A CRITICAL ANALYSIS OF MORAL CONTRACTARIANISM: TOWARDS A REVISED FRAMEWORK

RUCHA KULKARNI[1]

Department of Philosophy, Savitribai Phule Pune University, Pune, Maharashtra, India,
ruchakulk@gmail.com

Abstract: This paper critically examines moral contractarianism, a moral theory centred on rational agreements among self-interested individuals to establish moral rules and social norms. It explores the challenges faced by moral contractarianism while also highlighting its strengths. Major issues, such as accommodating justice and fairness within the contractarian framework, are discussed, along with other challenges. Additionally, the paper provides a brief discussion of moral contractualism (a theory similar to moral contractarianism in certain aspects), highlighting its strengths in addressing some of the challenges faced by moral contractarianism while also discussing its limitations. The paper concludes by offering a revised framework of moral contractarianism that provides solutions to the major problems of injustice and partiality that the theory faces.

Keywords: moral contractarianism; moral contractualism; social contract theory; theory of justice

Introduction

Contractarianism as a moral theory suggests that morality is based on the idea of a social contract or mutual agreement among a group of individuals. The central concept lies in the idea that rational individuals who are primarily motivated by self-interest, would agree to certain principles or rules for mutual benefit and cooperation. Individuals would have to give up certain things, do things which they don't wish to do or not do things which they wish to do, but this would ultimately be in their self-interest which would motivate them towards it. The whole idea is getting something in return for the price that is paid for. And when all the individuals collectively agree to a set of principles and act accordingly, it helps almost everyone who is a part of this explicit or implicit contract and a lot of times, this can also benefit the society as a whole. The idea of social contract theory dates back to Greek philosophy, where we find philosophers like Socrates mentioning the social contract. For example, in the dialogue *Crito,* Socrates talks about the social contract. We also see the social contract theory being mentioned in Plato's dialogue *Republic*. According to Frederick (2013),

---

[1] https://orcid.org/0009-0004-7004-468X

> …social-contract theories require that a proposition of the following form is non-vacuously true:
>
> (SC) necessarily, all reasonable persons under condition C will agree that p.
>
> The condition represented by 'C' is some favoured condition, such as being behind a veil of ignorance or being impartial. The proposition represented by 'p' is a complex proposition affirming that everyone in the society should comply with a specific form of government or a particular system of moral rules (or, perhaps, any one of a set of such forms or systems… (179)

Another explanation of contractarianism has been given by Darwall (2013), "To a first approximation, then, contractarianism holds that what it is right to do depends on what rules it would be in everyone's interest for all to accept and be guided by in their deliberations and moral practice." (3) How a contractarian theory is formed has been summed up well by Kraus (1993) and he has given a three-stage argument schema which all contractarians endorse according to him, which has been summarized as follows:

> Though this schema allows for considerable variation among particular contractarian arguments, it reveals the common denominators to all contractarian theories: each must specify a hypothetical scenario, provide an analysis of the problems and solutions in that scenario, and finally provide an argument according to which that hypothetical scenario and its analysis yield some ultimate conclusion regarding the legitimacy of political authority or the nature of morality. (21)

Thomas Hobbes has been one of the most well-known expounders of this theory. According to Hobbes, man has the innate quality of selfishness. All men strive towards their own well-being and make choices which would be beneficial to them, even if that demands prioritizing their own interests over others. In 1961, Hobbes wrote his seminal work *Leviathan,* which presented his idea of the state of nature. Hobbes has been famous for his hypothetical scenario of the state of nature. He uses this scenario to examine the origin and the nature of moral and political authority. Along with this, he also tries to explore the necessity of a social contract using this scenario. Hobbes argued that if people lived without a governing authority or set of rules binding upon them, people would be equally capable of acquiring resources and doing things which would benefit them even at the cost of others. He thought that resources being limited, a scarcity of resources would create rivalry and animosity among people as each one would be striving for his or her well-being. People would indulge in acts like harming or even killing one other to meet their ends. Hobbes described the state of nature as a condition of war of every man against every man. He thought that if there was no central authority to maintain law and order, there would be constant conflict and a constant fear of violence since everyone would be fighting for resources and safety. He was of the opinion that morality was formed as a result of the presence of political authority and a social contract among people. He felt that people would be willing to give up some of their rights and freedoms to a sovereign authority if they would be getting protection and order in return. According to Hobbes, such a social contract would be crucial in preventing chaos and violence inherent in the state of nature.

