Press, 1988), pp. 249-50.

³⁶⁴ Whether signing a banker's order in fact makes future giving significantly less difficult seems open to doubt. After all, it seems plausible that a substantial demand on the will would, at least for some, be involved in refraining from rescinding a banker's order that one has previously signed. Surely those who find it difficult to sign such an order in the first place would find it at least somewhat difficult to resist the temptation to rescind it once it has been signed, given that rescinding it would remain an option open to them, and is itself not at all difficult to do.

since it is making the initial decision that is, according to the Institutionalists, objectionably demanding.

But is it really so difficult to make the initial decision to sign the banker's order? And if it were, would the difficulty of signing it be sufficient to ground an objection to any view on which doing so is morally required? Cohen suggests that in order to answer these questions it is important to distinguish the *cost* of performing an action from the *difficulty* of performing it. He says that

The cost of an action for me is what I lose (but would have preferred to keep) as a result of performing it, and also whatever pain or other unpleasantness attends the act of performing it, whereas its difficulty for me is a function of how my capacities measure up to the challenge it poses.³⁶⁵

He then claims that, in light of this distinction, it is clear that giving on one's own (whether by regularly writing out a check or by signing a banker's order so as to ensure donations at regular intervals in the future), though costly, is not particularly difficult. As he puts it, "it is easy to make out a check for a large amount. Just a few strokes of the pen are needed."³⁶⁶

We might think, however, that here Cohen, at least to some extent, misrepresents what Nagel means to be suggesting when he claims that giving on one's own is difficult. Nagel's point is not, of course, that the bodily movements necessary to sign a check are difficult to make, but rather that the mental burdens that at least some people would have to endure in order to get themselves to *will* to write out the check are substantial. Cohen himself notes that the fact that making a decision, for example a decision to give up a substantial sum of money, would be costly can "add to the difficulty of making it."³⁶⁷ And since for a well-off person giving on one's own an amount that is comparable to what our argument so far suggests that an Institutionalists who accepts Moderation about Principles must think the state is required to take from her would surely be quite costly, it seems plausible that (in virtue of such cost) making the decision to give that amount on one's own could be rather difficult.

Even if the difficulty of performing an action could serve as a justification for refusing to do so,³⁶⁸ however, the Institutionalists cannot appeal to the difficulty of giving on one's own an amount that is comparable to what she believes the state ought to take in the form of tax in order to argue that giving on one's own cannot be required. This is because it is primarily, if not exclusively, the *cost* of losing the relevant amount of money that makes it difficult to give on one's own. The Institutionalists, however, is committed to thinking that individuals can be obligated to contribute to having a monetarily equivalent (and overall at least extremely similar) cost imposed on them by the state, and even to perform actions that would guarantee that such a cost is imposed. For example, the Institutionalists is committed to thinking that well-off people are obligated to vote for the imposition of justly higher tax rates on incomes like theirs rather

If this is right, then it seems that the possibility of signing a banker's order cannot do much to undermine the force of Nagel's appeal to the demands on the will involved in giving on one's own.

³⁶⁵ *If You're an Egalitarian, How Come You're So Rich?*, p. 171.

³⁶⁶ *Ibid.*

³⁶⁷ *Ibid.*, p. 172.

³⁶⁸ Cohen denies that it can, saying that "[i]ts difficulty, as such, is no reason for not performing an action that (although difficult) is possible...it's not unreasonable to ask someone to do something difficult, provided that it does not carry too high a cost" (*Ibid.*).

than voting for the status quo, and surely this obligation must remain in force even if one knows that one's vote will be the deciding one.³⁶⁹ But since the cost of casting the deciding vote in this case is (monetarily) equivalent to the cost of giving on one's own, and since it is (at least primarily) the prospect of this cost that makes deciding to give on one's own difficult, it seems that casting the deciding vote should be at least roughly as difficult as giving on one's own. After all, the prospective cost of casting the deciding vote is at least roughly equivalent to the prospective cost of signing the sort of banker's order suggested by Cohen, and therefore should affect the difficulty of casting the vote to an extent that is similar to the effect of the cost of signing the banker's order on the difficulty of doing so. And since the Institutionalists are committed to thinking that well-off individuals are obligated to impose a substantial cost on themselves by casting the deciding vote in favor of higher taxes on incomes like theirs, she cannot appeal to the difficulty of giving on one's own in order to argue that the well-off are not obligated to impose a similar cost on themselves in that way, since, as we have seen, she is committed to allowing that they can be obligated to perform similarly difficult (because similarly costly) acts.

The Institutionalists' commitment to the view that well-off individuals are obligated to cast the deciding vote in favor of higher taxes on incomes like theirs also seems to imply that she cannot appeal to the *cost* of giving on one's own in order to justify refusing to do so, since the cost of the state's coercively taking the amount of money by which her taxes would go up if she were to cast such a vote is at least roughly equivalent to the cost of giving on one's own.³⁷⁰ The monetary cost would be, of course, entirely equivalent, and this would surely account for the bulk of the cost of both casting the deciding vote and giving on one's own. In addition, there is no obvious reason to think that giving on one's own would be (much) more mentally burdensome or "irksome" than casting the deciding vote, and so no obvious reason to think that we can locate an additional cost of giving on one's own in such mental burden. It seems, then, that Nagel's appeal to the burden on the will associated with giving on one's own must fail as a defense of the Institutionalists' view that well-off individuals are not obligated to make substantial resource sacrifices when the state does not force them to do so. Specifically, this appeal fails in virtue of violating condition 3 of the Problem of Transition; it fails to provide a morally plausible rationale for the distinction between the requirement that well-off people, for example, cast the deciding vote in favor of higher taxes on incomes like theirs, and the lack of a requirement that the same people give on their own an amount similar to the amount by which their taxes would go up if they were to cast the required vote.

If there is indeed no morally plausible rationale for this distinction, proponents of Nagel's argument are left with two basic options. First, they can give up Institutionalism, and accept that well-off people are obligated to give on their own what justice requires the state to take from them in the form of tax. Adopting this view would, of course, also involve giving up Moderation about Demands. The alternative to this option is to conclude, on the basis of the supposedly objectionable demandingness of a requirement to give on one's own, that well-off individuals are not obligated to cast the deciding vote in favor of justly higher tax rates on incomes like theirs

³⁶⁹ Ibid, p. 174.

³⁷⁰ One way in which the cost may not be entirely equivalent is that there may be an additional cost involved in giving on one's own when others in a similar position do not give. This is connected to Nagel's thought that some well-off people may be motivated to avoid giving on their own due to "fear of relative disadvantage" ("Libertarianism Without Foundations," p. 146). We will discuss whether this potential cost might justify refusing to give on one's own in the following section.

(which would seem to require also accepting that well-off people are not obligated to vote for justly higher tax rates at all, whether their vote would be the deciding one or not; after all, it is not clear what basis there could be for thinking that, as a general matter, voting in this way is required, but that this requirement is undermined when one's vote will be the deciding one). Accepting this view, however, entails rejecting Injustice entails Obligations, since it amounts to a rejection of the view that well-off people are required to contribute to the elimination of injustice, and therefore is consistent with injustice persisting despite the fact that no one has acted wrongly.

A slightly different version of the second option, which also denies that well-off individuals are required to vote for higher tax rates on incomes like theirs, would conclude that because well-off individuals are not obligated to give on their own, and not obligated to vote for higher taxes on incomes like theirs, justice does not require that the badly-off be provided with any of the resources that the well-off might sacrifice (either on their own or in the form of tax). This view does not conflict with Injustice entails Obligations, but only because it amounts to a denial that our society is substantially unjust. And any view that denies that our society is substantially unjust is, as we have seen, inconsistent with Moderation about Principles, and therefore unacceptable. It seems, then, that the failure of Nagel's argument gives us further reason to doubt that Institutionalism can be defended, and therefore further reason to doubt that it can serve as the basis for a successful defense of Moderation about Demands.

IV. Voluntary Sacrifice and Relative Disadvantage

The Institutionalism might at this point suggest that we have rejected Nagel's argument too quickly, since we have neglected his reference to "fear of relative disadvantage" that the well-off might experience as a potential justification of not giving on one's own. It is unclear whether Nagel intends to suggest that the prospect of relative disadvantage could actually *justify* the well-off in refusing to give on their own, or whether he meant only to suggest that it can *explain* their refusal (without justifying it). After all, the reason that he initially provides for thinking that the view that the well-off ought to give on their own is objectionably demanding is that "it requires voluntary decisions that are quite difficult to make."³⁷¹ He then notes that most people "would *feel* justified in refusing an appeal that they contribute...voluntarily...partly due to lack of assurance that others would do likewise and fear of relative disadvantage."³⁷² Finally, he adds that their feeling justified in refusing reflects "a sensible rejection of excessive demands on the will."³⁷³ It is clear, then, that Nagel thinks that the primary reason that refusing to give on one's own is justified is that doing so requires decisions that are difficult to make, and therefore would involve substantial demands on the will. It is unclear whether he thinks that the prospect of relative disadvantage can play any role in justifying the refusal of the well-off to give on their own, despite the fact that it is surely part of the explanation of why at least some do not do so.

There are good reasons to doubt that the fear or prospect of relative disadvantage could, on its own, justify the well-off in refusing to give when they are not forced to do so by the state. The first is that to the extent that we take relative disadvantage to be morally relevant, its relevance would seem to speak in favor of, rather than against, a requirement that the well-off

³⁷¹ Ibid, p. 145.

³⁷² Ibid, p. 145-6, italics added. Their *feeling* justified does not, of course, entail their *being* justified.

³⁷³ Ibid, p. 146.

give on their own in order to aid the badly-off.³⁷⁴ After all, the badly-off are substantially disadvantaged relative to the well-off, and would continue to be so even if many of the well-off made sacrifices that, though substantial, still left them much better off than the badly-off.³⁷⁵ The well-off who fear the prospect of the relative disadvantage that they would suffer if they were to give on their own are not concerned that they would, in virtue of giving, become badly off themselves, let alone worse off than those whom they might help (well-off people, if they consider giving at all, typically do not consider giving all that much, and we are considering only whether they might be obligated to give an amount comparable to what those who are committed to at least the minimum standard requirement of justice that we discussed in Chapters Two and Three must (at least if they are Institutionalists) think the state ought to take from them in the form of tax). They are concerned, rather, that they would become worse off than their fellow well-off people, since most such people will give very little, if anything at all. But this concern cannot possibly, on its own, justify the refusal of well-off people to give. To see why, consider W, X, Y, and Z, who currently have the following resource shares:

W has 2 units
X has 2 units
Y has 10 units
Z has 10 units

As in our imagined society from Chapter Two, 4 units is the minimum resource share that is necessary in order for these people to be able to live a fulfilling life. Now consider the following exchange between badly-off X and well-off Y.³⁷⁶

X: How about sacrificing 2 units of your resources so that W and I can be a bit better off?

Y: I agree that it is unjust that you and W are as badly-off as you are, and I think that the state should take 2 units from me, as well as 2 units from Z, so that you and W can have enough to live fulfilling lives. But Z is not going to sacrifice anything unless he is forced

³⁷⁴ Indeed, taking relative disadvantage, or the prospect thereof, to be morally relevant would seem to lead us in the direction of an egalitarian view of the requirements of justice, which, as we have seen, would further diminish the prospects for a successful defense of Moderation about Demands. Frankfurt appeals to the moral irrelevance of relative disadvantage in his argument against egalitarianism (“Equality as a Moral Ideal,” pp. 135-7), and it seems clear that rejecting that appeal (that is, accepting the moral relevance of relative disadvantage) would substantially weaken the case against egalitarianism. After all, it would be extremely implausible to permit the appeal to the prospect of disadvantage relative to other well-off people as a justification for refusal by the well-off to sacrifice on their own in order to aid the badly-off, but to deny the force of an appeal on behalf of the badly-off to their disadvantage relative to the well-off in defense of an egalitarian view about the requirements of justice. This would be to attribute moral significance to inequalities toward the top of the income distribution, while denying such significance to the (much greater) inequalities between those near the top of the distribution and those toward the bottom. For reasons that we noted in Chapter Three, any view that does this is clearly unacceptable.

³⁷⁵ It is important to keep in mind that it is only sacrifices of this sort that we are considering as potentially obligatory here. The requirement to give on one’s own that our argument might support will not be a requirement to make oneself as badly off as the victims of prevailing injustice, but only to make oneself somewhat, and perhaps significantly, worse off than well-off people who sacrifice nothing.

³⁷⁶ My discussion here owes much to Cohen’s discussion and application of what he calls the “interpersonal test” (*Rescuing Justice and Equality*, p. 42). Cohen argues that this test shows that incentive inequalities cannot achieve “comprehensive justification” (p. 41), and are therefore unjust (pp. 41-62, especially pp. 59-62).

to by the state, so if I give up 2 units now, I will be disadvantaged relative to Z. So, I'm not going to give up 2 units.

X: But if your potential disadvantage relative to Z matters, then why doesn't my actual, greater disadvantage relative to you matter more? If relative disadvantage is important, shouldn't that imply that you ought to give, rather than that it is acceptable not to?

