

The COVID-19 Pandemic as a Severe Scarcity Condition: Testing the Tenacity of Ideal Theories of Justice.¹

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Abstract The shortage conditions created by the COVID-19 pandemic have been changing our ordinary way of life around the world since the beginning of 2020. Such conditions pose a challenge for shaping a cohesive theory of justice—one that takes non-ideal circumstances as necessary for the model. These conditions also interfere with agents' moral capacity in ways that make it difficult for them to tell what is morally relevant, which impairs their ability to identify what actions are just. To shed light on these problems, I turn to David Hume's theory of justice as a test case to portray how *outer conditions* shape an agent's *inner conditions* and affect the foundation of our moral perception of what is just.

Keywords Justice · COVID-19; Non-ideal circumstances; Outer and inner conditions; Morality.

There have been as many plagues and wars in history;
yet always plagues and wars take people by surprise.
(Albert Camus, *The Plague*)

1. The COVID-19 Pandemic: First Impressions

When I began writing this text in early 2020, Brazil had had no more than a few thousand cases of people infected with COVID-19, and the number of deaths was only in the double digits.² At that time, I was in the United States doing research as a visiting scholar, distant from family and friends. Overnight, we all found ourselves stuck at home. After a few weeks of receiving news from Brazil and experiencing the American style of dealing with quarantine, I remember writing to my sponsor, Professor Geoff Sayre-McCord, that David Hume was right in saying that habit creates an expectation for the future based on past experiences. Cross-cultural investigations between Brazil and the United States have demonstrated how the environment can interfere with our choices (See: Hutz et al. 2014; Bakos et al. 2010); I can confirm that I expected one thing based on my many years in Brazil and was unsettled by realizing that Americans have different habits. But despite what I might have expected, things did not get better when I returned to Brazil.

This short story of my impressions during the pandemic expresses how conditions outside

¹ For helpful comments on earlier versions of the material in this chapter, I am grateful to Geoffrey Sayre-McCord, Denis Coutinho, Leonardo Riberio, Matheus Mesquita and Alexandru Marcoci. I owe a particular debt of gratitude to those who have provided me with more detailed comments: Thaís Alves Costa, Vicki Behrens and, last but not least, the editor of this volume, Gottfried Schweiger.

² Data extracted from *Worldometers*. See <https://www.worldometers.info/coronavirus/country/brazil/>

us have a bearing on our actions – even if indirectly. My main concern in section 2 is to delineate what I call *outer conditions* as necessary circumstances for setting the boundaries of justice. For the purposes of this analysis, I shall use David Hume’s thought as a theoretical basis to shed light on the problem. Once all of these points are in place, I analyze in section 3 the impacts that shortages experienced in pandemic-like contexts have on our human agency—on what I call our *inner conditions*. There is a vast literature, written using an empirical approach, that considers justice from a non-idealized perspective. This literature explores the idea that external conditions can alter our moral perception of what a just action is. I will also seek in the same section to portray the COVID-19 pandemic as a type of disaster that arouses rational and emotional instability, which indirectly interfere with our moral considerations about justice. In section 4, I consider some implications of *outer* interference with *inner* conditions. If my argument that ideal conditions can-not obliterate the importance of context when evaluating moral phenomena is successful, then non-ideal circumstances like a pandemic should be taken into account by theories of justice. The outcome of this survey should help us to understand the anatomy of justice and how external factors interfere to a greater or lesser extent with its constitution.

2. Circumstances of Justice and Conditions of Scarcity.

In this section, I shall examine the outlines of justice and how it is established. Broadly speaking, we can take justice as a normative system that helps us to consider what matters in moral, political, legal or even social terms. Political and moral philosophers in turn often take justice as a cardinal virtue that sets the standards for establishing the class of just actions that individuals can take, as a kind of action guide. (See Rawls 1971; Sen 2009) It is in this sense that we call for justice when allocating scarce medical resources in the time of COVID-19 or deciding who deserves priority in accessing vaccines. Knowing how to apply the available resources to face a pandemic is not purely an economic or health issue. We want our actions to be fair.