In the 20th century, John Rawls, a contemporary political philosopher, introduced a different version of the social contract theory. Rawls' theory of justice can be said to be a version of contractualism. Contractualism, a version of contractarianism is a theory which asserts that moral

standards are those that people, regardless of their own interests or viewpoints, would agree upon in a fair and unbiased setting. More about moral contractualism will be discussed in the later part of the paper. Rawls proposes the concept of a 'social contract', which is a theoretical agreement that rational people would reach behind what Rawls calls a 'veil of ignorance.' The veil of ignorance is a thought experiment where people are asked to hypothetically consider that they are behind a veil of ignorance, which prevents them from understanding who they are and getting influenced by anything related to their lives, such as their social standing, skill set, financial situation, etc. This guarantees that people develop justice principles in an impartial and unbiased manner.

In more recent times, a famous propounder of moral contractarianism has been David Gauthier. His book Morals by Agreement (1986) describes his theory of contractarianism. Gauthier presented a contractarian theory of morality, expanding upon the ideas of Hobbes. Gauthier bases his theory on the basic idea which he calls 'rational choice'. He argues that humans are self-interested beings who strive to maximize their own well-being. The rational choice method highlights the relevance of self-interested collaboration in moral commitments. He also argues that humans would willingly consent to behavioral restrictions in exchange for reciprocal advantages. The idea of reciprocity plays a crucial role in Gauthier's theory of contractarianism. Along with this, another important characteristic of Gauthier's theory of moral contractarianism is that Gauthier's theory is not based on any hypothetical scenario or concept like the veil of ignorance, as stated by Rawls. Individuals, according to Gauthier, do not pretend to be unaware of the real life circumstances while making moral decisions. Some philosophers have praised this practical approach, according to whom Rawls's concept of the veil of ignorance is an impractical idea not grounded in reality. For a discussion about the arguments against Rawls's concept of the veil of ignorance, see Moehler (2018). Moral contractarianism has developed and evolved over the years and different thinkers have endorsed different versions of it. Though there are many versions, we do see key similarities in these different versions. The next section discusses some strengths of moral contractarianism.

The merits of the contractarian approach to morality

In moral contractarianism, personal autonomy is given importance. Individuals engage in the process of ethical deliberation and make logical decisions which are free from any kind of external compulsion or influence of anything or anyone. Individual freedom is highly valued by every person. A theory like moral contractarianism, which resonates with the concept of individual freedom, is bound to be well-received by most individuals. Moral contractarianism is based on the idea of rational deliberation. People indulge in reasoning to arrive at conclusions related to morality. All moral judgements are made with reasoning as the ground for it. Instead of relying on subjective beliefs or arbitrary rules, moral contractarianism grounds morality in rational deliberation and agreement among individuals. Thus, most of the moral judgements in moral contractarianism are backed up by reasons and justifications. Some theories, like the divine command theory or moral intuition, are criticized for being arbitrary and not being justified by proper reasons. However, moral contractarianism, on the other hand, does not face this criticism because of its emphasis on rational deliberation.

The potential for universal applicability of moral contractarianism is one of its advantages. When comparing moral contractarianism to some other moral theories, such as divine command theory, we understand that the likelihood of a broader acceptance of moral contractarianism among diverse

groups of people is much higher. Rational agents can come together to form such a theory and arrive at principles which would transcend cultural, social, religious, ideological and other kinds of differences. This universality highlights how the framework of contractarianism may accommodate a wide range of viewpoints. Some thinkers have argued that the traditional frameworks of contractarian theories do not address the challenges posed by culturally and morally diverse societies. However, certain philosophers have presented revised frameworks to address such challenges. For a detailed discussion regarding this, see Moehler (2018).