It is difficult to see how Y could plausibly respond to X's question in defense of her refusal to sacrifice 2 units in the absence of the state forcing her to do so. After all, if relative disadvantage (or the prospect thereof) is morally relevant at all, so that Y's appeal is at least to a factor that is of some moral significance, then all relevantly similar instances of relative disadvantage must be similarly morally relevant. And surely X's disadvantage relative to Y is relevantly similar to Y's prospective disadvantage relative to Z.³⁷⁷ In addition, even if it is the case that one can justifiably give her own prospective disadvantage relative to others greater weight than others' actual or potential disadvantage relative to her, surely one cannot give her own prospective disadvantage relative to others *infinitely* greater weight, so that one can never be obligated to sacrifice in order to aid others when doing so would leave one disadvantaged relative to other (currently) similarly situated people.³⁷⁸ This means that the fact that well-off people face the prospect of disadvantage relative to other similarly well-off people cannot justify a *general* refusal by the well-off to give when they are not forced to do so by the state. The appeal to relative disadvantage cannot, then, on its own provide the basis of a defense of the general Institutional claim that individuals are not obligated to directly promote the aims prescribed by the principles of justice.³⁷⁹

In order for a particular appeal to prospective relative disadvantage to have any hope of succeeding as a defense of a well-off person not giving on her own, it must be the case that the reasons, both agent-neutral and agent-relative, provided by the prospect of her disadvantage relative to other well-off people, are sufficiently strong to counterbalance the (agent-neutral) reasons provided by the actual disadvantage relative to her of the badly-off people whom she might help, as well as the reasons provided by the *absolute* deprivation of those badly-off

³⁷⁷ One way in which different instances of relative disadvantage *might* fail to be relevantly similar is if some of the instances are of disadvantage relative to people outside of one's own society, nation, or state. We are imagining, however, that W, X, Y, and Z are members of the same society and living under the same (unjust) state.

³⁷⁸ In addition to being simply intuitively unacceptable, such a view is clearly inconsistent with Moderation about Principles. It would allow, for example, a potential rescuer to refrain from rescuing a drowning child if, in virtue of doing so, she would become worse off than similarly situated people who happen not to encounter any drowning children (perhaps she happens to be wearing a very expensive piece of jewelry that will be ruined if it gets wet, and does not have time to both remove it and save the child).

³⁷⁹ The appeal to prospective relative disadvantage also cannot serve as the basis for a defense of the general Institutional claim that individuals are not obligated to directly promote the aims prescribed by the principles of justice because it is at least theoretically possible that one could give on one's own without disadvantaging oneself relative to others; if all other similarly situated people were giving on their own, one could give too, without thereby suffering any disadvantage relative to similarly situated people. In such a case, one could not appeal to the prospect of relative disadvantage in order to defend her refusal to give, because there would be no such prospect. Institutionalism, however, seems to entail that individuals cannot have obligations of justice to give on their own, even if all other similarly situated people are in fact giving. Institutionalism, then, cannot be defended solely by appeal to the claim that individuals cannot be obligated to disadvantage themselves relative to (currently) similarly situated people.

people.³⁸⁰ Our example involving W, X, Y, and Z lacks the details that would be necessary to draw a definitive conclusion regarding whether this standard could be met with respect to Y's refusal to give (although this seems doubtful given that Y's share of resources far exceeds the minimum standard necessary to live a fulfilling life, while X's share is only half of that minimum standard), but it seems clearer that actual instances, in societies like ours, of typical well-off people refusing to give on their own in order to aid their badly-off fellow citizens, are unlikely to be justifiable in this way. Even if relative disadvantage is a morally relevant factor, the fact that all relevantly similar instances of such disadvantage must be treated similarly within our account of the reasons that are morally relevant makes it extremely unlikely that refusal by the well-off to give on their own can be justified purely by appeal to their prospective disadvantage relative to other well-off people. Any view that allowed well-off individuals to give their own prospective disadvantage relative to other well-off people enough weight to justify, on its own, their refusal to give on their own at all, despite the extreme disadvantage relative to all well-off people, as well as the absolute deprivation, endured by the badly-off, would surely be incompatible with Moderation about Principles.³⁸¹

We have, so far, treated the appeal to the prospect of relative disadvantage as an appeal to a consideration that is entirely external to the considerations discussed in the previous section under the headings of "difficulty" (or "demands on the will") and "cost." This was necessary in order to determine whether the appeal to the prospect of relative disadvantage could, on its own, justify refusal by the well-off to sacrifice on their own the portion of their resources that, according to Institutionalists who accept that our society is seriously unjust, the state should (and is obligated to) take from them in the form of tax in order to aid the badly-off. It also seems to reflect Nagel's understanding of the relationship between the "fear of relative disadvantage" and the other considerations that he mentions in his defense of the refusal to give on one's own.³⁸²

Cohen also treats the "fear of relative disadvantage" as a separate reason, apart from the "demands on the will," that might justify the well-off in refusing to give on their own. He says that the appeal to relative disadvantage constitutes a "distinct Nagelian defense"³⁸³ (distinct, that

³⁸⁰ It is important to keep in mind here that our discussion is focused on the question whether well-off people are obligated to sacrifice some of their resources on their own in order to aid those who lack sufficient resources to live a fulfilling life. The reasons that there are to aid those who are badly off in this sense provided by the mere fact that they are so badly off (apart, that is, from any additional reasons that might be provided by their disadvantage relative to others) are surely quite strong.

³⁸¹ Such a view would imply, for example, that the prospect of only being able to afford *most* of the premium features on one's new car could justify a well-off person in refusing to sacrifice enough money to provide a certain number of nutritious meals for several poor children, who would otherwise have only nutritionally deficient food, so long as her similarly well-off neighbors will purchase *all* of the premium features. Any view with this implication surely does not take seriously the equal moral importance of all individuals and their interests.

³⁸² Recall that Nagel says that the well-off feel justified in refusing to give on their own "partly due to lack of assurance that others would do likewise and fear of relative disadvantage," but that their refusal "is also a sensible rejection of excessive demands on the will" ("Libertarianism Without Foundations," p. 146). It seems clear that he means to suggest that these are separate reasons that the well-off might refuse to give on their own.

³⁸³ *If You're an Egalitarian, How Come You're So Rich?*, p. 174. By asserting that the appeal to relative disadvantage constitutes a "Nagelian defense" of the view that the well-off are not obligated to give on their own, Cohen seems to interpret Nagel as thinking that considerations having to do with relative disadvantage might not only explain, but also justify refusal by the well-off to give on their own. In addition, Cohen is, as we will see, more sympathetic to the appeal to relative disadvantage than he is to the appeal to the "demands on the will," despite the fact that the latter is clearly the reason that Nagel thinks (at least) primarily justifies the well-off in not giving on their own.

is, from the appeal to the “demands on the will” involved in giving on one’s own) of the refusal of the well-off to give on their own. This defense, Cohen goes on to say, “is that the consequences for me if I give when others don’t are intolerably oppressive.”³⁸⁴ The oppressiveness of these consequences, according to Cohen’s understanding of the defense, is sufficient to justify refusing to give on one’s own, but “not because of the considerations about the difficulty of “willing” . . . canvassed [elsewhere].”³⁸⁵

Perhaps, however, Nagel’s defense of the view that well-off individuals are not obligated to give on their own can be strengthened by viewing the prospect of relative disadvantage as a feature of giving on one’s own that contributes to the prospective cost, and thereby to the difficulty, of doing so, rather than as a feature separate from considerations of cost and difficulty that might independently support the view. Cohen’s description of the appeal to relative disadvantage as consisting in the claim that the consequences of giving on one’s own (that is, the relative disadvantage that one would suffer if one gave on one’s own) when other similarly situated people do not would be “intolerably oppressive” itself seems to suggest this reformulation of Nagel’s argument. Surely intolerably oppressive prospective consequences for oneself constitute a prospective cost, and a cost of precisely the sort that will tend to make performing an action that would have such consequences difficult. A purported requirement to perform such an action would surely involve precisely the sort of “demands on the will” that Nagel claims can justify refusing to give on one’s own, and which he thinks should lead us to reject the view that doing so can be required.

We have seen that even if relative disadvantage is a morally relevant factor, it will not, on its own, necessarily justify the refusal of well-off people to give when other similarly situated people do not, since the disadvantage of the badly-off relative to the well-off will be just as relevant as the prospective disadvantage of the well-off relative to other well-off people who do not give (although individuals may have agent-relative reasons to give their own potential relative disadvantage greater weight than the relative disadvantage, actual or potential, of others). But if relative disadvantage is morally relevant, then it seems that suffering it must, in some suitably broad sense, count as a cost to individuals.³⁸⁶ And if it is a cost, then the prospect of it will tend, like other prospective costs, to contribute to the difficulty of performing actions that will, or are at least extremely likely to, lead to one’s suffering that cost. So if relative disadvantage is indeed a cost, then there is a prospective cost of giving on one’s own that is not also a prospective cost of casting the deciding vote in favor of a tax increase on well-off people generally, since the implementation of such a tax increase would not leave any well-off people disadvantaged relative to people to whom they were not previously so disadvantaged.³⁸⁷ Appeal

³⁸⁴ Ibid, p. 175.

³⁸⁵ Ibid.

³⁸⁶ Of course it will, on such a view, count as a cost to anyone suffering it, and not only to those who come to be disadvantaged relative to others to whom they were not previously so disadvantaged. So the fact that the badly-off have always been much worse off than the well-off will not, on the view being considered, mean that the former’s disadvantage relative to the latter does not count as a cost to them. The view cannot, then, justify refusal by the well-off to give on their own in terms of the cost of relative disadvantage alone, since the cost that they would incur by giving would be counterbalanced by the gains in terms of relative disadvantage for the badly-off.

³⁸⁷ We will ignore those who might illegally fail to pay the new higher rate and get away with it. It is important to note, however, that the prospect of disadvantage relative to well-off tax cheats could not plausibly be offered as a morally legitimate ground for cheating on one’s taxes oneself, especially if the rate that one is legally required to pay is not unjustly high, and even if the number of similarly situated people who will cheat is quite large. Those who believe that the prospect of disadvantage relative to other well-off people *is* a morally legitimate ground for refusing to sacrifice the unjustly untaxed portion of one’s income on one’s own, then, must explain why the

to such a cost, then, might be able to justify the view that it is more difficult for a well-off individual to give on her own than it would be for her to cast the deciding vote in favor of a tax increase on people with incomes like hers. And this additional difficulty, and the additional cost that explains it, are at least potentially morally relevant differences between an obligation to give on one's own and an obligation to cast the deciding vote in favor of a just tax increase that the defender of Moderation about Demands might be able to appeal to in order to defend the view that well-off individuals are not, at least in typical cases, obligated to give on their own.³⁸⁸

In order to consider this defense of the view that well-off individuals are not obligated to give on their own, it is important to determine more specifically what the costs that might be involved in giving on one's own, but that would not be involved in casting the deciding vote in favor of a tax increase, could be. Cohen suggests two distinct types of potential costs (although he runs them together to some extent).³⁸⁹ The first type is limited to costs that an agent herself might suffer directly, while the second primarily concerns costs that individuals might impose on their children.³⁹⁰ We will consider each of these types of costs, and whether either of them might justify refusal by the well-off to give on their own.

prospect of relative disadvantage can serve as a justification of refusing to give on one's own, but cannot serve as a justification of cheating on one's taxes when other well-off people will do so. Of course, even if many people cheat on their taxes, the number of people who do so will likely be much lower than the number of people who refuse to sacrifice on their own; so by paying one's legally mandated taxes the number of people to whom one would become relatively disadvantaged is very likely to be lower than the number to whom one would become so disadvantaged if she gave on her own. But this is a contingent matter, and therefore cannot mark a principled distinction between the cases that might ground different verdicts about the relevant obligations to sacrifice. Some might claim that if enough other similarly situated people are cheating on their taxes, then it is morally permissible for one to cheat on hers as well, since refraining from cheating would result in one's becoming disadvantaged relative to many (currently) similarly situated people. But this view seems unavailable to Institutionalists, since they tend to agree with Rawls that as individuals we all have a duty to "comply with and to do our share in just institutions when they exist and apply to us" (*A Theory of Justice*, p. 293). It is, furthermore, difficult to see what else defenders of the view that individuals are not obligated to give on their own might appeal to in order to distinguish the cases, apart, perhaps, from the difficulty of (or the "demands on the will" involved in) giving on one's own, which might plausibly be thought greater than the difficulty of refraining from cheating on one's taxes when other similarly situated people are cheating on theirs. This suggests that the failure of the reformulated version of Nagel's appeal to "demands on the will" that we are currently considering to ground a successful defense of the view that well-off individuals are not obligated to give on their own would leave proponents of that view with little else to appeal to in order to defend it.

³⁸⁸ This defense, even if it were to succeed, would not justify refusing to give on one's own when all other similarly situated people will give on their own, since in such a case an agent faces no prospective relative disadvantage, and therefore faces none of the costs that might be associated with such disadvantage. This implication does not, however, threaten the status of this sort of appeal to relative disadvantage as a potential means of defending Moderation about Demands. That view, recall, says that in circumstances like ours, morality is not substantially more demanding than prevailing common-sense morality suggests. Circumstances in which nearly all well-off people were sacrificing substantially in order to aid the badly-off would be sufficiently *unlike* our actual circumstances that a requirement that a particular well-off person do the same would not conflict with Moderation about Demands as we have formulated it.

³⁸⁹ *If You're an Egalitarian, How Come You're So Rich?*, p. 175.

³⁹⁰ Since promoting the interests of one's children is, for at least most parents, a *project* in the broad sense in which we employed that term in Chapter Two, it is surely also the case that most parents would be imposing costs on themselves by imposing costs on their children. I doubt that this fact has much impact on the force of the argument for the permissibility of refusing to give on one's own (the most plausible versions of the argument, after all, will focus on the interests of the children, and the obligations of parents to their children, rather than on the interests of the parents themselves), but it is worth noting that if there are agent-relative reasons of the sort that we discussed in Chapter One at all, the most uncontroversial of these reasons would surely be the reasons that (most) parents have to promote the interests of their children.