To understand the kind of justice I have in mind here, we must consider the ideal or non-ideal circumstances that I have called *outer conditions*. I will draw on David Hume’s account of justice³ in trying to understand how external circumstances interfere with the ways in which individuals develop their moral sense of justice. We have to pick some theory of justice or other to use as a starting point – otherwise our discussion would be very unclear. However, my choice of Hume as a focus for the discussion is not random. Among all the theorists who have

³ For quotes from Hume’s works, I will follow the well-known corresponding abbreviation: All quotations from *An Enquiry Concerning the Principles of Morals* will be taken from Hume, *An Enquiry Concerning the Principles of Morals*, ed. Tom L. Beauchamp (Oxford: Clarendon Press, 1998), and referred to as ‘EPM’, followed by the section and paragraph numbers. All quotations from *A Treatise of Human Nature* will be taken from David Hume, *A Treatise of Human Nature*, ed. David Fate Norton and Mary J. Norton (Oxford: Oxford University Press, 2000) and referred to as ‘T’, followed by the book, part, section, and paragraph numbers.

addressed the problem of justice, he is the one who most explicitly mentions the importance of external conditions as a determining factor for the emergence of justice. According to Hume, justice must be taken as an artificial virtue that has developed as a convention throughout human history. We might be tempted to think of justice as a virtue that has always been with us, that does not depend on anything particular about our society. But according to Hume, that is a misunderstanding. On the contrary, what we could call our original human condition⁴ does not support in its core a conception of justice *ab initio*. Hume states in a single sentence: “Here then is a proposition, which, I think may be regarded as certain, that ’tis only from the selfishness and confin’d generosity of man, along with the *scanty provision [emphasis added]* nature has made for his wants, that justice derives its origin.” (T, 3.2.2,18) This quote provides a clue about what we could take as necessary for justice – namely, a certain set of *outer conditions*. We should really pay attention to those external circumstances; they are important.

Hume is steadfast in his commitment to the underlying circumstances of justice, namely the *scanty provision*, as a determining fact for the establishment of justice. On this account, not all situations would be favorable to the emergence or maintenance of justice, since it is an artificial virtue that can only be established if what I call the criteria of possibility and necessity are met by the outward circumstances.⁵ Let’s see how this happens. The Scottish philosopher begins by imagining a situation in which circumstances are of absolute abundance, as in a mythical Golden Age:⁶ Let us suppose that nature has bestowed on the human race such profuse *abundance* of all *external* conveniences, that, without any uncertainty in the event, without any care or industry on our part, every individual finds himself fully provided with whatever his most voracious appetites can want, or luxurious imagination wish or desire.” (E 3.1.2)

Under these circumstances, there would be no need to mediate between the desire and the object that was desired. If we consider that the task of justice is to arbitrate between particular interests, then justice could be possible but would not be necessary or even publicly useful. Just to keep the situation of the pandemic in mind, consider how we might think about the distribution of vaccine or ICU beds if they were not lacking. Would we be concerned about justice? The answer is no.

There are also what Hume calls moderate scarcity conditions, which occur when there are certain goods and needs in society that can be distributed relatively evenly. This is the situation in which we can discuss how justice places conditions on the correct division of assets in

⁴ Norton uses the expression *humanity’s original condition* (2000, p. 185), while Barry mentions a *primitive morality* (1989, p. 145).

⁵ Rawls calls this “circumstances of justice” in *A Theory of Justice* (Part I, Chapter 03, 22), while Brian Barry uses the term in a similar way in *Theories of Justice* (Part II, Chapter 04).

⁶ This metaphor is used by Hesiod, as well as by the Romans Vergilius in *Georgics*, 2,536, and Ovid in *Metamorphoses*, 1.76-150, to illustrate “the golden race of men” at a time when life on Earth was idyllic.

situations of scarcity. In this scenario, the artificial virtue of justice is useful from a public point of view, and the criteria of possibility and necessity are fulfilled: justice is possible because there are resources to be divided, and it is necessary because those resources are limited and their division must be just.