Moral contractarianism provides a systematic framework for resolving ethical dilemmas by using the principles of the moral contract. When people face conflicting moral obligations or varied interests, they can refer to the principles of the moral contract to help in their decision-making process. This makes it possible to make ethical decisions in difficult and complicated circumstances using a consistent and action-guiding philosophy. However, it is also true that in some circumstances, moral contractarianism's deliberative character might make it difficult to resolve moral crises that call for quick resolution. If some moral issue comes up and the contract does not state specific guidelines for that particular issue, the process of discussion and negotiation would then be time-consuming. Thus, it might not be compatible with the demands of some circumstances where immediate decision making and action are required, making the theory inadequate for promptly offering moral direction in certain circumstances. Also, what could be the potential way out of scenarios where there is deep moral disagreement among the individuals indulging in moral deliberation and negotiation such that there is no consensus over a specific moral course of action? How can the right moral code be decided in such cases? Resolving disagreements and arriving at mutually agreeable principles would become complex or almost impossible in such cases and might leave certain issues unresolved, contributing to a sense of moral ambiguity. But, it is also true that a well-constructed theory of moral contractarianism would not just be limited to the domain of moral philosophy but, as an action-guiding theory, would extend to other domains such as social and political philosophy. Moral contractarianism has practical implications and can be applied in various real-life scenarios, such as political decision-making, medical ethics, business practices, environmental policies, etc. These implications help bridge the knowledge gap between abstract ideas and their real-world applications to people, groups, institutions, and environments. According to Gauthier (1977),

> I believe, although I cannot fully defend this belief here, that our society is moving towards a more Hobbist position. Evidence for this may be found in political life, for example in the "social contract" proposals of the British government under former Prime Minister Harold Wilson. But the most significant recent evidence is found in the extension of contractarian thought to family and domestic life. (136)

Moral contractarianism thus offers significant advantages as a normative ethical theory, providing a systematic framework for moral reasoning and ethical decision-making. The strengths of moral contractarianism have been stated well by Gauthier (1986) as, "It enables us to demonstrate the rationality of impartial constraints on the pursuit of individual interest to persons who may take no interest in others' interests." (17) Gauthier has emphasized the connection between morality and rationality. However, certain philosophers have argued against this. For a detailed argument against Gauthier's idea that morality is based on rationality, see Smith (1991). Despite the positive aspect, moral contractarianism does come with certain challenges. The limitations of moral contractarianism will be discussed in the next section.

Analyzing moral contractarianism: The problem of injustice, partiality, exclusion and other challenges

Although moral contractarianism has many advantages, it is also necessary to evaluate its limitations in order to understand the restrictions and difficulties that this theory can pose if applied practically. Moral contractarianism has a possible tendency to exclude certain groups of people when forming moral agreements. If there are certain people who have reduced cognitive capabilities, thereby impeding their ability to participate in rational discussion, and other groups of individuals, like children who cannot participate in meaningful rational discussion like adults, may be left out of the moral discussion, and their wants and needs may not be taken into consideration. Also, the wants and needs of people from marginalized communities or people from minority groups may not be taken into consideration as the majority would dominate the moral discourse. Examples of minority groups include racial and ethnic minorities, religious minorities, LGBTQ+ individuals, persons with disabilities, to name a few. Due to the theory's emphasis on mutual agreement, there may be opportunities for abuse by certain groups of people. Such people might try to take advantage of or manipulate the system for their own benefit, possibly at the expense of others. More powerful people or organizations may be able to influence negotiations in ways that better serve their objectives, which could result in an unfair division of rewards and costs. The majority may further their interests while reaching moral agreements without considering the interests of the minority groups. Imagine a society where certain powerful organizations dominate the economy. Such organizations put their financial interests ahead of other factors like public health or environmental preservation. Certain industrial processes produce large amounts of toxic materials, which can have severe consequences if not disposed of properly, particularly for people living in close proximity to these industrial sites. But, when negotiations are conducted according to the principles of moral contractarianism, these powerful organizations may misuse their powers to shape the terms of agreements in ways that can be profitable to them. Low-income communities who are more likely to live in areas such as these would face higher health risks. And being vulnerable and powerless, their considerations would not be taken into account. Such scenarios question whether moral contractarianism can be considered a just and fair theory.