A. *Costs to Oneself*

First, Cohen notes that a well-off person might claim that he

should not be asked to depart from the observable norm of his peer group – a peer group to which, importantly for present purposes, he continues to belong to even if he impoverishes himself, since that group is substantially defined by his occupation and his education.³⁹¹

The idea here seems to be that there are costs associated with deviating from the typical behavior, and in particular the typical behavior with respect to the use of resources such as money, of members of one's social class (beyond, of course, the costs associated with losing the resources themselves, which would also be incurred if the state forced everyone in one's social class to sacrifice by imposing a higher tax rate on the incomes of those in that class), and that these costs might justify well-off people in refusing to give on their own when most others in their social class will not give. Cohen suggests that giving on one's own when other members of one's social class do not give would constitute "an especially saintly response to peer group constraints."³⁹² And since many are inclined to think that saintly behavior, though admirable, cannot be morally obligatory, if it is true that giving on one's own when other members of one's social class do not would be saintly, then we may have good reason to accept the view that well-off individuals are not obligated to sacrifice on their own in order to aid the badly-off (unless all, or at least most, others in one's class begin to give on their own, in which case the relevant peer group constraints, and the related prospect of relative disadvantage, would not exist).

Is it plausible to think that giving on one's own when other members of one's social class do not would constitute a "saintly response" to the plight of the badly-off, given the costs that one would incur by giving? The answer to this question would seem to depend on the nature and extent of the costs that one would incur, and perhaps also on how badly off those whom one might aid are. Cohen does not say much about what exactly the costs associated with giving on one's own when other members of one's social class do not might consist in, but it is not too difficult to imagine some of the possibilities. A well-off person who manages to muster the will to give on her own might, for example, find it psychologically difficult to accept that, now that she has given, she will no longer be able to afford the same sort of lifestyle that others who share her social class continue to enjoy. She might, for example, find it rather frustrating to see her peers driving nicer cars than she can now afford, or dining in fancier restaurants than she can now go to, or wearing more expensive clothes than she can now buy. She might find herself envious upon hearing some of her peers describing their latest vacation, which cost more than she can now pay to travel, or discussing their plans to move into a new house that is now out of her price range.

This type of cost, however, does not seem to be the sort that might justify refusing to give on one's own, for several reasons.³⁹³ First, we can note that feeling frustrated at and envious of the fact that others are better off is not at all uncommon, and certainly is not a phenomenon that is limited to those who have voluntarily given up some of their resources (this is, in fact, surely

³⁹¹ *If You're an Egalitarian, How Come You're So Rich?*, p. 175.

³⁹² *Ibid.*

³⁹³ It also seems, at best, an exaggeration to claim that imposing this sort of cost on oneself in order to aid the badly-off would constitute "saintly" behavior.

the most *uncommon* type of case in which these feelings arise, since, first, there are so few people who give substantially on their own, and second, many, if not most, of those who do surely feel good about having given, rather than envious of those who now have more than they do). We do not, however, typically think that such feelings, unpleasant as they might be, themselves provide those who have them with reasons that might, for example, justify stealing from the better-off in order to reduce their disadvantage relative to them. Nor, relatedly, do we think that the prospect of becoming (once again) disadvantaged relative to certain others, and the related potential costs, can provide individuals with reasons that might justify refusing to return money or property that they have already stolen. Indeed, many would surely deny that either the fact or prospect of relative disadvantage, even when it is caused by *unjust* relative disadvantage, could, even in principle, justify stealing from the better-off, or refusing to return stolen property.³⁹⁴ But if the victims of prevailing injustice cannot appeal to their feelings of envy or resentment caused by their *unjust* relative disadvantage,³⁹⁵ which might be just as intense, and therefore just as costly, as the feelings that a well-off person might have as a result of becoming disadvantaged relative to other well-off people, in order to justify attempting to remedy their (unjust) relative disadvantage by stealing, it is hard to see why a well-off person should be able to appeal to the prospect of enduring such feelings in order to justify refusing to sacrifice some of her unjust advantages. The Institutionalists might appeal to the distinction between, on the one hand, taking what someone else currently legally (though, in the cases with which we are concerned, unjustly) possesses, and, on the other, sacrificing what one oneself currently legally (though unjustly) possesses, in order to distinguish the cases. But such an appeal would involve placing a great deal of moral weight on legal (though unjust) entitlement, and/or on the status quo more generally,³⁹⁶ and it is difficult to see how that could be (as a matter of principle, and not merely in virtue of extraneous contingencies, such as the potential side-effects of theft) justified.³⁹⁷ In any event, the grounds for refusing to give on one's own, on such a view, would have to lie in whatever case might be made for the permissibility of a very strong bias in favor of

³⁹⁴ Of course there are many reasons that such theft or refusal might be wrong, all things considered. It might, for example, weaken respect for the system of property generally, which is probably worth preserving even if its structure in one's society is substantially unjust. Or it might make the beneficiaries of prevailing injustice less likely than they would otherwise have been to give on their own in order to aid the badly-off. But even if none of these reasons were relevant in a particular case, I suspect that most people would still deny that the victims of prevailing injustice would be justified in stealing from the beneficiaries of such injustice, or refusing to return property already stolen from them (with the exception, of course, at least of cases in which stealing is the only possible means to one's survival, or the survival of one's dependents).

³⁹⁵ In such cases it need not be the *relative* disadvantage of the victims of injustice itself that is unjust, since it may be that justice requires only that everyone have a share of resources that meets an absolute threshold. The fact that they are as disadvantaged relative to the well-off as they are may be only incidentally unjust, in virtue of the fact that they are sufficiently deprived in an absolute sense.

³⁹⁶ Though this would, it seems, categorize the obligation to return stolen property with the obligation to give on one's own, rather than with the obligation not to steal.

³⁹⁷ Murphy suggests, quite plausibly, that we tend to "unwittingly appeal to *legal* [as opposed to moral] entitlement as the benchmark" for assessing when a moral demand is made of an individual ("The Demands of Beneficence," p. 270, footnote 7). The related suggestion in the text here is that, if we think that there are the kinds of reasons related to the fear or prospect of relative disadvantage that we have been discussing at all, we may have a tendency to think about particular cases in a way that implies that legal entitlement to the relevant resources is a necessary condition of either the existence or the moral relevance of these reasons. It is important to note, and to guard against, these tendencies as much as possible, since they are likely to lead us in the direction of thinking that legal and moral entitlements coincide more often than they actually do, especially when we are considering the obligations that individuals might have in virtue of being among the beneficiaries of prevailing injustice.

legal entitlement, or in favor of a very strong status quo bias more generally, and could not lie in the moral significance of the costs associated with feeling envious or resentful of one's (potential) disadvantage relative to others alone.

A more plausible candidate for a cost associated with becoming disadvantaged relative to other members of one's social class that might, in virtue of the psychological difficulty of imposing such a cost on oneself, justify refusal by well-off people to give on their own (at least when other similarly situated people will not give) is a certain kind and degree of social exclusion with respect to one's peers. One might suffer this sort of social exclusion as a result of giving for at least two distinct reasons. First, a well-off individual who begins to give substantially might, in virtue of having less income to spend on herself than her friends and neighbors (who will typically be members of one's "social class," as defined by Cohen), be excluded from many of the activities that those people will continue to participate in, due to her self-imposed inability to afford such activities. If one's friends often get together at upscale restaurants, or enjoy weekend getaways together, or buy season tickets to the local opera, then one's adopting a policy of giving substantially could mean that one will no longer be able to participate in many of the activities that constitute much of the social life of one's peer group. And the inability to participate in such activities could render one's friendships difficult to maintain, or at least cause them to become somewhat strained, even if one's newly adopted policy of giving does not in any way affect how her friends think and feel about her.³⁹⁸ This is surely not an insignificant cost for one to suffer, especially for those whose potentially affected friendships are particularly central in their lives. It may seem, then, that well-off individuals will have strong agent-relative reasons to avoid giving on their own when similarly situated people will not give, in virtue of the potential of such giving to have substantially detrimental effects on their friendships. In addition, it may also seem that these reasons will (at least tend to) be sufficient to justify their refusal to give.

A second reason that a well-off individual who begins to give substantially might suffer social exclusion as a result of her giving is that her peers may begin to think and/or feel differently about her, and therefore choose to limit or even end their relationships with her. This might occur even if the social life of her peers is not in any significant way organized around

³⁹⁸ This might happen for reasons that are at least similar to those that sometimes make friendships difficult to maintain when the parties to them no longer live near each other. The inability to participate in shared activities, or more generally to simply spend time together, can make a friendship difficult to maintain (or at least difficult to maintain at the same level of closeness) despite the best efforts and intentions of the parties to it. Of course in the cases that we are primarily interested in, the well-off people who do not give on their own might be thought to be at fault for any detrimental effects on their friendships with those who do give, since they could always spend time with their more generous friends pursuing less costly activities than they had previously pursued together. Indeed, we might be inclined to think that any friendship that can only survive so long as the parties pursue certain expensive activities together must not be particularly valuable anyway. However, while in some cases this thought is probably correct, or at least close to correct, in others it seems clearly too harsh. After all, some genuinely valuable friendships may be based on a certain fairly narrow range of shared (and valuable) interests, which simply happen to be rather costly to pursue. In such cases, neither party may be to blame for any detrimental effects on the friendship that occur as a result of one party's inability to continue to afford to pursue those interests, since even their best efforts to maintain the friendship by spending time together doing other things might fail through no fault of their own; the parties may simply (and faultlessly) not enjoy each other's company when they are not engaging in the activities around which the friendship had been structured. Both parties might be blameless for the detrimental effects *on the friendship* in such a case even if either would be blameworthy for continuing to pursue the interests that initially generated the friendship, since it may be the case that the friendship could not survive, despite the parties' best efforts, in the absence of the shared pursuit of those interests.

expensive activities, and therefore might occur even if one's giving does not leave one unable to afford to participate in much of the social life of one's peer group.³⁹⁹ One's peers' altered views or feelings in such a case could be at least partially her own fault, for example if she has become excessively preachy or condescending toward them in virtue of the fact that they continue to refuse to give as she now does. But their newly developed views or feelings may also be entirely unjustified, and derive from the fact that interacting with someone who sacrifices substantially more than they do in order to aid the badly-off forces them to consider whether they ought to be doing more as well. Since considering such questions tends to make many people quite uncomfortable, some may respond to the prospect of having to face such questions by avoiding circumstances that would make them particularly salient, such as interacting with a person who sacrifices substantially, and may adopt unwarrantedly negative views or feelings about such a person as a means of justifying their refusal to interact with her.⁴⁰⁰ Again, the potential detrimental effects on such a person's friendships of becoming materially disadvantaged relative to her peers might seem to provide her with reasons to refuse to give that might be sufficient to justify such refusal.

In order to determine whether the psychological difficulty of imposing on oneself the costs associated with the sort of social exclusion that we have been discussing might justify well-off people in refusing to give so long as other similarly situated people will not give, it will be helpful to consider some similarly structured cases, that is, cases in which one is in a position to make sacrifices that would help others in need, and in which one's making such sacrifices is likely to lead to one's enduring social exclusion as a result of becoming materially disadvantaged relative to one's peers. Imagine, for example, the following scenario:⁴⁰¹

Bob's Mercedes: Bob, who is quite well off but not super-rich, has invested a significant portion of his wealth in a rather rare and only minimally insurable Mercedes automobile, which is sure to increase in value over time, and which he plans to sell upon his retirement, just a few years down the road, in order to continue to be able to afford the standard of living to which he has become accustomed. He has taken this car out for a careful drive, and parked in a particular location that, unbeknownst to him at the time, is located just beyond the end of a trolley track. While walking around the nearby area, Bob notices that a trolley is on a track adjacent to the one at the end of which his Mercedes is parked, and is headed toward a person trapped on the track. He also notices a switch, and realizes that if he pulls it, the trolley will be diverted away from the trapped individual and toward his car instead. If he refrains from pulling it, the trapped individual will be killed by the trolley. Contemplating whether or not to pull the switch,

³⁹⁹ Of course in some cases one might suffer social exclusion with respect to one's peers for both of the reasons that we have mentioned.

⁴⁰⁰ In her well-known discussion in "Moral Saints," Wolf acknowledges that at least part of the explanation of why most people find moral sainthood unattractive as an ideal to aspire to, and are glad that those whom they care about are not moral saints, might be that the ideal of moral sainthood, and those individuals who embody it, "make us feel uncomfortable...highlight our own weaknesses, vices, and flaws... To be sure, some of the reasons behind the disaffection we feel for the model of moral sainthood have to do with a reluctance to criticize ourselves and a reluctance to committing ourselves to trying to give up activities and interests that we heartily enjoy" (*Journal of Philosophy* 79 (1982): 419-39, p. 426). Wolf, of course, also thinks that there are *good* reasons to reject the ideal of moral sainthood, despite the fact that individuals might at least sometimes be motivated to reject that ideal for these more troubling reasons.

⁴⁰¹ The case is a substantially altered variant on a case devised by Unger, which he calls "Bob's Bugatti" (*Living High and Letting Die*, pp. 135-6).

Bob knows that if he does pull it, his car will be destroyed, and his insurance company will pay him only a small fraction of its value. He has other assets, including a modest retirement savings account, so the loss of the car, and of the income that he could have made by selling it, would not leave him badly off; but it would leave him substantially worse off than he otherwise would have been, and substantially materially disadvantaged relative to other members of his social class, so much so that he would no longer be able to afford to participate in many of the activities that he and his friends and neighbors currently enjoy, and which constitute much of the social life of the social group to which he belongs. He knows that even though his friends and neighbors will not change their views or feelings about him, they will certainly not limit the extent to which their social life is organized around activities that Bob would no longer be able to afford. Pulling the switch, then, is likely to lead Bob to suffer a not insignificant degree of exclusion from his social group and their activities, and so is likely to have significant detrimental effects on many of his friendships.