There is yet another possibility presented by Hume, in which the conditions of scarcity are extreme. Here, individuals and society perish in the face of chaos and the absence of the minimal conditions for survival. For that reason, it would be irrational to call for an act or a demand of justice in such a context:

Suppose likewise, that it should be a virtuous man's fate to fall into the society of ruffians, remote from the protection of laws and government; what conduct must he embrace in that melancholy situation? (...) And his particular regard to justice being no longer of USE to his own safety or that of others, he must consult the dictates of self-preservation alone, without concern for those who no longer merit his care and attention. (E. 3.1, p. 23)

This is the type of external circumstance that seems to be closest to pandemic-like contexts. Also, note that although what appears to be at stake is the utility of justice in these circumstances, Hume also explores how such circumstances affect the attitudes of individuals. See how he mentions the condition of self-preservation as dictated by reason. Here, Hume seems to follow the modern view to say that reason guides us, above all, towards our survival and, in the end, would authorize us to give up caring for others in favor of our own interest in survival. Under such extreme conditions of scarcity, human beings seem likely to choose self-preservation, even at the price of undermining the rule of justice. Based on what Hume states above, in such cases, even if justice is necessary, it seems not to be possible. This is the kind of situation that is at stake when we discuss being moral in conditions of extreme scarcity, like in a pandemic. In a nutshell, we have three possible scenarios in terms of *outer conditions* for justice:

- 1) *absolute abundance*: it is possible to establish justice, but it is not necessary;
- 2) *moderate scarcity*: it is possible to establish justice, and it is necessary;
- 3) *absolute scarcity*: it is not possible to establish justice, although it is necessary.

Let's now do a little imaginative exercise and pretend that Hume is visiting Brazil. He turns on the television and is confronted with the following news:

- Secretary of Health and State Prosecutor's Office launch form where people can denounce vaccine line cutters.
- Cancer patient in Aracaju suspected to have COVID-19 dies without care.
- Corruption takes R \$ 1.48 billion destined to combat COVID-19.
- Coronavirus: After ignoring Covid-19 risks, rich escape from collapse in the hospitals of the city, flying to São Paulo through aerial ICU.⁷

⁷ I thank Thaís Alves Costa for compiling all of this data. Links to the original news stories:

<https://coronavirus.rs.gov.br/denuncia-fura-fila>

<https://opapajaca.com/2020/04/9878/>

https://www.em.com.br/app/noticia/politica/2020/06/11/interna_politica,1155732/corrupcao-ataca-r-1-48-bilhao-destinados-ao-combate-a-covid-19.shtml

<https://epoca.globo.com/sociedade/coronavirus-ricos-de-belem-escapam-em-uti-aerea-de-colapso-nos-hospitais-da->

The list of cases is long, and the harsh reality is that many countries like Brazil face tragedy daily because of an absolute scarcity of certain goods and services. So, let us suppose Hume were theoretically pressured to say what justice means in this context. The answer would not be simple. I have proposed earlier that the key criterion for evaluating scarcity is the amount of a certain type of good available in a given circumstance. To understand whether the COVID-19 pandemic fulfills this requirement, we must further clarify what we mean by “scarcity” and under what conditions it applies. Hubin offers a specific definition:

If a society is confronted by a situation in which no distributive schema accords to each a minimally acceptable share of the wealth, it is a society of severe scarcity. Its resources are scarce relative not only to man’s (perhaps) insatiable desire, but also to his finite and satiable needs. I shall call such a situation one of severe scarcity or extreme adversity. (1989, p. 188)

Such a scarcity condition leads us to some types of conflicts of justice. It is crystal clear that our difficulties increase when there is instability in the possession of goods, as well as an inadequate number of goods to be shared. Therefore, it is necessary to establish some distributive possibilities for resources. (Goodin 2001, p. 204-04) We would achieve a fair circumstance if it were possible to distribute certain resources in such a way that the basic needs of each person were met. This does not mean that each individual’s desires would be fully achieved, but it would ensure that external circumstances were minimally just. Following Hume, resources or goods can be defined by reference to [1] “internal satisfaction”, [2] “external advantages”, and [3] “enjoyment of such possessions [goods]” (T 3.2.2.7) We must realize that what is at stake here are the minimum necessary external assets for the establishment of justice. If justice is to enter the scene of scarcity, it must ensure first of all that the basic needs of individuals are met. For instance, in a scarcity condition for the vaccine distribution for the protection of the population against coronavirus, the choice among Moderna, AstraZeneca, CoronaVac, Pfizer or other particular vaccines is not of primary importance. As long as the vaccines used are efficient, what really matters is to broadly immunize the population.