The exclusion of cognitively impaired humans or disabled humans in the contractarian framework is a serious challenge for the theory if not dealt with properly. As rational deliberation is crucial in moral contractarianism and the rational faculty is emphasized, people with cognitive impairments would not get a fair chance in rational deliberation and cannot fully participate in contractual agreements. Also, the values of justice and fairness that support reciprocal relationships are compromised when the needs of people with physical disabilities are not met, which promotes social exclusion and strengthens power imbalances. Consider, for example, a public transportation system that is not designed with accessibility for those with mobility limitations. The majority of people who do not have impairments might support infrastructure and policies related to transportation that put economy and efficiency ahead of inclusivity. The problem of exclusion has been discussed by Cudd & Eftekhari (2021):

> In an important article, "On Being the Object of Property," African-American law professor Patricia Williams offers a critique of the contract metaphor itself. Contracts require independent agents who are able to make and carry out promises without the aid of others. Historically, while white men have been treated as these pure wills of contract theory, Blacks and women have been treated as anti-will: dependent and irrational. Both ideals are false; whole people, she says, are

dependent on other whole people. But by defining some as contractors and others as incapable of contract, whole classes of people can be excluded from the realm of justice. This point has been taken up by other critics of contractarianism, such as Eva Kittay (1999) who points out that not only are dependents such as children and disabled people left out of consideration by contractarian theories, but their caretakers' needs and interests will tend to be underestimated in the contract, as well.

The challenge posed by the concept of reciprocity is also serious. According to Becker (2005), "Reciprocity is a matter of making a fitting and proportional return for the good or ill we receive." (8) Reciprocity, as the notion of return and mutual benefit, is a fundamental concept in moral contractarianism. Other people's participation and their ability to reciprocate is what moral contractarians rely on to establish the foundations of morality. Certain groups of people, such as those with disabilities, may face challenges in reciprocating to the same extent as individuals without physical disabilities. Critics argue that the theory poses challenges when applied to groups unable to reciprocate in the traditional sense, such as non-human animals, disabled humans, and those who are rationally underdeveloped. According to Cudd & Eftekhari (2021),

> Disability rights activists, however, would still seem to have a serious complaint to lodge against normative contractarianism, since it is surely the case that there are persons who cannot reciprocate benefits to others. Such persons would be, on the normative contractarian view, beyond the scope of the rules of justice.

According to Becker (2005), "Any theory of justice founded on the notions of self-interest and mutual advantage (whether consequentialist or contractarian) threatens to exclude some disabled people from social conventions or contracts altogether." (12) Though this is a limitation of contractarianism, it is still possible to make certain alterations to theories of morality based on contractarianism to solve the problem. Several philosophers have made an attempt to do this. A notable contribution can be attributed to Stark (2007), who talks about how certain aspects of Rawls's theory of distributive justice can be modified to solve the problem of distributive justice with respect to the severely disabled. Becker (2005) discusses how the challenges of reciprocity can be addressed. He talks about the "…equal marginal sacrifice rule under which we make a return that is proportional to the sacrifice made by the givers rather than proportional to the benefit we have received." (27) And why would such a sacrifice motivate the most advantaged is because it would act like a "form of insurance against the possibility that they themselves might lose their advantages." (27)

Another argument levied against moral contractarianism regarding the principle of reciprocity is related to our moral duties towards people who do not yet exist, like future generations. Future generations cannot currently be a part of a social agreement and cannot reciprocate. Because of this reason, within the contractarian framework, the rights and interests of future generations will not find a place and the present generations will not be considered morally obliged to the future generations. This has been considered as an injustice towards them and has been stated as a downside of the contractarian framework.

The anthropocentric bias of moral contractarianism is a major point of criticism. Non-human animals are often excluded from the moral community under traditional contractarian views, which emphasize rational agency as the foundation for moral inclusion. Because moral contractarianism has traditionally focused on human agents, and because it can be only humans who can indulge in

moral deliberation, critics have argued that it might happen that ethical issues involving non-human things like animals or the environment might be given less importance. It might be difficult for the theory to expand on its tenets to address more general environmental and ethical issues related to non-human animals. The contractarian framework is challenged by some of the contemporary ethical theories, which have been seen to recognize the moral value of all sentient beings. Whether animals feel pain like humans do has been a question of debate. However, there is much consensus on the belief that animals do feel pain in some way, even if it is not the same as humans. As animals can also feel pain, critics argue, they should also be morally respected. Removing animals from moral consideration because they are incapable of exercising rational agency ignores their intrinsic worth and promotes speciesism. Delving into this subject matter is beyond the scope of this paper. For a detailed discussion, see Bernstein (1997).