We can imagine variants of this case in which, for example, the social life of Bob's friends and neighbors is not substantially constituted by activities that he would no longer be able to afford if he were to pull the switch, but in which many of his friends would become uncomfortable spending time with him, since doing so would make salient to them the troubling question of whether they would have been willing to pull the switch had they been in Bob's position, and the related question of whether they should now be willing to make significant sacrifices in order to aid the badly-off; or in which what is primarily at stake for Bob is the ability to maintain certain friendships that are structured around certain shared interests that happen to be expensive to pursue, and which could not be maintained even given the best efforts of both Bob and his friends.

In none of the variants of the case, however, will it seem plausible that it is permissible for Bob to refuse to pull the switch, despite the fact that his pulling it will leave him substantially materially disadvantaged relative to other members of his social class, and might have significant detrimental effects on many of his friendships.⁴⁰² Of course, this is in part because what is at stake if Bob does not pull the switch is not merely others' having sufficient resources to live a fulfilling life, but a person's *life itself*. Perhaps the prospect of disadvantage relative to other members of one's social class, and the potential social exclusion associated with it, are sufficient to justify refusing to sacrifice in order to aid the badly-off, so long as those whom one might help are not in immediate danger of death, although insufficient to justify refusing to sacrifice (even substantially) in order to save a life.⁴⁰³ This principle, however, is clearly too lenient. Surely

⁴⁰² In Unger's original case Bob's pulling the switch would involve a much greater sacrifice of wealth in absolute terms, and would leave Bob significantly worse off than in our variant of the case. Still, as Unger points out, nearly everyone believes that it would be seriously wrong for Bob to refuse to pull the switch, despite the huge cost to him of doing so. Unger takes this to strongly support the view that well-off people are, as a general matter, obligated to make extremely costly sacrifices in order to aid the badly-off (Ibid, p. 136-9). Even if our argument shows that the view that well-off individuals are not obligated to give on their own (at least when other similarly situated people will not give) cannot be defended, it will not show, and is not intended to show, that the obligations of well-off people can be as demanding as Unger claims. Neither, however, does anything that we have said so far rule out Unger's view about the extent of the demands on the well-off.

⁴⁰³ Even if this is right, it seems that, at least in a world like ours, the obligations of well-off people to make sacrifices of their resources will, given plausible assumptions regarding the effects of donations to aid organizations such as Oxfam, be extremely demanding (this is the core of Singer's argument in "Famine, Affluence, and Morality," and of much of Unger's argument in *Living High and Letting Die*).

Bob would be obligated to pull the switch even if the person trapped on the track stood to lose, for example, only a leg, or even an arm, rather than her life.⁴⁰⁴ Still, this does not establish that the well-off are obligated to sacrifice in order to aid the badly-off in the absence of a tax system that forces them to do so, since it may be that there are morally relevant differences between the cases.⁴⁰⁵ What it does show is that the prospect of disadvantage relative to other similarly situated people, and the potential for associated costs such as social exclusion and damage to one's friendships, cannot justify *all* refusals by the well-off to make substantial sacrifices. It cannot, then, justify the general Institutional claim that well-off individuals are not obligated to give on their own in order to aid the badly-off, or the slightly weaker claim that such individuals cannot be obligated to give so long as other similarly situated people will not give. If the appeal to the sort of potential costs associated with relative disadvantage is to provide support for Moderation about Demands, then, we will need to identify morally relevant differences between, on the one hand, the cases in which it is clear (and would be accepted by proponents of the Moderate view) that well-off individuals *are* obligated to make sacrifices despite the psychological difficulty that the prospect of such costs imposes, and, on the other, the cases, presumably including (at least most of) those in which such people might sacrifice in order to aid those who are, in the ordinary course of things, materially badly-off, in which Moderation about Demands requires that they are not so obligated.

In order to determine whether the appeal to the psychological difficulty of voluntarily incurring the sort of costs that might be associated with relative disadvantage that we have been discussing might be able to justify refusal by typical well-off individuals in our society to give on their own, despite the significant injustice that prevails, it will be helpful to consider whether such an appeal could justify refusal by similarly situated individuals to directly promote aims prescribed by the principles of justice other than those associated only with distributive justice. Consider, for example, the following case involving a white store-owner in the American South in the early 1960's, prior to the passage of the Civil Rights Act of 1964:

Bob's Store: Bob, who is well off but not super-rich, is considering whether to begin allowing African-Americans to shop in his store, which he is not currently required by law to do. Unlike the majority of the people who live near him and in the surrounding area, Bob is in no way racist. He recognizes that justice requires that all citizens have equal access to all public accommodations,⁴⁰⁶ and (privately, and in his voting behavior)

⁴⁰⁴ It is also clearly the case that the sort of appeal to prospective relative disadvantage and the possibly associated costs that we have been discussing would be nowhere near sufficient to justify a slave-owner in the pre-Civil War South in refusing to free his slaves (no matter how well he happened to treat them, apart from keeping them enslaved). Indeed, the claim that individual slave-owners were justified in keeping others enslaved because freeing their slaves would have left them disadvantaged relative to other slave-owners is not only clearly false, but also deeply offensive. It is difficult even to accept that such prospective relative disadvantage could be a morally relevant reason that would count in favor of refusing to free one's slaves, even if that reason were invariably vastly outweighed.

⁴⁰⁵ For example, the benefits that the badly-off stand to gain as a result of a single well-off person's making a substantial sacrifice might be minimal compared to what is at stake for the person trapped on the tracks in our case (even if it is only an arm). Or it may be that since Bob faces an emergency situation rather than ordinary, persistent injustice, the extent to which he can be obligated to sacrifice is greater.

⁴⁰⁶ Public accommodations include a range of private entities that offer goods and services to the public; examples include restaurants, hotels, and retail stores. Important pieces of legislation in the United States that impose legal obligations on public accommodations include the Civil Rights Act of 1964 and the Americans With Disabilities Act.

he supports federal legislation that would prohibit racial discrimination by any private business. In addition, Bob knows that because other similarly situated store-owners will continue to refuse African-Americans access to their stores, if he maintains his current policy many of his fellow citizens will continue to have to travel a rather long way, at significant expense, just to purchase certain basic necessities. His refusal to allow them access to his store, then, will make many African-Americans, who are already much worse off than he is, worse off than they would otherwise be. If doing so were not sure to reduce his income substantially, Bob would not hesitate at all to begin serving his African-American fellow citizens, whom he recognizes are the victims of extremely serious injustices of various kinds. But in fact Bob knows that if he were to begin allowing African-Americans to shop in his store, most of his white customers would take their business elsewhere. And since the African-American population in the area is much smaller than the white population, this would surely mean a significant drop in the store's business. If Bob adopts the new policy, his store would still be profitable, and Bob would not become badly off; in fact, he would still be significantly better off financially than nearly all of his African-American potential customers. Still, Bob is reluctant to incur the loss of income that he would face if he adopted the new policy, since this loss would leave him significantly materially disadvantaged relative to other members of his social class, and would likely have detrimental effects on many of his friendships. These effects would not occur because his friends reject his commitment to racial equality; Bob has no tolerance for genuine racial hatred, and therefore chooses not to be friends with those who (even privately) oppose efforts to enact generally applicable anti-discrimination legislation. His potentially affected friendships involve people who, although they believe that the state should force all business owners to refrain from discrimination, are unwilling to incur the substantial financial losses that would befall them if they refrained from discriminating while others continue to deny African-Americans access to their businesses. In some cases Bob's friendships would be negatively affected if he were to adopt the new policy due to his inability to continue to afford to participate in certain activities, while in other cases his friends would become reluctant to spend time with him due to his new policy and the uncomfortable questions that it raises about their own conduct.

Surely it is difficult to accept that Bob would violate no obligations of justice by refusing to serve African-Americans until the state forces everyone in his situation to do so, even if his adopting the non-discriminatory policy while others do not would reduce his income substantially. Notice, however, that Institutionalism seems to imply that Bob has no obligation of justice to refrain from discriminating in this case. After all, ensuring equal access to public accommodations is surely an aim prescribed by the correct principles of justice, and is therefore a proper object of state policy and regulation.⁴⁰⁷ And Institutionalism, recall, claims that

⁴⁰⁷ As is well-known, libertarians tend to deny that ensuring equal access to public accommodations is a proper object of state policy and regulation. This denial can be made a bit less implausible if it is coupled with the anti-Institutionalist claim that, in addition to just institutions and full compliance by individuals with the laws imposed by such institutions, justice depends also on certain forms of individual conduct that go beyond complying with the requirements imposed by just institutions, including non-discrimination. This sort of view is, it seems to me, still not particularly plausible. And since Institutionalists invariably endorse ensuring equal access to public accommodations as a requirement of justice and a proper object of state policy and regulation, we need not consider the libertarian position any further here.

individuals are not, as a matter of justice, obligated to directly promote the aims prescribed by the principles of justice. It would seem, then, that according to Institutionalism, Bob is obligated (under the natural duty of justice) to vote for candidates who support just anti-discrimination legislation, and to vote directly for such legislation should he have the opportunity, but is not obligated, as a matter of justice, to refrain from discriminating himself, so long as no anti-discrimination laws apply to his conduct.⁴⁰⁸

It seems to me that cases such as Bob's Store, and many similar cases that we might imagine,⁴⁰⁹ raise further serious doubts about Institutionalism, and about the appeal to relative disadvantage and its potential associated costs as a means of defending the view that well-off individuals are not obligated to give on their own so long as other similarly situated people will not give. It might be objected that our argument here relies primarily on intuitions about cases such as Bob's Store, and that arguing in this way conflicts with the methodological approach to resolving debates of the sort that we are concerned with defended in Chapter One. We saw there that it is methodologically unacceptable for proponents of Moderation about Demands to begin from a range of intuitions about particular cases, and to argue on the basis of those intuitions that we must accept principles that are consistent with them. There are, however, two specific problems with this approach to defending Moderation about Demands, and our appeal to the intuition that it would be wrong (as a matter of justice) for Bob to continue to discriminate against African-Americans is subject to neither of them. The first problem is that the principles endorsed by those who employ the method in question are often themselves intuitively implausible candidates for fundamental moral principles (for example, because they imply that certain factors that seem clearly morally irrelevant are in fact morally significant). Since we are not attempting to construct principles that are consistent with a wide range of intuitions about cases, our appeal to the widely accepted intuition that it would be wrong for Bob to continue to

⁴⁰⁸ Institutionalists might claim that even though Bob is not obligated as a matter of *justice* to refrain from discrimination, there are other grounds of an obligation to refrain from discriminating that apply in this case, and that account for Bob's obligation to promote some of the aims prescribed by the principles of justice. For our purposes, this amounts to little more than a terminological dispute (though not, I think, one entirely without importance), since whatever such grounds might be, the key question for us is whether they can explain the wrongness of Bob's discrimination without also providing support for the view that well-off people are obligated to make substantial resource sacrifices in order to aid the victims of prevailing distributive injustice. Whether we categorize both or neither of these purported obligations as obligations of justice or as obligations of some other type is, at least for our purposes, unimportant. We will discuss this point in more detail shortly. Thanks to Jay Wallace for encouraging me to clarify this point here.

⁴⁰⁹ Similar cases can be constructed involving, for example, employers considering whether to *hire* African-Americans (or women, or homosexuals) prior to being subject to a legal requirement not to discriminate in hiring. In these types of cases it seems deeply implausible to think that an appeal to the prospect of relative disadvantage and the associated costs that we have discussed could justify a business owner's refusal to give up the additional income that he might make by maintaining a discriminatory policy (especially if the loss in income would still leave the business owner much better off than those whom he might hire); for a similar point, see Cohen, *Rescuing Justice and Equality*, pp. 348-9. We can also imagine cases involving men considering whether to make sacrifices so as to support the career aspirations of their wives at a time in history when the subordination of women in the domestic sphere was much more deeply entrenched than it is today, and in which doing so would disadvantage such men relative to many of their male friends and neighbors, who will continue to take advantage of the much greater power that they have in their marriages. This sort of case raises further complications, however, since we might think that individuals have an obligation to support their spouses in such situations because spouses have certain kinds of special obligations to each other that they do not have to others, and not because of any considerations having to do with justice. In any event, it is difficult to believe that the sort of appeal to relative disadvantage with which we have been concerned could have much, if any force in these kinds of cases.

discriminate does not face this problem. Indeed, the only principle that this intuition seems, by itself, to support is that racial discrimination is (at least usually)⁴¹⁰ wrong. But this, of course, is not only an extremely plausible principle, but also a principle that is endorsed by all parties to the debates with which we are concerned.

The second problem, as we also noted in Chapter One, is that appealing to prevailing intuitions in order to defend Moderation about Demands amounts to begging the question in a problematic way against Extremism about Demands, since those who accept Extremism about Demands reject many prevailing intuitions about cases, including, most significantly, prevailing intuitions about how much well-off people can be morally obligated to sacrifice in order to aid the badly-off. Given that proponents of Extremism about Demands reject these intuitions (and that Moderates about Demands know this), appealing to them cannot help us to make progress in the debate between that Extremist view and the Moderate alternative. Our appeal to the intuition that it would be wrong for Bob to continue to discriminate, on the other hand, is not an appeal to an intuition that proponents of Institutionalism, or of the view that well-off people are not obligated to give on their own so long as other similarly situated people will not give (or, for that matter, of Moderation about Demands), are likely to simply reject. Indeed, it is surely an intuition that (nearly?) all parties to the debate with which we are concerned will share.⁴¹¹ In order to defend the view that well-off individuals are not obligated to give on their own, then, proponents of that view must claim that there is a morally relevant difference between the obligation of individuals like Bob to refrain from discriminating despite the fact that doing so would leave him substantially materially disadvantaged relative to similarly situated people, and the purported obligation of well-off people to give on their own in order to aid the badly-off. In other words, they must explain why the prospect of relative disadvantage and its associated costs is, according to them, sufficient to justify well-off people in not giving on their own, but insufficient to justify people like Bob in refusing to end their discriminatory policies.