Having explained how the conditions of scarcity as a non-ideal circumstance put pressure on the determination of a conception of justice, I now return to Hume’s thought and draw on some crucial points to begin applying it to the case of Brazil. In his *Enquiry*, Hume makes a strong claim by stating that “public utility is the *sole* origin of justice.” (E 3.1.1) If we take this assumption to be true, we can argue that there are situations in which justice may not be useful and the reasons for its existence must be pondered. Harrison offers a list of these cases:

- (1) it would not be useful if external goods were as unlimited in supply as air (*E*, 183–4); or
- (2) if men loved other men as much as they loved themselves (*E*, 184–6); or
- (3) if goods were too scarce to be usefully partitioned (*E*, 186–7); or
- (4) when a virtuous man falls into the hands of ruffians (*E*, 187); or

- (5) when a man has made himself obnoxious to the public by his crimes (*E*, 187); or
- (6) in war (*E*,187–8); or
- (7) in regulating the treatment by men of inferior creatures such as women and American Indians (*E*,190–1); or
- (8) to creatures not needing society (*E*,191–2). (1980, p. 265)

The public utility of justice is manifested in the social *ethos* as its ability to guide our actions towards a result considered fair. If this is the case, it is not difficult to conceive that the COVID-19 pandemic could fit in the third (3) situation pointed out by Harrison. After all, to consider COVID-related examples, there is already an extensive literature discussing the fairest form of distribution or allocation of certain resources (Fallucchi et al. 2021), ICU triage (White and Lo 2021), global vaccine allocation (Emanuel 2020), etc. Furthermore, explaining what justice might mean in this context becomes even more difficult when we consider the implications for the case of an individual in situation (4). A person living in Brazil in the time of COVID-19 is in a similar situation to that of the virtuous man in Hume's example in at least at one point. In the situation presented by Hume, society has perished from the point of view of justice, and a virtuous man needs to choose his actions carefully in order not to perish as well. Hume even mentions the dictate of self-preservation. In the case of a pandemic, individuals are also pressured into certain choices by the context in which they find themselves. The utility of justice, in a word, is put in check by the individuals when the situation makes justice less useful for them in making choices.

Although the context is different in the two cases, these correlated situations express the clear relationship between the individual's internal conditions and the context in which they find themselves. The context of a pandemic has proved to be unusual and extreme not only in the scarcity of goods, but also as an environment where strong passions and vices are manifested. Kleber Ferreira Menezes, mentioned in a news story above, is a very rich man who is believed to have ignored coronavirus restrictions and then, when he got sick and needed a doctor, was able to fly somewhere to get special care because he is rich. That situation would definitely seem unfair – someone who behaved badly is able to get help anyway, when others who behaved well cannot get what they need. And we can see how this is related to scarcity—there is not enough care for everyone, so we are concerned about dividing what is available fairly. If you read the full report on Kleber, you will find a detail of the story that also deserves attention: Kleber guarantees the same care for his wife, Lastênia Menezes, who is in a similar situation to his. There is a limited dimension to his generosity, that is, it does not apply to all situations. In like manner, his benevolence is considerably less toward those who are farther from his close family or friendship circle. In turn, a statesman who corrupts himself by embezzling resources that should be used to buy respirators and those who skip the line to get vaccinated are imbued with villainy, and our aversion to such villainy is greater than it would be in environments of

only moderate scarcity. Such non-ideal circumstances challenge theories of justice. Keep this issue in mind and let us move on to analyze the effects of scarcity conditions on the moral psychology of individuals.