Another problem with moral contractarianism has been stated by some critics, which is its emphasis on agreement and consensus, which may present difficulties in culturally diverse societies. The development of a moral code that is universally accepted might be challenged by differing cultural viewpoints on morality, which calls into question the applicability of the moral contractarian approach in addressing cultural relativism. Moehler (2018) has discussed this challenge in detail. It is true that attaining consensus in a culturally diverse society is difficult. But, theories like contractarianism offer some hope to bring about unity and solidarity among such diverse groups of individuals. If moral theories like cultural relativism are promoted, there will always be diversity, which may lead to conflict among culturally diverse groups of individuals, disrupting the peaceful nature of society. However, theories like contractarianism make an attempt to bridge the gap between different cultural or moral perspectives by focusing on mutually beneficial agreements or social contracts based on rational deliberation transcending cultural limitations. Culturally diverse groups would start cultivating tolerance for diverse cultural and moral practices. This tolerance for diversity may create cultural and societal harmony and peace. Moral contractarianism offers a middle ground by supporting the establishment of moral laws and social norms based on rational agreements that are acceptable to people from diverse cultural backgrounds.

Rawls's concept of the veil of ignorance has been criticized as being impractical, without a foundation in reality. When we talk about the concept of the veil of ignorance or other similar concepts on which certain contractarian or contractualist theories are based, it seems impressive prima facie. The appeal to an unbiased and just process of moral deliberation is appreciated. However, it needs to be assessed whether such a process of deliberation where one is completely unaffected by one's biases or even emotions or internal or external pressures is really attainable. Idealistically, it seems plausible but in practicality, it seems that it would be extremely difficult for anyone to really do that. The veil of ignorance, which prevents people from seeing their own characteristics, is criticized for being an impractical abstraction. It is difficult to imagine a world in which people totally dissociate themselves from who they are in the real world, even if this is done as a thought experiment. Thus, the theory's viability is called into doubt as people tend to get influenced by factors internal or external to them. To explore Rawls's concept of the veil of ignorance and the arguments against it, see Moehler (2018).

Critics have also argued that moral contractarianism might not work because the required moral motivation is less in theories like contractarianism as compared with other theories like intuitionism and divine command theory. Just an instrumental reason for doing or not doing something may not provide the required moral motivation. One may be tempted to give up the potential benefit of

doing or not doing something and may give in to one's desires or also break the contract if desired overpower reasons. Sacrifice is not always pleasing, and people may not find enough motivation to sacrifice their wants in return for a desired outcome. Though an ideally appreciable theory, in practicality, critics argue, moral contractarianism would fail. Also, if individuals do not clearly see the potential benefit of doing something which is against their desires, they may lack enough moral motivation to do it.

When faced with moral dilemmas, moral contractarians could be more likely to weigh the possible outcomes according to how they would ultimately benefit their own interests rather than taking the sincerity of their intentions into consideration is what critics argue. For instance, in a moral contractarian framework, people may cooperate or show kindness more as a result of their expectation of receiving benefits or rewards in return than as a genuine intention to advance the welfare of others. Under such circumstances, people may prioritize acts that maximize their personal utility or advantage over those that are consistent with ethical principles or ideals, overvaluing moral motives and intentions is what advocates of moral realist theories argue. However, contractarians do not acknowledge the existence of any objective values of morality. Their theory is based on a completely different metaethical framework as compared to moral realism. There seems to be no place for objective moral facts such as kindness or compassion. So, considered from such a contractarian framework, the argument from the realists becomes invalid. If contractarians do something without taking their intention into consideration and only so that is mutually advantageous to do so, they are right in doing so, given the nature of the moral theory they endorse.

Hampton (1987) has presented a dilemma in the theory of the state of nature and, hence, the requirement for a social contract presented by Hobbes. According to Hobbes, the state of nature could turn into a war of all against all, caused either by emotions like greed, fear, insecurity, etc. or by rational decision-making, as it is presented in the Prisoner's Dilemma. In the Prisoner's Dilemma, each individual would choose a line of action that would be in his favour without thinking about the other and assuming that the other person would do the same. According to Hampton, if individuals do have such a raw nature based on passions and emotions, they would be governed by these even when there is a social contract among them. On the other hand, if they were considered rational beings, driven by their rational faculty, they would still break agreements, as we see in the Prisoner's Dilemma, even if there exists a social contract among them.