The Institutionalists might accept the intuition that Bob is obligated to refrain from discrimination, but claim that it does not undermine Institutionalism, since the requirement to refrain from discrimination (even when such discrimination is legally permitted) does not derive from the principles of justice, but derives instead from other moral principles that, unlike the principles of justice, apply directly to individuals.⁴¹² This claim, however, reflects a mere

⁴¹⁰ If Bob and/or his family were likely to be killed, or perhaps otherwise seriously physically harmed, by his racist neighbors if he ended his policy of discriminating, then perhaps a plausible case could be made that maintaining the discriminatory policy is permissible. Cohen makes a similar point with respect to a case in which one stands to suffer a substantial loss (he mentions going bankrupt, and an “extreme...unfair shouldering of burden” (Ibid, p. 349) rather than physical harm) if he does not adopt a discriminatory hiring policy, but claims that even if one is justified in adopting the discriminatory policy, doing so is still unjust. Still, we might think that even in a case in which Bob faces significant harm if he ends the discriminatory policy, so long as he could make a living (even a much less lucrative living) in another field in which he would not have to discriminate, he is obligated to give up his store so as to avoid complicity in the unjust practice of discrimination.

⁴¹¹ Of course one possible response to our appeal to the intuition that it would be wrong for Bob to continue to discriminate would be to reject that intuition, and to claim that such discrimination would be permissible. This, however, is a response that I imagine few would be attracted to. Furthermore, it is difficult to see how accepting this view could be consistent with Moderation about Principles. We will, then, ignore this possible response in the remainder of our discussion.

⁴¹² Defenders of this view would, it seems, have to claim that a substantial reduction in the number of business owners who discriminate would not, in the absence of a law prohibiting such discrimination, make a society any less unjust than it was previously. For reasons that we discussed in the previous chapter with respect to distributive justice, this seems unacceptable. We should, then, be inclined to think that the requirement to refrain from discriminating does derive from the principles of justice (although there may be other sources of this obligation

conceptual or terminological disagreement between Institutionalists and their opponents, and cannot provide any support for the view that well-off individuals are not obligated to give on their own, since this requirement too could derive from whatever moral principles the Institutionalists believe apply directly to the conduct of individuals. Defenders of the view that individuals are not obligated to give on their own would then need to explain why the relevant moral principles prohibit racial discrimination in cases like Bob's, but do not require well-off individuals to give on their own in order to aid the badly-off when they face prospects of relative disadvantage, and associated costs, that are similar to those faced by Bob.

Defenders of the view that well-off individuals are not obligated to give on their own might think that it is not particularly difficult to identify morally relevant differences between, on the one hand, engaging in racial discrimination and, on the other, refusing to give on one's own. For example, Cohen notes that Andrew Williams suggested to him that his publicity condition, which, most importantly for our purposes, includes the claim that an individual cannot be obligated, as a matter of justice, to (for example) make a sacrifice unless she can be assured that other similarly situated people will do so as well, "could be relaxed for racism but not for the economy, since racism imposes far more serious consequences on its victims than an acquisitive ethos does."⁴¹³ In other words, we might think that well-off individuals (and indeed *all* individuals) are obligated to refrain from engaging in racial discrimination, even if others are engaging in such discrimination, and even if by refraining from discriminating one would become disadvantaged relative to similarly situated people, and incur associated costs, because the consequences for the victims of racial discrimination are invariably very substantial, and therefore outweigh whatever moral significance the prospective relative disadvantage and associated costs for the potential discriminator have. At the same time, we might think that the consequences for the badly-off of the well-off refusing to give on their own in order to aid them are sufficiently less serious than the costs of racial discrimination for its victims that the prospect of relative disadvantage and its associated costs are sufficient to justify the well-off in refusing to give on their own.

Although it is not terribly implausible that the consequences of racial discrimination for its victims are, as a general matter, of greater moral significance than the consequences for the badly-off of the well-off refusing to give on their own, this is at best a generalization, and cannot provide a principled basis on which to conclude that racial discrimination is (almost) always morally prohibited despite the potential relative disadvantage and associated costs that might accompany refraining from such discrimination, while refusal to give on one's own is (almost if not) always permissible in virtue of the prospects of such disadvantage and costs. After all, some of the badly-off, even in wealthy countries such as the United States, lack sufficient resources to obtain enough nutritious food, or adequate clothing, or even a place to live, and the money that well-off people might give can be used to remedy some of this very serious deprivation. On the other hand, sometimes the effects of racism on its victims, though certainly morally significant, are not nearly as bad as homelessness or lack of adequate food, or even less serious deprivations.

as well, so that the obligation is, in some sense, overdetermined), and that therefore Institutionalism is false. Cohen makes a similar argument in response to Andrew Williams's claim ("Incentives, Inequality, and Publicity," *Philosophy and Public Affairs* 27 (1998): 225-47) that individuals cannot be obligated as a matter of justice to comply with a demand unless they can be assured that other similarly situated people will comply as well, claiming that individuals "are obliged as a matter of justice not to allow a person's race to influence... hiring decision[s], despite the fact that [they] cannot always assure [themselves] that others... are complying with that principle" (*Rescuing Justice and Equality*, p. 350; see also p. 361).

⁴¹³ Ibid, p. 365. Cohen reports (footnote 35) that Williams made this claim in a private communication.

And when the negative effects of racism fail to rise to that level of moral significance, this will almost invariably be at least primarily because the victims of the relevant racism are materially and economically not so badly-off.⁴¹⁴

In addition, even though racial discrimination and economic deprivation can each occur independently of the other, one of the most common and most serious effects suffered by the victims of racial discrimination is economic deprivation. One important reason (though certainly not the only one) that racial discrimination is so morally abhorrent is that it tends to lead to such deprivation, and to the associated inability of many of the victims to live fulfilling lives. These effects are especially likely to occur when certain racial groups are widely discriminated against, which is, of course, an important reason why systematic discrimination is so terribly unjust. Often, then, racial discrimination and economic deprivation are very closely linked, and the fact that it tends to cause economic deprivation is one important reason (though again, far from the only reason) why racial discrimination is such a serious injustice. Indeed, much of the distributive injustice in our society today is surely attributable to both past and continuing racial discrimination, despite the significant steps forward that have been achieved, both at the level of policy and in terms of individual attitudes and behavior, with regard to such discrimination. Many of the well-off in our society, then, including many of those who have never discriminated against anyone themselves, are only as well off as they are due to the (past and/or continuing) racial discrimination of others. Those who appeal to relative disadvantage and its associated costs in order to argue that well-off people are, as a general matter, not obligated to give on their own in order to aid the badly-off, then, must claim that beneficiaries of the (past and continuing) unjust racial discrimination of others (which surely includes many well-off white Americans) are not obligated to sacrifice the benefits that they obtain only because of such discrimination, because doing so would leave them disadvantaged relative to others who (in at least many cases) are also the beneficiaries of discrimination, and who are not going to give up the benefits that they have received. If racial discrimination is such a serious injustice (and it surely is), it is difficult to see how this position could be defended. In particular, it is difficult to see how those who accept that the appeal to relative disadvantage and its associated costs can never justify engaging in racial discrimination oneself could successfully argue that it is nonetheless generally permissible for well-off individuals to retain benefits that they have acquired only because others have engaged in such discrimination, and which they could sacrifice in order to aid the victims of that discrimination, who will tend to be among the unjustly economically deprived.⁴¹⁵

⁴¹⁴ Cohen notes in his response to the suggestion by A. Williams noted above that he

experienced anti-Semitic attitudes as a Jewish child in Montréal, but the consequences of that...were not very severe, since, unlike many other victims of racism, we Jews had assets...that made the ambient anti-Semitism relatively ineffectual with respect to our life chances (Ibid, p. 367).

Cohen's reference to "assets" that the Jews in Montréal possessed was certainly not intended to include only economic resources (Cohen himself mentions "culturally induced self-confidence" as an example of a relevant non-economic asset); but surely the possession of economic resources can significantly limit some (though certainly not all) of the negative consequences of racism for its victims.

⁴¹⁵ Cases of this sort seem very similar in structure to cases in which a person unwittingly receives property stolen from others as a gift (rather than, for example, unwittingly purchasing such property, which, at least in cases in which the thief cannot herself be made to bear the burdens necessary to remedy the injustice, raises further issues about how much the purchaser can be required to sacrifice in order to compensate the victim of the theft). Surely it is no defense against the claim that one is morally obligated to return such property to its rightful owner that other

But, of course, economic deprivation of the sort that we saw in Chapter Two must be considered unjust by anyone who accepts Moderation about Principles can, and does, occur independently of other forms of injustice, such as racial discrimination. Even if well-off individuals are obligated to give up any benefits that they have received only because of racial discrimination perpetrated by others, it might be argued that they are not obligated to sacrifice advantages that cannot be traced to racial discrimination, or to similar injustices, but result from, for example, unjustly low tax rates on incomes like theirs.⁴¹⁶ It is difficult, however, to see why we might think that individuals are morally permitted to keep *any* benefits that they have received, or currently possess, only because of the unjust actions of others, at least so long as they can sacrifice the relevant benefits without making themselves worse off than they would have been had the injustice not occurred. Daniel Butt makes a compelling case for the view that those who involuntarily benefit from the unjust actions of others are obligated to sacrifice the benefits that they have received as a result of such unjust acts:

Moral agents can have obligations to compensate victims of injustice if they are benefitting and the victims are suffering from the automatic effects of the act of injustice in question...The individual's duty not to benefit from another's suffering when that suffering is a result of injustice stems from one's moral condemnation of the unjust act itself. In consequence, a duty to disgorge...the benefits one gains as a result of injustice follows from one's duty not to so benefit...taking our nature as moral agents seriously requires not only that we be willing not to commit acts of injustice ourselves, but that we hold a genuine aversion to injustice and its lasting effects. We make a conceptual error if we condemn a given action as unjust, but are not willing to reverse or mitigate its effects on the grounds that it has benefitted us. The refusal undermines the condemnation...Losses which others suffer as a result of the unjust actions of other persons cannot be dismissed as arbitrary or simply unfortunate: they create distortions within the scheme of fair distribution...If our moral condemnation of injustice...is to be taken seriously, it must be matched by action to remedy the effects of injustice.⁴¹⁷

Clearly Butt's argument, if correct, has important implications for the case that is our central concern in this chapter. As we have noted, the Institutionalists and others with whose views we are concerned believe that the state acts unjustly, or, more accurately, that those with roles in the institutions of the basic structure who support and/or contribute to the implementation of unjust policies act unjustly, when unjustly low tax rates are imposed on the incomes of typical well-off

similarly situated people have also received stolen property and will not be returning it, and that therefore by returning it one would become disadvantaged relative to them.

⁴¹⁶ We will ignore for present purposes the fact that it will generally be extremely difficult to determine with any precision how much of (say) one's wealth is possessed because of racial discrimination by others as opposed to other causes, for example unjustly low tax rates. This fact cannot, on its own, be of any help to defenders of Moderation about Demands, even if the view that well-off individuals are not obligated to sacrifice resources that they possess only because of, say, unjustly low tax rates can be defended. It could help proponents of Moderation about Demands only in conjunction with the claim that well-off individuals are permitted, in cases of uncertainty, to err on the side of *keeping* resources that might be traceable to racial discrimination by others rather than being required to err on the side of *sacrificing* resources that might be so traceable in order to aid the badly-off. It is difficult to see what reason there could be to endorse this claim; indeed it seems that the converse claim, that well-off individuals are obligated to err on the side of sacrificing more than what is clearly traceable to racial discrimination, is the more plausible one.

⁴¹⁷ "On Benefitting from Injustice," *Canadian Journal of Philosophy* 37 (2007): 129-52, p. 143-4.

people. And clearly the unjust actions of the state and its agents benefit well-off people whose tax rates are unjustly low. If Butt is right, then, the refusal of typical well-off people to sacrifice the benefits that they receive as a result of tax policies that they themselves condemn as unjust undermines their condemnation of those policies. Commitment to the injustice of the policies, according to Butt, ought to commit those who benefit from them to contributing directly toward remedying the injustices that are the “automatic effects” of their implementation.⁴¹⁸

Even if Butt’s view is incorrect, however, so long as it is accepted that well-off people can be obligated to refrain from racial discrimination (or from benefitting from the racial discrimination of others) even when doing so will cost them quite a bit (in terms of relative disadvantage and its associated costs, say), and even when their engaging in such discrimination would have relatively insignificant effects on the lives of the potential victims, those who claim that well-off people are not obligated to give on their own even when what is at stake for the victims of injustice who might be helped is much more significant must be able to point to a morally relevant difference between the two cases other than the generally more serious consequences of racial discrimination (since, as we have noted, those consequences are not *always* more serious, and often the consequences of the injustice of economic deprivation for its victims are *very* serious). Cohen suggests that perhaps racism, and the typically associated racial discrimination, is a more serious injustice than economic deprivation, independent of the negative consequences for the victims of each.⁴¹⁹ This is not an implausible claim, and if it is true, then perhaps it can, in combination with the considerations about the prospects of relative disadvantage that we have been considering, provide the basis for a successful defense of the view that well-off individuals are not obligated to give on their own in order to remedy purely distributive injustice. If this view can be defended, then perhaps the obligations of the well-off will be consistent with Moderation about Demands (or at least will not be *much* greater than Moderation about Demands allows) as well.