3. Scarcity Conditions and Their Implications for *Inner Conditions*

This section will highlight how scarcity and non-ideal external conditions are a pivot point to theories of justice not only because they limit the access to certain goods, but also because they significantly alter or corrupt our morally relevant agency. Let's begin our discussion about the COVID-19 situation. I have been talking so far about the pandemic as a type of scarcity condition, but another way to see what is at stake here is to understand it as a type of disaster. Seen in this light, it will become clearer how external conditions affect moral agency. In *Ethics for Disaster*, Naomi Zack distinguishes between events that deserve the stark label of "disaster" and those other mass misfortunes that count as normal "risks":

A *disaster* is an event (or series of events) that harms or kills a significant number of people or otherwise severely impairs or interrupts their daily lives in civil society. Disasters may be natural or the result of accidental or deliberate human action. Disasters include, but are not limited to, fires; floods; storms; earthquakes; chemical spills; leaks of, or infiltration by, toxic substances; terrorist attacks by conventional, nuclear, or biological weapons; epidemics; *pandemics [emphasis added]*; mass failures in electronic communications; and other events that officials and experts designate "disasters." Disasters always occasion surprise and shock; they are unwanted by those affected by them, although not always unpredictable. Disasters also generate narratives and media representations of the heroism, failures, and losses of those who are affected and respond. (2009, p. 07)

The COVID-19 pandemic fits this definition of disaster precisely because situations like it break with stability and shake up the dynamics of social relations; hence, it is not a situation of mere ordinary risk. Risk, although it may involve a large-scale calamity, can be distinguished from disaster in that the dangers involved in a risky situation are acceptable within the parameters of an "ordinary way of life."⁸ Disasters, on the other hand, usually require global involvement, or at least take place on a larger scale than risky situations. For instance, the number of deaths in automobile accidents in the world is not officially considered a disaster, while an avian flu epidemic, even with a far smaller number of deaths, could fit within that definition. According

⁸ Here, the expression refers to customs built within a society with which we are used to living. Hume reserves all of section 5 (Book 2, Part 3) in the *Treatise* to discuss the way that our actions and choices are strongly influenced by these conditions. According to him, custom affects our actions in a decisive way: it makes a given action more easily achievable and creates a tendency or inclination to do it. (T 2.3.5.1) He also recognizes that what is "new" affects us more intensely, whether to cause more pain or more pleasure, in relation to what "naturally belongs" to us. It is worth mentioning that the Scots Law, which contains several elements of Common Law and in which Hume was immersed, takes as its cornerstone the general custom, which was applied by the English courts in compliance with four requirements: "(a) To have been in place uninterruptedly for a long period of time; (b) To be accepted as mandatory by its addressees; (c) Be compatible with other customs; and (d) Be reasonable." (Vicente 2014, p. 266) The implications of this comparison are wide-ranging. For instance, Postema says that Hume's theory of justice is a "sophisticated generalization of Common Law conventionalism." (1986, p. 117).

to the Global status report on road safety 2018,⁹ presented by the World Health Organization in December 2018, around 1.35 million people died in car accidents worldwide in 2016. On average, almost 3,700 people die globally every day in accidents involving cars, buses, motorcycles, bicycles, trucks or pedestrians, with more than half of the dead being pedestrians, motorcyclists, or cyclists. Meanwhile, from 2002 to 2007, there were only 192 deaths from avian influenza. Even if we join this number to the deaths caused by terrorism (another form of disaster), we would not come close quantitatively to the number of deaths from automobile accidents. However, the latter are categorized as risks, while avian influenza and terrorism count as disasters, since deaths from automobile accidents, although preventable, do not constitute what Zack calls “direct offenses against morality or human dignity.” (2009, p. 05)

Since it is not part of our ordinary way of life, disaster provokes a high degree of fear in people. Events like terrorism, pandemics or even large outbreaks of sickness and death have always been feared by humanity, so they come with the label “thing to be feared.” Also, they include a large number of deaths occurring in a short period of time, which seems to trigger a warning in the human species. Basically, we have a vivid or “hot” fear in these situations:

Hot fears are popular—attractive and common. They spread rapidly by contagion, when the mere presence of fear in others is a reason to be afraid oneself. Hot fears may represent deeper or earlier psychic fears, otherwise unexpressed. (*idem, ibidem*)