However, if humans are driven by their emotions, they could be trained to be dominated more by their rational faculty than the emotional faculty by making them (emotionally) understand the positive consequences of doing so and making them understand that doing this would be in their favour. On the other hand, if human beings are considered rational beings, it would be even easier to do this. In the Prisoner's dilemma, both individuals are unaware of the choice that the other person would make, and hence, they choose the option best suited to them. But, if individual A is given the surety that individual B would be bound by an implicit or explicit contract provided A agrees to be bound as well, and vice versa for B, the two individuals would choose to be bound, sacrificing something in return for a better outcome. The Prisoner's dilemma, in fact, is a perfect example for understanding why and how a social contract can help individuals benefit mutually.

Another problem with moral contractarianism has been termed as the 'free-rider problem'. The free-rider problem refers to a situation in which people may decide not to abide by moral rules

because they might benefit from the cooperation of others who do so without having to do so themselves. Thus, they tend to free-ride on others and serve their own needs without giving anything in return. In other words, it is similar to a situation when someone takes advantage of the fact that others are abiding by the law and acting morally while they choose not to. The free-rider problem raises questions regarding the ability of a moral system to guarantee that all individuals follow the rules that have been mutually agreed upon and do not just benefit from the moral actions of others without making a reciprocal contribution. Though certain philosophers have attempted to provide a solution to the free-rider problem, it still remains a big challenge for moral contractarianism.

While pointing out the inadequacy of contractarianism, Southwood (2010) says,

> In order to be plausible, an account of morality's foundations must do two things. First, it must deliver the right output: it must get morality right. Second, it must be appropriately explanatory: it must get morality right in the right way. But, according to the critics, no model of contractualism is capable of satisfying both conditions. At best, a model of contractualism may get morality wrong in the right way, or right in the wrong way. But no model of contractualism gets morality right in the right way. (2)

What Southwood says would depend on the understanding of morality which might differ from person to person. What is the true, universal nature of morality has been a point of debate throughout history. There needs to be an objective, universal understanding of morality depending on which the argument given by Southwood can be assessed. An important argument given by Darwall (2013) against contractarianism is that, "… it seems to assume that individuals have, in effect, a moral claim to the resources they could command if there were no agreed rules of cooperation." (4) Thus, Darwall's argument challenges the underlying assumption of contractarianism about individuals' moral claim to resources. According to him, "… contractarianism can't justify that assumption without circularity if its own moral force already depends on it." (5) But it needs to be understood that contractarians do not make a moral claim when they talk about the state of nature. Rather, they only state a hypothetical scenario of how individuals would behave in a state of nature which is based on the observed tendency of humans. Contractarians have presented alterations and stated various versions of moral contractarianism in order to address the challenges faced by the theory. Certain philosophers have presented similar theories like contractarianism which fall under the category termed as moral contractualism. Whether moral contractualism succeeds in addressing some of the above-mentioned challenges will be discussed in the next part of the paper.

Moral contractualism: An alternative examined

A similar theory to contractarianism is contractualism. "According to contractualism, morality consists in what would result if we were to make binding agreements from a point of view that respects our equal moral importance as rational, autonomous agents." (Ashford & Mulgan 2018). Though there are certain similarities between moral contractarianism and moral contractualism, it is important to note the differences in the two theories. Darwall (2003), while stating the difference, says, "One broad distinction is that between contractarianism, where the parties' equality is merely de facto and their choice of principles rationally self-interested, and contractualism, which proceeds from an ideal of reasonable reciprocity or fairness between moral

equals." (1) This means that in contractarianism, individuals think only for themselves, and they indulge in self-interested negotiation without considering broader moral principles beyond self-interest. Contractualism, on the other hand, emphasizes fairness and mutual respect among individuals, regarding others as moral agents and as ends and not just as means. It strives to seek principles that would be acceptable to all parties involved based on considerations of reciprocity and impartiality. Darwall (2003) further elaborates,