However, even if it is true that racial discrimination is a more serious injustice than economic deprivation, independent of the effects of each on the lives of their victims, it is difficult to see how the appeal to relative disadvantage and its associated costs that we have been considering could have enough force to limit the demands on well-off individuals so substantially with regard to purely distributive injustice, and at the same time have little if any force with regard to the injustice of racial discrimination (whether in terms of justifying discriminating oneself or justifying retaining benefits that one has received only because of the discrimination of others). Perhaps the force of the appeal depends on the seriousness of the

⁴¹⁸ Pogge also suggests that those who benefit from unjust institutions should be more troubled than they tend to be by the fact that they so benefit: “a somewhat unobvious but massive threat to the moral quality of our lives is the danger that we will have lived as advantaged participants in unjust institutions, collaborating in their perpetuation and benefitting from their injustice” (*Realizing Rawls*, p. 36). Pogge, however, endorses Institutionalism (see in particular “On the Site of Distributive Justice”), and so presumably believes that what individuals who benefit from unjust institutions are obligated to do is limited to supporting changes in the direction of justice at the institutional level, or at the very least refraining from “collaborating in [the] perpetuation” of the unjust institutions from which they benefit. If our arguments in this and the previous chapter are correct, however, this will, at least in some cases, be an inadequate response (because ineffectual, or less helpful than alternative responses) to benefitting from unjust institutions. Our arguments, then, suggest that Pogge’s concern about the threat of benefitting from unjust institutions to the moral quality of our lives should lead him to reject Institutionalism.

⁴¹⁹ As he puts it, “it may be more urgently required to control racism than to control economic greed, not because the consequences of the latter are smaller, but simply because racism is a worse injustice” (*Rescuing Justice and Equality*, p. 367).

injustice that a well-off person might help to remedy by sacrificing, so that the appeal has less force when the relevant injustice is racial discrimination than it has when the relevant injustice is purely distributive. But since much of the economic deprivation suffered by the badly-off surely amounts to rather serious injustice, it is implausible that the appeal could have enough force to limit the obligations of typical well-off people in circumstances like ours to an extent that is consistent with Moderation about Demands, given that it would have little if any force with regard to racial discrimination. Any view on which the appeal to the prospect of relative disadvantage and its associated costs would have enough force to limit the obligations of the well-off to an extent consistent with Moderation about Demands would fail to take seriously the moral importance of the injustice constituted by the economic deprivation that the well-off in our society could help to alleviate.

B. Costs to One's Children

Cohen suggests that proponents of the appeal to relative disadvantage and its associated costs as a defense of the refusal by well-off people to give on their own might rest their case not on the costs that one would directly suffer oneself in virtue of giving, but instead on the costs that one's family members, and in particular one's children, might face if she were to give substantially on her own. This version of the appeal to relative disadvantage and its associated costs claims that well-off people are justified in refusing to give on their own when other similarly situated people will not give because giving is likely to

severely prejudice...the interest of members of their families. If Johnny's dad buys him a new bicycle, how can Molly's dad explain why he does not buy one for Molly?...To expect a given rich person to be within a minority that give is to demand that he incur particular sorts of sacrifice...such as...the sacrifice...of *deliberately denying* one's child what one has the power to give her and what comparably placed parents give theirs.⁴²⁰

In addition, in what seems clearly to be his strongest endorsement of (one version of) the appeal to relative disadvantage, Cohen suggests that a well-off person should not

be asked to undertake a sacrifice which will alienate his children, perhaps not now, but later, when, having grown up, they face a more burdensome life because of that sacrifice...That is surely too much to expect.⁴²¹

Because the reasons that parents have to promote the interests of their children are surely among the least controversial of the agent-relative reasons that we might think exist, this version of the appeal to relative disadvantage and its associated costs is sure to strike many as appealing.⁴²² But when we consider slight variants on cases like Bob's Store, it becomes clear that much more needs to be said if the view that well-off people are not obligated to give on their own is to be successfully defended by appeal to the prospective costs to their children of giving. After all, if

⁴²⁰ *If You're an Egalitarian, How Come You're So Rich?*, p. 175, italics in original.

⁴²¹ Ibid.

⁴²² It is important to note, however, that those who appeal to this argument, without claiming that there are additional arguments that show that the childless are also not obligated to give on their own, will not be in a position to defend Moderation about Demands generally; if their argument succeeds, it would show only that morality is not much more demanding *on parents* than common-sense morality suggests. Morality may still demand much more of non-parents than common-sense morality suggests.

Bob were to claim that continuing in his discriminatory policy is justified because ceasing discrimination would leave him with too little money to buy his daughter a new bicycle similar to one that his business rival, who will certainly continue to discriminate, just bought for his son, we would not find his argument at all compelling. Cohen himself, in response to Andrew Williams's "publicity condition" that we noted previously, points out that one is

obliged by justice to eschew racism even when [she] know[s] that the majority of [her] fellows are racist...[she is] obliged as a matter of justice not to allow a person's race to influence [her] hiring decision, despite the fact that [she]...cannot always assure [her]self that others...are complying with that principle.⁴²³

Surely Cohen is committed to thinking that well-off individuals are obligated to refrain from racial discrimination even when doing so would amount to "deliberately denying one's child what one has the power to give her and what comparably placed parents give theirs." Whatever moral significance attaches to Molly's father's buying her a new bicycle comparable to the one that Johnny's father bought for him, it is nowhere near sufficient to justify Molly's father in discriminating on the basis of race in order to be able to do so. Indeed, the prospective cost to Molly would have to be *extremely* high before we would even be willing to consider the possibility that it might be permissible for her father to engage in racial discrimination. Cohen, then, cannot allow that the appeal to relative disadvantage and its associated costs for one's children justifies *all* refusals by well-off people to directly promote the aims prescribed by the principles of justice. If he accepts that such an appeal can justify the well-off in refusing to give on their own in order to aid the badly-off, he must explain what it is that justifies such radically divergent views in the two types of cases. And nothing in his discussion of the appeal to relative disadvantage suggests what might do so.⁴²⁴

In addition, it is important to note that among the many morally relevant reasons that count heavily in favor of the view that Bob is obligated to end his discriminatory policy is the reason that he has to teach his child about the injustice of racial discrimination, and about the moral unacceptability of profiting from such discrimination, either directly or indirectly. And teaching his child this lesson, of course, requires that Bob act in accordance with the moral principles that he must encourage her to accept, in this case to refrain from discrimination and from profiting from discrimination; Bob must serve as a moral exemplar for his child, despite the costs to both of them of his doing so.⁴²⁵ Complying with the requirement to avoid discrimination

⁴²³ *Rescuing Justice and Equality*, pp. 348-50.

⁴²⁴ It is striking that even such a committed egalitarian as Cohen could fail to consider cases involving racial discrimination or similar injustices in his discussion of the appeal to relative disadvantage in *If You're an Egalitarian, How Come You're So Rich?*, and to note the need to explain why proponents of that appeal with regard to giving on one's own might think that a verdict that differs radically from that which is clearly correct with respect to racial discrimination is warranted in those cases. We will consider possible explanations of the widespread failure to recognize the need for proponents of the view that well-off people are not obligated to give on their own to defend the divergent verdicts that they endorse in discrimination and giving cases in section VI.

⁴²⁵ Despite the fact that there are costs to both Bob and his child of his refraining from discrimination in this case, it may be that, all things considered, his child would be *better off* as a result of his serving as a moral exemplar by refraining from discrimination than she would be if he were to continue to discriminate. It seems quite plausible that developing a strong and accurate sense of right and wrong is in a person's interests, and therefore to the extent that Bob's refraining from discriminating despite the financial costs would contribute to his child's development of such a sense of right and wrong, that contribution to her interests will compete with whatever interests of hers might be served as a result of Bob's continuing to discriminate, and may in fact outweigh them.

and profiting from it would, in this case, clearly involve “*deliberately denying* one’s child what one has the power to give her and what comparably placed parents give theirs.” Bob’s child might not get her new bicycle, or might not have access to all of the educational advantages (private SAT tutors, perhaps) that her well-off peers enjoy. Still, it is obvious that Bob is morally required to refrain from discriminating; it would be seriously wrong of him to continue to discriminate so that he can buy his daughter the bicycle, or in order to buy her other non-necessities that similarly situated parents buy for their children.⁴²⁶ So the appeal to the potential costs to one’s children that would result from actions that would disadvantage one relative to similarly situated people clearly fails in cases like Bob’s Store, at least so long as what is at stake for one’s children are non-necessities such as a new bicycle. Well-off people, then, can be obligated to directly promote at least some of the aims prescribed by the principles of justice, at some cost to themselves and thereby to their children, even when other similarly situated people will not do so. If the view that well-off individuals are *not* obligated to give on their own, so long as other similarly situated people will not give, due to the costs that their children would thereby suffer, is to be defended, a principled difference between, on the one hand, an obligation to refrain from discrimination and from profiting from it, and, on the other, an obligation to give on one’s own, must be cited. The prospect of a certain amount of relative disadvantage cannot, of course, be such a principled difference, since the prospect of such disadvantage could be identical in both sorts of cases, or even greater in discrimination cases. And since we were unable, when considering the prospects of the appeal to the costs to oneself of disadvantaging oneself relative to similarly situated people, to locate any principled difference between the two types of case, it seems clear that the appeal to the potential costs to one’s children of giving on one’s own cannot provide the basis for a successful defense of the view that well-off people (who are also parents) are *never* obligated to sacrifice substantially in order to aid the badly-off.

In addition, there are reasons to think that well-off parents whose tax rates are unjustly low have morally relevant reasons that *count in favor of giving* that non-parents do not have. We noted above that one important reason that Bob has to refrain from discrimination in the case in which he has a child is that he has an obligation to teach his child about the injustice of such discrimination, and about the wrongness of profiting from it. Similarly, parents who benefit from unjustly low tax rates on their high incomes, we might think, have an obligation to teach their children about the injustice of the deprivation endured by the badly-off, and to serve as moral exemplars for their children with respect to such injustice by making sacrifices in order to aid the victims of it. It is striking that so much of the discussion regarding the reasons that parents have to act in certain ways in virtue of being parents consists in attempts to defend limits on what they can be obligated to do for others, since they have strong reasons to focus their time, energy, and resources on providing benefits for their children. To some extent this is perhaps excusable, since it is surely a good thing that parents are typically strongly motivated to focus their energies on their children’s needs and interests. But parents also have an obligation to their children (and to all other members of society) to teach them about the demands of justice and morality, and to help and encourage them to develop dispositions to comply with morality’s demands that will be as strong and stable as possible throughout their lives. Of course, the ability of parents to ensure that their children grow up to be morally good people committed to the correct moral principles is limited; once they reach a certain age, well before adulthood,

⁴²⁶ If continuing to discriminate were the only way for Bob to afford certain necessities for his child, or the only way to ensure that she could get a decent education, then the appeal to the costs to her of refraining from discrimination would clearly have much more force.

children are agents in their own right, capable of reflecting on moral questions and choosing whether or not to act morally, and what they think and how they act is, at least to a significant extent, beyond the control of their parents. But surely one of the best ways that well-off parents can instill proper respect for the demands of justice in their children is to make significant sacrifices in order to promote the aims prescribed by the principles of justice themselves. And by explaining to their children that they are making such sacrifices because they benefit from, for example, unjustly low tax rates on incomes like theirs, well-off parents in our society can reinforce the commitment to justice that they are (at least reasonably) likely to instill in their children through their justice-promoting actions.⁴²⁷

V. Benefitting from Injustice and Disrespecting the Victims of Injustice

Despite the importance of the often neglected reasons that parents have to directly promote the aims prescribed by the principles of justice that we have just noted, some may still insist that well-off parents are typically not obligated to give on their own, even though they are (almost?) always required to refrain from racial discrimination and from profiting from such discrimination, and despite the fact that the reasons that parents have to instill proper respect for and commitment to justice and morality in their children counts strongly in favor of the latter obligation. Racial discrimination and profiting from such discrimination, they might claim, are much more serious injustices than economic deprivation, and participating in and/or benefitting from discrimination reflects a lack of basic respect for the victims of discrimination, in a way that refraining from giving on one's own does not reflect a lack of basic respect for the victims of distributive injustice, even when one benefits from unjustly low tax rates on one's income at the expense of those victims.⁴²⁸

⁴²⁷ For an extremely interesting discussion of the limits of permissible parental partiality that emphasizes slightly different concerns, see Harry Brighouse and Adam Swift, "Legitimate Parental Partiality," *Philosophy and Public Affairs* 37 (2009): 43-80. Brighouse and Swift are primarily concerned with the limits of legitimate state interference with parents' ability to confer benefits on their children that would undermine fair equality of opportunity, but they also claim that there are limits to what parents may do on their own, both with resources that they justly possess, and with those that they possess only in virtue of the injustice of the institutions of the basic structure. The position that they suggest with regard to the latter type of case is similar to that suggested by much of our argument, namely that the use of unjustly possessed resources to benefit one's own children is unlikely to be justifiable. And their position with regard to the former type of case is even more radical than what has been suggested by our argument:

many of those who...enjoy unfairly superior chances in life are children of parents who are themselves beneficiaries of an unjust distribution of resources; but our claim that parents misweigh things if they invoke "family values" to justify the general promotion of their children's interests in ways that give their children unfairly better opportunities than others applies even in cases where parents command only what is justly theirs...Where...inequalities [in resources are concerned], then there is of course a more straightforward objection to those attempts. Suppose that, in an otherwise just society, some large packet of resources that you knew to be stolen fell into your hands. It seems clear...that using those resources to benefit your children in ways intended to give them too more than is justly theirs...would exceed the bounds of legitimate parental partiality (p. 76).