Recent studies indicate that there is a relationship between the growth of fear on a global scale and an increase in aggressive behavior online, since people are trapped at home. (See Ye et al. 2021; Halevy 2017; Mifune et al. 2017) Related literature also mentions that situational factors affect our *inner conditions* and cause certain negative emotions such as fear and anger, which alter our level of moral engagement. (Anderson and Bushman 2022) Hume approaches fear and hope as elements that oscillate according to situational states. From a philosophical point of view, he states that fear and hope are types of “impressions of reflection” that arise from our reactions to ideas or antecedent sensations. (T 2.3.9.1) These impressions combine the ideas we have about the world with the impressions that come directly to us, as illustrated in the case presented at the beginning of the text about my personal impressions about the world. Given that fear and hope stem directly from this combination, it is possible to understand why the uncertainty of the pandemic has changed our way of life so dramatically. According to Hume, the surge of such sentiments is anchored in the idea of probability, which helps us to understand the events in the world; probability shapes them so that we can understand them more accurately and feel less uncertainty. For instance, a poker player knows that if you have a flush draw (if one card is missing from a full flush) after the deal, you will get your desired hand

⁹ <https://www.who.int/publications/i/item/9789241565684>

34.97% of the time. That is, your chances of obtaining a full flush are just over a third. The probability of taking a Royal Flush is 0.000154%. Professional poker players make decisions by calculating risks based on probability. Similarly, individuals also calculate the risks before we take certain actions that can profoundly affect our lives. The frightening impressions we have of the external world, combined with our knowledge about the risks of coronavirus, explain the use of masks and social distancing. Even our governments calculate the virus's rate of spread to find out when lockdowns should be reinforced.

Other researchers have also come up with some conclusions regarding the influence of the environment on an individual's *inner conditions*. In the enlightening work "Moral Sentiments and Material Interests: The Foundations of Cooperation in Economic Life" (2005), a group of researchers map how material conditions can corrupt our moral feelings. In this research, social environments loaded with certain limiting factors (poverty, scarcity, lack of structure, etc.) were analyzed to determine how much those factors interfered in shaping participants' feelings about public affairs. As expected, the researchers found experimental evidence to show that we are conditional cooperators and altruistic punishers. They call this tendency *strong reciprocity*: "Strong reciprocity is a predisposition to cooperate with others, and to punish (at personal cost, if necessary) those who violate the norms of cooperation, even when it is implausible to expect that these costs will be recovered at a later date." (Gintis et al. 2006, p. 07) In turn, working at the intersection between psychology and economics, Mullainathan and Shafir (2013) scrutinize how the efficiency of the human mind is compromised when a person is in conditions of scarcity of some kind – for instance, scarcity of money and time for various activities. They argue that scarcity impairs us cognitively in terms of *mental bandwidth* since our feelings and passions are corrupted in such unfavorable environments. Focusing on our cognitive system, they state that the deprivation of certain goods leads to a kind of deficit in the psychological capacity of agents:

We can directly measure mental capacity or, as we call it, bandwidth. We can measure fluid intelligence, a key resource that affects how we process information and make decisions. We can measure executive control, a key resource that affects how impulsively we behave. And we find that scarcity reduces all these components of bandwidth—it makes us less insightful, less forward-thinking, less controlled. And the effects are large. Being poor, for example, reduces a person's cognitive capacity more than going one full night without sleep. It is not that the poor have less bandwidth as individuals. Rather, it is that the experience of poverty reduces anyone's bandwidth. (Mullainathan and Shafir 2013, p. 19)¹⁰

Even the conditions of rationality are under pressure from context. Jennifer Morton (2017) addresses an answer to this issue by analyzing how individuals deliberate under conditions of

¹⁰ The implications of an under-resourced environment can be seen in other contexts such as the effects of a *scarcity* mindset on consumer choice behavior. See: Huijsmans et al. 2019; Osés-Eraso et al. 2008.

scarcity. She makes use of a series of argument based on recent research in cognitive science, according to which the so-called rules of rationality taken as necessary and universal requirements for deliberation are flawed. (See Shah et al. 2012; Mani et al. 2013; Mullainathan and Shafir 2013) According to her, while agents in moderate conditions of scarcity maintain a certain level of rationality, “in a context of severe scarcity, the problems faced by cognitively limited agents are different and require deliberation structured by different norms. Agents reason rationally when they use the standards most suited to their context and cognitive ability.” (Morton 2017, p. 543) Morton’s conclusion is that the rules of rationality change, in part, according to the environment, and that the agent’s deliberation follows this change. Put another way, an environment with scarcity of resources affects agents’ decision-making. If the pandemic is a kind of scarcity context, that conclusion applies to it as well.