> But whereas contractarianism takes moral principles to result from rationally self-interested bargaining, contractualism sees the relevant agreement as governed by a moral ideal of equal respect, one that would be inconsistent, indeed, with bargaining over fundamental terms of association in the way contractarianism proposes. (4)

Related to this, another point of differentiation has been put forth by Murray (2007), "Contractualists rely on pre-theoretical moral concepts, whereas contractarians are thought not to. Self-interest alone is deemed to be the grounding for morality." (156) A famous contemporary philosopher who advocates moral contractualism is Scanlon and more about his theory can be read in Scanlon (1998). These concepts of fairness and justice work in favour of moral contractualism in certain aspects as the problems of partiality and injustice associated with moral contractarianism are solved. Rawls' concept of the veil of ignorance and the later contractualist theories based on such concepts present a positive attribute of moral contractualism, focusing on the concept of impartiality. The hypothetical state where people discuss moral issues without being influenced by anything, guarantees objectivity. Also, Rawls' emphasis on developing ideas that put the welfare of society's most disadvantaged people first highlights a dedication to social justice and fairness. Thus, moral contractualism, seems to provide better answers to problems such as partiality, exclusion and injustice.

Contractualism, which has at its core values like justice and fairness can address the problem posited by the reciprocity principle with respect to considering the rights and interests of future generations. Contractualism emphasizes the significance of impartially taking into account the interests of every individual, regardless of their capacity to participate in agreements, as opposed to moral contractarianism. Future generations, though not in existence right now, are considered to have an equal say in agreements and the right to just and fair treatment within the contractualist framework. Their interests are given due consideration along with those of present individuals, and thus, the contractualist framework offers a solution to this problem as opposed to contractarianism.

But, if certain moral values are given importance outside the rational framework of a contract, a different challenge arises for the contractualists. Contractualists can be said to assume even before the formation of a moral theory that certain principles like justice and fairness are good and partiality and injustice are bad. If certain principles are considered good and certain principles as bad in a moral sense, then the question that is raised is that what moral standards are used to evaluate the goodness or badness of acts? This seems like a major drawback of the contractualist framework. Contractarians surpass this difficult situation because they do not consider any principles apart from self-interest to ground morality but this creates other problems as discussed in the previous section of the paper. Without resorting to moral contractualism, is it possible to alter or revise the contractarian framework so as to address some of the major challenges faced by contractarianism while at the same time preserving the fundamental principles of contractarianism will be discussed in the next section of the paper.

Conclusion: Towards a revised contractarian framework

Although moral contractarianism comes with a lot of challenges, there are ways in which these challenges can be met. If the theory is designed in a way in which importance is given to concepts like justice and fairness and all members of the society are given equal importance, most of these challenges can be overcome and the theory can be successfully implemented. The question that arises is how concepts like fairness and justice, if they demand sacrificing one's interests, can be incorporated into the contractarian framework. People often demand justice for all; justice is recognized as a universal value. But, some people do not believe in concepts like justice and fairness. They do not advocate for universal justice. However, when it concerns people's own well-being, everyone insists on receiving fair treatment, and everyone opposes any injustice directed towards themselves. Nobody would advocate for injustice towards oneself. The unpredictable nature of life emphasizes the fact that things might change suddenly, which can make people susceptible to injustice at any point in their lives. Those people who do not advocate for justice for all, if caught in situations where they have to face injustice, would then advocate for justice for all. Even if not justice for all, they would, as mentioned earlier, demand justice for themselves. Anybody, at any point, can be at the receiving end of injustice. So, from a self-centred perspective as well, advocacy for universal justice is desirable. Even if this demands sacrificing certain comforts and advantages in the present, it would still be desirable in order to secure a fair and just future for oneself. With such an understanding of the concepts of justice and fairness, they can be incorporated into the contractarian framework. The framework remains contractarian because one's interests are prioritized over those of others, even when advocating universal fairness and justice. Such a framework avoids problems with the contractualist framework of falling back on theories of morality like intuitionism or virtue ethics to incorporate universal fairness and justice.