⁴²⁸ The thought that participating in and/or benefitting from discrimination reflects a lack of basic respect for the victims of discrimination not reflected by the refusal of well-off people to make resource sacrifices in order to aid the victims of distributive injustice need not be motivated by the thought that racial discrimination and profiting from such discrimination are more serious injustices than economic deprivation. It may be that discrimination reflects a lack of basic respect not reflected by the refusal to aid the badly-off even in cases in which the relevant economic deprivation is clearly the more serious injustice. Thanks to Jay Wallace for encouraging me to clarify this point.

Many will surely find the claim that discrimination and benefitting from it reflect a lack of basic respect for its victims that is not also reflected in benefitting from distributive injustice rather plausible. And surely it is true, at least in most cases, that discrimination reflects a *kind* and *degree* of disrespect for its victims that is not reflected when well-off people refuse to give on their own in order to aid the victims of distributive injustice. But a successful defense of the view that well-off individuals are not obligated to give on their own, and therefore a successful defense of Moderation about Demands, requires the much stronger claim that refusing to give on one's own when one is both well-off and a beneficiary of unjustly low tax rates on one's income does not *in any way, or to any extent*, reflect a lack of the respect that is owed to the badly-off victims of injustice in our society. And, in light of much of our discussion to this point, it is far from clear that this claim can be defended; indeed, there seem to be good reasons to doubt that it can be.

Given the moral seriousness of the deprivations endured by many of the victims of distributive injustice in our society, it is not clear why we might think that there is no lack of basic respect expressed by the choices that tend to be made by typical well-off beneficiaries of injustice, who generally lead very comfortable lives, regarding the use of their resources. After all, typical well-off individuals who do not give on their own benefit from the injustice of our society's institutions, at the expense of the victims of injustice. And it seems plausible to think that one's choice to retain the benefits that one receives as a result of the operation of unjust institutions, when one could sacrifice those benefits and thereby remedy some of the injustice caused by such institutions, expresses a lack of respect for those who are victimized by the institutions and their unjust policies. Refusing to sacrifice benefits that one obtains in virtue of an unjustly low tax rate on one's income may express *less* disrespect for the victims of the relevant injustice than refusing to sacrifice benefits that one obtains because of an overtly racist policy, or because one legally discriminates oneself in order to avoid losing income (as in Bob's Store); but on reflection it seems implausible to think that it expresses *no* disrespect for the victims of injustice at all.

In addition, many who accept Moderation about Principles, and who believe that our society is seriously unjust, surely believe that many of the choices that some of the super-rich tend to make regarding the use of their unjustly possessed resources *do* express a lack of basic respect for the victims of distributive injustice, as do many of the reactions of those who are not super-rich to the behavior of those who are. Michael Titelbaum, for example, notes that he is "constantly amazed at the number of [his] fellow Americans who can read about the antics of certain celebrities and heiresses without taking serious offense that the superrich display so little respect for the less fortunate."⁴²⁹ Titelbaum's suggestion here is clearly that the way that many of the super-rich live their lives (or at the very least some of their specific actions) itself constitutes the expression of a lack of respect for the badly-off, and that the respect that is lacking is something that the rich are obligated to show to the poor. And surely a significant reason why the way that many of the rich live is plausibly thought to constitute the expression of a lack of respect for the poor is that the rich tend to employ large portions of the substantial resources at their disposal in ways that provide relatively trivial benefits to themselves and their families and friends, while the poor lack, sometimes by a substantial margin, sufficient resources to live fulfilling lives.

⁴²⁹ "What Would a Rawlsian Ethos of Justice Look Like?," *Philosophy and Public Affairs* 36 (2008): 289-322, p. 302, footnote 45.

The super-rich, however, are not the only people who tend to employ resources in ways that provide relatively trivial benefits to themselves and their loved ones, rather than in ways that would contribute to improving the lives of those who are badly-off. Typical well-off individuals do this as well, and those among the typically well-off who accept Moderation about Principles and (at least) the minimum standard requirement of justice that we discussed in Chapters Two and Three often do so with resources that, according to their own views, the state ought to take from in the form of tax in order to aid the badly-off. The spending habits of the typically well-off are not, of course, a matter of great interest to tabloid news programs or gossip columnists, and so are generally not a subject of public discussion in the way that the lives and lifestyles of celebrities and heiresses often are. And given the extremely extravagant lifestyles of many of the super-rich, it is of course plausible that almost nothing that a typical well-off individual could do with her resources could express the *degree* of disrespect for the badly-off that is expressed by the behavior of those who pursue such lifestyles. But, of course, the fact that many of the super-rich tend to express, through their choices regarding the use of their resources, a profound lack of respect for the badly-off, does not show that the relatively less troubling choices of the typically well-off should not trouble us at all, much less that such choices do not express *any* lack of respect for the badly-off, or that they are permissible despite the substantial deprivation endured by the badly-off.

We are, of course, unaccustomed to thinking that our choices regarding the use of our resources might themselves constitute an expression of a lack of proper respect for the victims of injustice.⁴³⁰ But the fact that a thought of this sort is unfamiliar within our ordinary moral thought is, for reasons that we have noted, not in itself a reason to reject it, much less a reason to think that its rejection requires no defense against arguments for its acceptance. Its rejection, along with other elements of our ordinary moral thought (that is, of common-sense morality), can be challenged, sometimes by noting what seems to follow from other commitments that themselves have a place in our ordinary moral thought, such as the commitment, shared by many, to Moderation about Principles. And as we have seen, there are reasons to think that commitment to Moderation about Principles renders commitment to Moderation about Demands, and therefore to at least some of the components of the latter view, untenable. Once we recognize that typical well-off individuals are among the beneficiaries of prevailing injustice and prevailing unjust institutions, the thought that their employing the resources that they possess only because of injustice in ways that provide for their very comfortable lifestyles rather than using them to benefit the victims of such injustice constitutes an expression of a lack of proper respect for those victims does not seem particularly implausible.⁴³¹ At the very least, the

⁴³⁰ Cohen's suggestion that the refusal of the rich to work just as hard under relatively high tax rates as they would work under relatively low rates, despite the fact that doing so would benefit the badly-off, seems to approach this sort of thought, although he frames his discussion in terms of "community" and "fraternity" rather than respect. His assertion that the rich who, in the sort of case that he is concerned with (what he calls the "standard case"), would refuse to work hard at the higher tax rate, "say, in effect [to the poor]: we are unwilling to do what we could do to make you better off and yet still be much better off ourselves than you are" (*Rescuing Justice and Equality*, p. 59), does, however, seem to suggest a potentially helpful way to think about the issue of the respect owed by the well-off to the poor, and about what kinds of choices would constitute an expression of a lack of such respect.

⁴³¹ Indeed, the general claim that retaining benefits that one possesses only because of injustice rather than directing those benefits, to the extent that one can, to those who would possess them if justice prevailed, amounts to an expression of a lack of proper respect for the victims of the relevant injustice, strikes me as the sort of claim that many would find intuitively quite plausible (I certainly do). Of course many of those who are convinced that typical well-off individuals are among the beneficiaries of prevailing injustice would also tend to find the *implications* of the general claim for particular cases somewhat implausible, since among those implications is that the ordinary

considerations that we have noted make clear the need for those who believe that the spending habits of the typically well-off do not constitute an expression of a lack of proper respect for the badly-off to defend that claim by, for example, suggesting that there are morally relevant differences between the behavior of typical well-off individuals that is in question and behavior that clearly does constitute the expression of a lack of proper respect for the victims of injustice, for example the behavior of some of the super-rich referred to by Titelbaum, or of those who discriminate on the basis of race in order to preserve their incomes, or benefit from such discrimination. As we have noted, a mere difference of degree will not be sufficient to vindicate the behavior of the typically well-off, since their behavior may express less disrespect without expressing no disrespect at all. And since it is difficult to see what more fundamental distinction might be appealed to by defenders of the ordinary behavior of the typically well-off, it seems that there is good reason to suspect that the view that such behavior does not express a lack of proper respect for the victims of injustice, and the related view that such behavior is permissible, cannot be defended.

VI. Our Complacency about Benefitting from Injustice

We have seen that there are clear structural similarities between, on the one hand, cases in which an individual benefits from her own or others' racial discrimination at the expense of the victims of such discrimination and, on the other, cases in which an individual benefits from distributive injustice at the expense of the victims of such injustice. Yet, as we have also seen, many people, including many proponents of Moderation about Demands, believe both that benefitting in the former way is clearly wrong, and that benefitting in the latter way is typically not wrong at all. Such people believe that those who discriminate or benefit from it are obligated to sacrifice the benefits that they receive in order to compensate and express proper respect for the victims of the relevant injustice, and also that typical well-off people who currently benefit from prevailing distributive injustice are not obligated to sacrifice the benefits that they receive as a result of, say, the operation of an unjust tax system. They believe, then, that refusing to sacrifice such benefits in order to compensate the victims of the relevant injustice does not express a lack of proper respect for those victims. Indeed, the suggestion that the well-off are morally required to sacrifice their share of the benefits of prevailing distributive injustice is a rather radical position, not only within our political culture at large, but also within contemporary moral and political philosophy.

It is quite clear to us now, looking back at the serious injustices that prevailed in the not-too-distant past in our own society, that those who benefitted from forms of injustice that have now been very significantly reduced (though certainly not eliminated), such as racial discrimination, were obligated to sacrifice the relevant benefits in order to compensate and express proper respect for the victims of the relevant injustice. And, as we have noted, it is difficult to see how defenders of the view that current beneficiaries of distributive injustice are not obligated to sacrifice their shares of the benefits of such injustice might argue that there is a principled moral distinction between, on the one hand, their circumstances in relation to the

spending habits of typical well-off individuals constitute the expression of a lack of proper respect for the badly-off. But, as we noted in Chapter One, there are reasons to think that our intuitions about general claims and principles are at least more reliable than our intuitions about particular cases. In addition, we noted that appealing to intuitions about particular cases that are not shared, or are rejected, by proponents of Extremism about Demands is not a methodologically acceptable strategy for defenders of Moderation about Demands. The fact that most people would likely find some of the implications of the general claim implausible, then, is (at least in the context of our argument) not a reason that counts in favor of rejecting the general claim.

victims of prevailing distributive injustice, and, on the other, the circumstances of those in the past who benefitted from discrimination in relation to the victims of that injustice (rather than a distinction of degree, which will be insufficient to establish that the beneficiaries of prevailing distributive injustice are not obligated to give on their own at all). It is, then, worth considering what might *explain* the fact that the refusal by the well-off to give on their own is so widely accepted as permissible. In other words, we might wonder, in light of the force of our argument, why there is such widespread complacency, both among the public at large and among moral and political philosophers, about benefitting from distributive injustice.

It seems probable that one component of a proper explanation of our complacency about benefitting from currently prevailing injustice is simply that we, like most others throughout history, tend to be reluctant to very seriously entertain the possibility that behavior that is extremely common, widely accepted, and that we ourselves likely engage in, could in fact be seriously wrong.⁴³² In our everyday lives we tend to take prevailing common-sense morality as a starting point for assessing our own conduct, as well as the conduct of others, and prevailing common-sense morality, almost by definition, will not condemn prevailing behavioral patterns (or at least will not condemn the prevailing the behavioral patterns *of the well-off*, even if it, somewhat ironically even if not wrongly, condemns certain behavioral patterns common among the badly off victims of prevailing injustice). In addition, as we have noted, many moral and political philosophers employ methodologies that in effect presume the truth of at least much of common-sense morality, with the result that they tend to view any argument the conclusions of which are sufficiently radical as subject to refutation by *reductio*.⁴³³ But these tendencies, both philosophical and otherwise, must be resisted, for reasons that we have noted. We know that throughout history the well-off beneficiaries of injustice have been largely blind to most of the individual obligations that they had in virtue of being beneficiaries of the kinds and degrees of injustice that prevailed.⁴³⁴ Any methodologically acceptable approach to determining the

⁴³² As Pogge nicely puts it, the thought that “there is nothing seriously wrong, morally speaking, with the lives we lead” often seems to be “everyone’s favorite moral conviction” (*Realizing Rawls*, p. 36, footnote 30). Given that so many people are so strongly attached to this conviction, it tends to be extremely difficult to mount arguments that will be widely accepted as undermining it. But of course it is now extremely easy to point to behavioral patterns that were formerly common and widely accepted that we now know constituted serious wrongdoing, such as racial discrimination. There are general reasons, then, to be suspicious of our own attachment to the conviction that there is nothing seriously wrong with the lives we lead, in addition to the reasons provided by our argument so far.

⁴³³ This thought seems to be what underlies the fairly common “demandingness objection” to views (and in particular to Consequentialism) that very clearly imply Extremism about Demands. The fact that this sort of objection seems to rely on the assumption that our intuitions about how demanding an acceptable moral view can be are reliable renders appeals to the objection problematic, of course, since this is among the elements of common-sense morality and the methodological approaches that in effect assume its truth that proponents of Extremism about Demands reject. For discussion of additional reasons to reject the demandingness objection as it is often made against Consequentialism, see David Sobel, “The Impotence of the Demandingness Objection,” *Philosophers’ Imprint* 7 (2007): 1-17.