It is also worth mentioning that a considerable number of neuroethicists are interested in exploring how SARS-Cov2 causes indirect effects on our brains. Inspired by discussions about human agency that are based on neurointervention therapies such as Deep Brain Stimulation (DBS) and Brain-Computer Interfaces (BCIs) (See Roskies and Walton 2020) analyze the impacts of the coronavirus on the ways in which our relationships are established. Supported by other research on the topic, the results indicate that the coronavirus affects the whole of society, infected and non-infected, in three ways. First, the COVID-19 pandemic has led to a sense of losing control over our lives and choices. Many individuals have experienced negative effects such as anxiety and depression that directly affect their capacity for agency, autonomy and self-determination (See Roskies and Walton 2020; Maier and Seligman 2016). The authors mention that the pandemic context has been especially challenging for socially marginalized groups, reporting that people of color, immigrants and the poor tend to suffer this loss of control with greater intensity. Second, the pandemic affects our ability to socialize with others, and the resulting lack of direct personal interactions has severe consequences for our emotional structure. Social neuroscience studies (See Hoehl et al. 2020; Redcay and Schilbach 2019) indicate that interaction and social engagement raise the level of what Hoehl et al. call neural synchrony. Greater degrees of synchronization lead to a reduction in stress levels and an increase in feelings of confidence and empathy. Less synchronization, in contrast, means less confidence and empathy—and the lower our empathy, the more our sense of justice is challenged by factors such as selfishness, fear and distrust. Third, the social environment in which individuals are embedded has been remodeled by the pandemic, which by implication changes our capacity for agency. (See Roskies and Walton 2020) Once we understand how our capacity for agency is determined to a greater or lesser extent by external factors, it is easier to see how these elements affect human agency.

The discussion above helps explain why the COVID-19 pandemic as a type of disaster is changing our habits significantly on a global scale. Now we know enough to describe the

conditions of scarcity and how those conditions affect a conception of justice. Perhaps we shall come up with a theory of justice, as a general non-ideal theory of disaster,¹¹ that will be good enough to help us to coordinate our efforts in a morally acceptable direction. Although the pandemic began only recently, researchers have already gathered considerable data on the effects of the pandemic on the “moral machinery” of individuals (an elegant term for talking about the moral psychology of individuals). The presentation of these empirical elements demonstrates how strongly the non-ideal circumstances or *outer conditions* imposed by the pandemic affect our *inner conditions* of agency. In this way, it seems appropriate to say that the COVID-19 pandemic indirectly influences our moral consideration of justice.

4. Moral Considerations and the Scope of Justice.

Considered together, all of the things we have seen so far lead us to the following premises (actually, the first one is sort of a stipulation that is serving as a premise, and the rest of the premises are what I have been trying to establish within this chapter):

- I. Justice may be understood as the combination of external and internal circumstances, plus the addition of some moral consideration.
- II. *Outer conditions* (such as non-ideal circumstances) affect or alter the *inner conditions* (capacity for agency) of individuals in situations of extreme scarcity.
- III. Our moral consideration of justice is based on and only possible from *inner conditions*.
- IV. A pandemic, as a type of disaster, is a type of non-ideal circumstance which can include conditions of extreme scarcity for some goods.
- V. Given II and III, we can say that external conditions indirectly affect our moral consideration even for ideal theories of justice. This argument is valid even in the context of the COVID-19 pandemic.

Premise I is a commonplace among theorists, although the way in which these elements are combined is still the scene of dispute. I have explored in some detail the relation between premises II and III to raise awareness of this connection. Finally, if I am correct that IV and V are true, disaster situations like the COVID-19 pandemic are non-ideal circumstances that indirectly challenge ideal models of justice with regard to their moral element.