Moral contractarianism has the potential to promote a harmonious and peaceful community despite its difficulties. A significant obstacle is the possibility for people to take advantage of the system by benefiting from the moral actions of others without reciprocating. However, such difficulties can be overcome by giving ideas like justice and fairness top priority and making sure that every member of society is given equal importance. However, it is also true that moral contractarianism can never provide the kind of moral motivation that theories like moral intuitionism can. There is nothing that can be done to overcome this challenge. However, moral contractarianism can promote respect, cooperation, and solidarity amongst culturally varied people by providing a framework in which moral laws and social structures are founded on reasonable agreements that take into account the interests of all parties involved. An ideal moral contractarian theory is one that encourages active participation and engagement from all members of society, guaranteeing that everyone has a voice in forming the moral framework. Such inclusive nature of the theory would ensure that concerns of the minority group and other problems like marginalization and inequality are dealt with, promoting a sense of belongingness and shared responsibility. While moral contractarianism may face challenges in its implementation, these issues can be overcome by emphasizing concepts like justice, fairness, and inclusivity. There have been philosophers who have attempted to provide revised versions of moral contractarianism, theories which surpass many of the objections raised against moral contractarianism. Such a notable feat can be said to have been achieved by Wein (1985). He discusses many objections against moral contractarianism, proposes his version of moral contractarianism and tries to show how many of the objections raised against moral contractarianism do not apply to his version of the theory. All the metaethical and normative

theories of morality have certain loopholes, and there has not been one theory that has been universally accepted as the standard theory of morality. Moral contractarianism does have limitations, but it also shows the potential to become a promising theory of normative morality if it is altered in a way that can provide solutions to most of the problems associated with it. A solution to the biggest challenge of including justice and fairness within the contractarian framework has been given in this paper. Through ongoing refinement and application, more sophisticated versions of moral contractarianism can be formulated. Such versions would definitely have the potential to address contemporary ethical challenges better, thereby enhancing the utility of moral contractarianism as a normative theory of morality helpful in solving ethical dilemmas and guiding in decision-making.

References

Ashford, E. & Mulgan T. (2018): Contractualism, in Zalta, E. (ed.) *The Stanford Encyclopedia of Philosophy* [online], [accessed 27.02.24], available at:
< https://plato.stanford.edu/archives/sum2018/entries/contractualism/ >

Becker, L. (2005): Reciprocity, justice, and disability. *Ethics* 116(1), 9–39.

Bernstein, M. (1997): Contractualism and animals. *Philosophical Studies* 86(1), 49–72.

Cudd, A. & Eftekhari S. (2021): Contractarianism, in Zalta, E. (ed.) *The Stanford Encyclopedia of Philosophy* [online], [accessed 25.02.24], available at:
< https://plato.stanford.edu/archives/win2021/entries/contractarianism/ >

Darwall, S. (ed.) (2003): *Contractarianism, Contractualism*. Malden: Blackwell.

Frederick, D. (2013): Social Contract Theory Should Be Abandoned. *Rationality, Markets and Morals 4:* 178-89.

Gauthier, D. (1977): The social contract as ideology. *Philosophy and Public Affairs* 6(2), 130–164.

Gauthier, D. (1986): *Morals by agreement*. New York: Clarendon Press.

Hampton, J. (1987): *Hobbes and the Social Contract Tradition*. New York: Cambridge University Press.

Kraus, J. S. (1993): *The Limits of Hobbesian Contractarianism*. Cambridge: Cambridge University Press.

Moehler, M. (2018): Diversity, Stability, and Social Contract Theory. *Philosophical Studies* 176(12), 3285–3301.

Murray, M. (2007): *The Moral Wager: Evolution and Contract*. Dordrecht: Springer.

Scanlon, T. (1998): *What we owe to each other*. Cambridge: Belknap Press of Harvard University Press.

Smith, H. (1991): Deriving Morality from Rationality. In Peter Vallentyne (ed.), *Contractarianism and Rational choice: Essays on David Gauthier's Morals by Agreement*. Cambridge: Cambridge University Press, pp. 229–253.

Southwood, N. (2010): *Contractualism and the foundations of morality.* Oxford: Oxford University Press.

Stark, C. (2007): How to Include the Severely Disabled in a Contractarian Theory of Justice. *Journal of Political Philosophy 15*(2), 127–145.

Wein, S. (1985): Problems with contractarianism. *Journal of Social Philosophy 16*(3), 48–59.