⁴³⁴ In addition, as Unger notes, most people are actually inclined to judge the *characters* of at least some beneficiaries of very serious past injustices, such as George Washington and Thomas Jefferson, who held slaves and surely benefitted (financially, at least) from doing so, rather positively, despite also believing that their refusal to free their slaves was seriously wrong (*Living High and Letting Die*, pp. 14-16). If these judgments are accurate, they strongly suggest that even very good people can be seriously misled by prevailing practices and behavioral patterns into believing that very serious moral wrongs are either not wrongs at all, or are at most minor wrongs. Surely the fact that Washington and Jefferson were so misled should lead even the most committed defenders of Moderation about Demands to accept that it is at least possible that we tend to be seriously misled as well, in the ways that our argument suggests. This provides a further reason, beyond those already noted, for thinking that there are serious

individual obligations that we currently have in virtue of benefitting from the kinds and degrees of injustice that persist today, then, must leave open the possibility that those obligations are much more extensive than we tend to think they are. And our arguments, as we have seen, suggest that we should in fact think that our obligations extend quite far beyond what we ordinarily think morality requires of us in terms of responding to prevailing injustice.

In addition to our general reluctance to seriously consider the possibility that the way that we tend to live our lives could be seriously wrong, there seem to be some more specific tendencies that incline us to be more complacent about benefitting from injustice than can be justified. In particular, the way that many people tend to respond to specific prevailing injustices often reveals a powerful determination to reject any demand that one sacrifice substantially, even when one's more general moral and political commitments suggest acceptance of such a demand. We noted some of the ways that typical well-off people attempt to reject a demand that they make significant sacrifices in Chapter Three, in our discussion of both the Limited Subjects of Obligations Response and the Drop in the Bucket Response (and in particular the latter of these). But there are, in addition, further responses to the claim that well-off people are obligated to sacrifice substantially that are worth noting. Some of these responses are more commonly made by well-off people generally, outside the context of specifically philosophical debates, than by philosophers defending views in the neighborhood of Moderation about Demands, although there may be reasons to suspect that the arguments of such philosophers tend to have more in common with the responses than is sometimes thought (in particular by the philosophers who defend Moderation about Demands themselves).

One common response made by well-off people when it is suggested to them that they are, for example, obligated to make substantial financial sacrifices in order to aid the homeless and impoverished, is to claim that many people who are homeless or impoverished could have avoided the deprivation that they face by behaving more responsibly, for example by working harder, or that they are in the situation that they are in "by choice."⁴³⁵ This response is common not only among conservatives, who are likely to deny that the relevant deprivations constitute injustices at all, but also among those who are committed to thinking that homelessness and poverty generally constitute injustices that ought to be remedied. This suggests that for many people, the response is one that they are much more likely to make to the suggestion that *they themselves* are obligated to make sacrifices in order to aid the badly-off than to the more general suggestion that the badly-off ought to be helped (in the absence of any specification of *who specifically* is obligated to sacrifice in order that they can be helped).⁴³⁶ But, of course, the

methodological problems with the approaches that many employ in order to attempt to defend Moderation about Demands.

⁴³⁵ Mayerfeld makes a similar point about common responses to the suffering of others, claiming that we often "blam[e] the victim[s]" of suffering for their condition, and that this tendency is "much more universal and automatic than typical use of the phrase implies" (*Suffering and Moral Responsibility*, p. 190).

⁴³⁶ Indeed, in my experience many well-off people are willing to explicitly accept that a great deal of the deprivation suffered by the badly-off is not attributable to the badly-off themselves, in the sense that it would be improper to blame them (either exclusively or primarily) for their lack of resources, so long as the discussion is not focused on the obligations that people like them might have in virtue of such deprivation. When the discussion turns to that issue, however, many are likely to begin to invoke the thought that at least some of the deprivation endured by the badly-off is the result of their own poor choices, and to assign that claim significant weight as a factor that should be thought to limit the obligations of people like them. It seems clear that the most plausible interpretation of this tendency is as a mechanism that allows individuals to justify to themselves their own refusal to sacrifice more in order to aid others that in effect underestimates the obligation-generating force of the deprivation endured by the badly-off.

tendency to invoke the response when one's own obligations are at issue, but not otherwise, cannot possibly be justified; either it applies to the general claim that the badly-off ought to be helped (in which case a great deal of the deprivation that is widely considered to constitute injustice is not actually unjust at all), or it does not apply against the claim that one is oneself obligated to contribute to aiding them. And since accepting the former option is deeply implausible, it seems clear that we should accept the latter.

A second response that is sometimes made by well-off people who are generally sympathetic to the claim that justice requires that the badly-off be aided, when they are confronted with the claim that *they* are obligated to make substantial sacrifices in order to aid them, is that even the rather well-off face a great deal of uncertainty regarding the amount of resources that they might need in the future to cover, for example, medical or other necessary expenses that they might face. This thought can be interpreted as an appeal to the component of Moderation about Principles that permits individuals to give their own interests greater weight than they give to the interests of others, and specifically to the claim that individuals can permissibly ensure that their own future basic interests will be taken care of before making sacrifices in order to aid those who are badly off now. If the uncertainty that even well-off individuals face with regard to their ability to provide for their future basic interests is significant enough, then we might think it not so implausible that even well-off individuals are justified in refusing to give on their own.⁴³⁷

This appeal to the uncertainty that even the well-off face with regard to their ability to cover the expenses that might be necessary to provide for their future basic interests would at least seem credible (even if not ultimately defensible) if those who make it refrained from all (or at least nearly all) luxury spending in order to save as much of their income as possible so that they are prepared for the possible large future expenses that they claim justify their refusal to sacrifice in order to aid the badly-off. But, of course, those well-off people who cite uncertainty about future necessary expenses as a justification for not giving in order to aid the badly-off tend to engage in rather significant luxury spending, so it seems clear that their concern with possible large and necessary future expenses is much more limited than they suggest it is when confronted with the claim that they are obligated to sacrifice substantially in order to aid the badly-off. Given that they often choose present luxuries over saving for possible future necessary expenses, they cannot claim that they are justified in choosing to save for possible future necessary expenses over aiding the badly-off, without also claiming that they are justified in choosing luxuries for themselves over aiding the badly-off.⁴³⁸ But the latter claim is, for a wide range of reasons that we have already noted, not generally defensible. The appeal to possible future necessary expenses, then, has no force against the view that one is obligated to sacrifice in order to aid the badly-off, at least when it is made by those who will in fact continue to engage in substantial luxury spending. In such cases it is hard not to conclude that it is the

⁴³⁷ This defense of the view that well-off individuals are not obligated to give on their own would still, it seems to me, be subject to the objection that it would seem to entail the permissibility of retaining benefits that one has received as a result of discrimination, since one cannot be certain that she will not need those resources in the future in order to provide for her future basic interests. It is also important to note that this defense of the refusal to give on one's own would not be available in a society with institutionalized guaranteed provision for basic needs such as medical care. Given that the sort of uncertainty in question is something that individuals have good reasons to want to avoid, there is a strong case to be made for the view that a just basic structure would include a system of universal, guaranteed medical care.

⁴³⁸ For a similar point made with regard to saving for one's children's possible future expenses, see Cohen, *If You're an Egalitarian, How Come You're So Rich?*, p. 176.

luxury spending that well-off people are really concerned to defend, and that the appeal to possible future necessary expenses constitutes little more than an attempt to rationalize the refusal to do more to aid the badly-off.

Conclusion

We have seen, in the course of our discussion, a number of reasons to reject the view that the ordinary behavior of well-off people in societies like ours is permissible. If the arguments that we have developed are so much as nearly correct, then the ways that most of us live our lives and employ our resources are surely morally indefensible.

In addition, we have restricted our discussion thus far to the obligations that we have as a result of domestic injustice. That is, we have considered only what we might be obligated to sacrifice in order to improve the lives of our fellow citizens who are the victims of current distributive injustice. There are, however, various other possible sources of obligations that well-off people might have to make sacrifices of resources and consumption, in addition to domestic distributive injustice. These include the deprivation endured by the current global poor, as well as the prospective deprivation of future generations in both developed and developing nations. Many future people will likely face not only the prospect of the sort of poverty that is familiar in our world, but also the various hardships that are predicted to result from global warming and environmental degradation more broadly, and it seems implausible that those of us currently living have no obligation to contribute to efforts to limit the extent of these hardships.

Arguments similar to those developed in the preceding chapters could establish a minimum set of further obligations that the well-off throughout the world have to, for example, contribute to providing a basic minimum resource share for each of the global poor, and to contribute to sufficient mitigation and adaptation efforts in order to spare future generations from at least the most severe prospective damage from climate change. These arguments would, of course, have to be sensitive to the limited total resources available globally, but there seems to me to be good reason to think that the minimum standard that the well-off owe the global poor is significantly higher than the \$1.25 per day (purchasing power parity in 2005 dollars) that the World Bank currently uses in compiling its statistics on “absolute poverty.”⁴³⁹ It is somewhat more difficult to estimate how much total sacrifice might be required of us in order to adequately mitigate climate change and fund adaptation measures so that those who will be threatened can deal with the effects of the warming that we have already committed ourselves to. But if this line of argument is successful, the additional amounts that we ought to be sacrificing in order to address these issues is sure to be quite substantial, and would add to the demands that, as we have already seen, the well-off among us are subject to.

If the well-off among us do in fact have obligations to contribute to providing the global poor with a minimum standard of resources, and to protecting future generations from the potentially disastrous effects of climate change, then it seems likely that most of us are morally required to alter the ways that we live our lives to an even greater extent than has been suggested by our discussion thus far. And although we cannot consider the issue in any detail here, it is difficult to see how those who accept Moderation about Principles could deny that we have such obligations.

Our argument, then, which began with the seemingly rather innocuous Moderation about Principles, has led us rather far in the direction of the view that most of us live lives that are profoundly morally objectionable, and additional consideration of the further potential sources of

⁴³⁹ See “Poverty headcount ratio at \$1.25 a day (PPP) (% of population).” 29 Feb. 2012
<<http://data.worldbank.org/indicator/SI.POV.DDAY/countries>>

obligations just noted seems likely to take us even further. This may initially seem somewhat surprising, but there are several reasons to think that, on reflection, it shouldn't be. First, unlike throughout nearly the entire history of humanity, the well-off today have the ability to substantially affect the lives of others who are geographically distant, both for better and for worse. This makes it possible for us to have obligations to people with whom we will never directly interact, whereas prior to the development of the means by which we can now affect the lives of such people, we could not have had these obligations. In addition, those of us in the middle-to-upper income segment of our society now control amounts of wealth that are, in absolute terms, nearly unprecedented in the history of the world. Even if we were to make very significant resource sacrifices, we would still be much better off than nearly everyone who has ever lived, including the overwhelming majority of those currently living. Taken together, our unprecedented wealth and recently developed capacities to affect the lives of people in all parts of our own society and throughout the world seem to be factors that make our current moral situation quite different from that of our (even recent) ancestors. Frameworks for thinking about the scope and extent of our obligations to others that were adequate for those living in earlier periods may be seriously misleading when employed by us today. Prevailing beliefs (and our moral "intuitions") about the extent of our obligations to others, however, continue to be shaped by modes of ethical thinking that on reflection seem to be outdated.

The prospect of substantial human-caused climate change appears to present the most profound threat to traditional ways of thinking about the extent of our obligations to sacrifice resources and consumption, and also seems to undermine some tempting ways of rationalizing continued consumption (and thereby refusal to aid the currently poor).⁴⁴⁰ One reason for this is that by contributing to climate change (by, for example, driving when one could walk or take public transit, or purchasing luxury items the manufacture of which causes the release of greenhouse gases) we may be harming future people.⁴⁴¹ If this is the case, then we can no longer appeal to the comforting (although not actually morally decisive) thought that our driving and consumption do not harm anyone, but at most involve us in allowing harm that we might have prevented to befall people (such as the badly-off whom we might otherwise have aided with the resources spent).

In addition, prior to our coming to know that our burning of fossil fuels and raising of animals (especially cows) for food is likely to cause substantial global warming and thereby threaten the lives of many future people, and the quality of life of many more, we had every reason to believe that future people would, as a general matter, be better off than us. Indeed, our own consumption could plausibly be thought to contribute to the functioning of an economic system that, despite allowing for much avoidable poverty and deprivation, reliably improved the typical standard of living over time. But given the prospect of climate change, we are now faced with the realization that the more we consume, the likelier it becomes that our descendants will

⁴⁴⁰ Dale Jamieson claims that what he calls "commonsense pluralism" lacks the resources to adequately address the ethical issues raised by the prospect of climate change, due in large part to its "intrinsic conservatism" and its commitment to "the view that most of what we do is perfectly acceptable" (that is, something close to Moderation about Demands). He adds that "[b]y the standards of common sense, a moral theory that would prescribe behavior that would prevent or seriously mitigate global environmental change would be shockingly revisionist" ("When Utilitarians Should be Virtue Theorists," *Utilitas* 19 (2007): 160-83, reprinted in *Climate Ethics: Essential Readings*, ed. Stephen M. Gardiner, Simon Caney, Dale Jamieson, and Henry Shue (New York: Oxford University Press, 2010), p. 316 (page reference to the reprinted version).

⁴⁴¹ The claim that our actions today can harm future people is controversial, at least in part due to the non-identity problem; see Parfit, *Reasons and Persons*, Chapter 16 for discussion.

be worse off than we are, rather than better off. Rather than steadily increasing the standard of living over time, our economic system and the lifestyles that we, its beneficiaries, have become accustomed to, threaten to make those who will live in the not-too-distant future the first people since at least the close of the Middle Ages to be, on the whole, worse off than their predecessors.

If nothing else, the prospect of climate change raises the issue of how much we are morally required to sacrifice for others in a particularly clear, and perhaps particularly troubling, way, and should lead all of us to consider carefully whether the lives that we live can be morally defended. We have already seen a range of reasons to doubt that they can, and to the extent that the further reasons noted here add to the case against Moderation about Demands, they provide us with additional reasons to make a serious effort to change the way that we live.

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