With these points in place, we can draw some conclusions. First, the COVID-19 pandemic offers shortage conditions that call into question theories of justice, which are represented here by Hume’s account. It is worthwhile to talk about external contingencies when discussing justice, since such conditions determine the possibility of and the necessity for justice. Ideal theories assume that justice has been developing over time because our moral system operates

¹¹ The debate around disaster justice is recent (Verchick 2012). Basically, it is an attempt to discuss the role of different spheres of society and government for problems such as inequalities, vulnerabilities and injustices caused or magnified by natural disasters. I mention the idea of a general non-ideal theory of disaster to reinforce the need to connect elements of an ideal theory of justice with its non-ideal part. My intention in this chapter was not to present a theory that solves the situation, but to draw attention to the problem. Disaster justice could be taken as a consequence of the challenge I present here: how to develop a theory of justice that applies in disasters? For more details on this discussion, see Finger (2014), Bankoff, G. (2018), and Lukasiewicz & Baldwin (eds.), 2021. Thanks to an anonymous reviewer for pressing me to be clearer about this point.

under moderate scarcity conditions. So, *ex hypothesi*, either of the extremes – excess supply or absolute misery – could compromise the dynamics of social life and, consequently, any real possibility of justice during pandemic times. Those who believe that a situation where justice is impossible or unnecessary is inconceivable should take seriously Hubin’s observation that severe shortage conditions are not a “philosopher’s fantasy” or “an especially unusual circumstance.” (See Hubin 1989) Remember the Brazilian social context during the COVID-19 pandemic. It would be presumptuous to ignore what other areas of knowledge have to offer on the subject; in turn, moral and political philosophers have a crucial role in these discussions.

Second, we have seen that circumstances of scarcity also alter or corrupt the flourishing of certain virtues or moral feelings, which leaves some tensions on the stage of *inner conditions*. Treating justice as a convention does not mean that standards of justice are arbitrary, but we must also point out that justice cannot be automatically associated with morality. It is the individual’s *sui generis* ability to determine what is virtuous that attaches morality to justice, rather than justice that attaches morality to our ability to determine what is virtuous. In other words, the moral consideration of justice must be sought from within human nature itself. Remember what Hume states: “no action can be virtuous, or morally good, unless there be in human nature some motive to produce it, distinct from the sense of its morality.” (T 3.2.1.7) The action *per se* is only a sign of these motives that express some quality or character and cannot itself be the origin of morality. Likewise, the system of justice cannot itself be the moral foundation of the class of just actions, in order to avoid circular reasoning. The level of an individual’s awareness of and moral engagement with the rules varies according to that person’s emotions and internal factors. (Moore et al. 2008; Ye et al. 2021) Even if we have a consistent theory of justice, we have to remember that human agency has a big role to play. The empirical studies presented in the previous section provide elements to help us understand how circumstances affect individuals’ *inner conditions*.

Finally, a conception of justice centered on the agent and which is taken as a type of social virtue cannot disregard the implications of context for individuals. In a broad sense, a theory of justice that neglects the impacts of non-ideal circumstances is limited in scope, since justice is not a finished set of rules. At times when models of justice are faced with the challenges imposed by non-ideal circumstances,¹² they should answer by integrating the relevant empirical content into their thinking about what matters in terms of justice. An idealistic model that takes a perfect society as a parameter to determine what is just cannot disregard the real-world circumstances. If we neglect the link between ideal and non-ideal, we are saying that a pandemic should not impact our perception of what is just and morally relevant. However, that is not the case. The COVID-19 pandemic has considerably changed our ordinary way of life, which explains why

¹² For a conceptual cartography of the differences between ideal and non-ideal theory, see Valentini 2012.

we should be concerned about the correct level of idealization of a theory, or, in normative terms, the proper distance between *ought* and *is*. In such cases, we need to know how much non-ideal input we are prepared to include it in our considerations about justice.¹³ However we work out the details, we are inevitably forced to broaden the scope of our theories of justice.

It has not been my intention to debunk Hume's theory of justice, considering that the same questions the pandemic poses for him can be raised for other theories. My bottom-line point was to inquire how conditions of scarcity pose a challenge to theories of justice and to our ability to act justly. What I have offered is a short road-map to test the viability of theories of justice in situations of scarcity. Indeed, we can take this ability to deal with non-ideal circumstances like the COVID-19 pandemic as a litmus test to verify the tenacity and strength of them. In an ideal world without a pandemic, humanity might not be struggling quite so much with shortage conditions, but for now the challenge for those interested in this discussion is to see how these theories can accommodate similar scenarios.

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¹³ Sayegh (2016/2018) offers a case study of climate change that raises similar issues for ideal theories of justice.

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