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PART I

Problems

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1

The justificatory crisis of morality

We are honest and truthful, we pay our debts and keep our promises. We are caring and concerned, yet impartial and just. We are sensitive, friendly, merciful, forgiving, generous, thankful, loyal, and self-sacrificing. We are politically conscious and active, and we are respectful of people's rights whatever their gender, race, or sexual orientation. And lately we have even started recycling. In short, we are just great.

Unfortunately, accompanying this feeling of greatness is the nagging worry that we are simply being stupid. The fear is that the very source of our pride is actually a sign of our stupidity: that being moral is, in the final analysis, fundamentally irrational.

There are plenty of reasons to suspect that we are indeed being irrational. I will mention three. The most obvious reason is that being moral often requires us to sacrifice our interests or to act against our desires. We keep our promise to meet somebody for dinner even though we would much rather do something else. We divide the cake fairly though we want all of it, and we even save our enemies while rather wanting to see them dead. Now if being moral requires us systematically to act against our desires in this way, how can it be rational?

The second reason for being suspicious about morality does not as such have anything to do with a possible conflict with the satisfaction of desire. It depends on the obvious fact that the morally evaluative vocabularies which we use to guide our lives represent only one possible way of evaluating. Other moral or non-moral evaluative vocabularies would lead us to evaluate our lives quite differently. For example, instead of striving to treat others fairly and congenially, a person could set it as her ideal to treat them ruthlessly or indifferently, or she could give herself high marks for being cool rather than concerned, or original and independent rather than loyal and

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thankful. Given the obvious possibility of conflict between these different ways of evaluating, it is by no means clear that it is rational to let our current moral evaluative scheme dominate our lives or to use it at all.

The third doubt concerning our self-satisfaction about our moral virtues is rather different. Here the question is not whether in acting morally we are doing what is rational *for us*. We do not employ a moral vocabulary only to guide our own lives, but also to criticize others. Here the worry is that our criticism of others does not amount to rational criticism but that it is rather a way of exercising power over others under the guise of moral comment. In other words, in morally criticizing others, we are not interacting with them rationally but rather abusing them. Underlying this worry is the question whether it can ever be rationally settled who is right: we or they. If it cannot be rationally settled, then our criticism can only be abuse in disguise.

This problem becomes particularly pressing when the criticizer and the criticized are members of two radically different cultural communities. It could be argued that the critic inevitably relies upon the practices of her community and that she can only be shown to be right if these practices are rationally superior to the practices of the other community. However, the argument goes, it is impossible to show the practices of one of two radically different cultural communities to be more rational than the other. I do not think that this argument is good or that the problem is insoluble, but it is a problem which needs to be resolved before we may assume that our criticism of other cultural practices can be a piece of *rational* criticism.

These worries all present a problem about *the rationality of morality*. For the sake of convenience, this problem may be divided into two fundamental subproblems: (1) *The basic choice problem*: is it rational to be guided by moral considerations at all? (2) *The moral alternatives problem*: is it rational to be guided by one particular moral view as opposed to others? These are the two main problems which I shall discuss in this work.[1] Notice that it is certainly possible to answer

[1] Although I shall also discuss other problems, I use the distinction between these two problems to structure my discussion. A third subproblem should be mentioned here. This is *the problem of priority*: is it rational to give moral reasons priority over other reasons? (Cf. Scanlon 1998, 148.) This problem must be distinguished from the basic choice problem. Even if it is rational to take moral considerations into account in rational deliberation, it still needs to be asked whether moral reasons can be overridden

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only the first question positively. In that case, one would suppose that it is rational to be guided by some moral view or other, but think that the choice among different moral perspectives is not a matter of rationality.

It is extremely tempting to think that the only possible solution of these problems is to offer a *non-moral* justification of morality. Such a justification would demonstrate the rationality of morality on entirely non-moral premises. This is tempting because it seems that any other kind of justification would be question-begging and would not have the necessary independence from morality to provide criteria for deciding which moral view is the most rational.

One central thesis of this work is that it is entirely misguided to think that morality needs a non-moral justification. This thesis distinguishes the work from the writings of both the friends and the foes of non-moral justifications of morality. The former are busy constructing such justifications, whereas the latter occupy themselves with tearing them down or with giving *a priori* arguments to the effect that such justifications are bound to fail. Thus, even the foes of non-moral justifications seldom call into question the assumption that morality would be unjustified if such a justification cannot be given. This, however, is precisely the assumption which I want to call into question. I shall argue that *even if* there are flawless non-moral justifications of morality, it is a mistake to think that morality *needs* such a justification. In fact, I argue that to proceed on the assumption that morality needs such a justification distorts our view of rationality, morality, and the relationship between the two. Thus, it is not my aim to argue that non-moral justifications are impossible, but rather that – even if possible – they are not an ideal against which the success of justifications of morality and moral views should be measured.[2]

One powerful motivation for non-moral justifications of morality is at the same time a reason for thinking that these justifications must be purely *formal*. The thought here is that doubts about the rationality of morality arise precisely because moral thinking relies heavily upon *substantive* intuitions. For example, actions are taken to be morally

by other reasons, and if they can, how it is to be decided when they are overridden. This issue of overridingness is the problem of priority.

[2] This means that *rational* justifications of morality and moral views neither are to be equated with nor need to be supported by *non-moral* justifications.

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wrong because they are *cruel* or right because they are *considerate*. However, so the argument goes, it can always be asked whether it is rational to guide one's life by such substantive considerations. And in order to show this to be rational, it won't help to appeal to other substantive considerations. The problem is not that these considerations are moral but that they are substantive. No actions are rational or irrational on account of some substantive features but rather on account of formal ones. Thus, in order to solve the justificatory crisis of morality, it is not enough to offer a non-moral justification of morality. The justification must also be purely formal.

According to this view, morality needs a formal non-moral justification. I call a theory "*rationalistic*" if it aims to deliver such a justification. In this book, rationalism will be my main target of criticism. As an alternative to it, I present another justificatory ideal which violates not only the rationalistic requirement that the justification of moral views must be formal but also that it must be non-moral: I argue that a justification of moral outlooks based on *substantive* reasons which *cannot be purified of moral content* is an adequate justification and is preferable to a rationalistic justification.[3]

Although it is widely assumed that morality needs a rationalistic justification, only a few philosophers actually offer a *purely* rationalistic justification. The works of these philosophers will be the focus of the argument that my substantive approach should be favored over rationalism. If I did not undermine the actually existing rationalistic positions, my argument would remain unconvincing. After criticizing these few, selected positions, I then go on to explain why I think that other rationalisms have the same flaw. In this way, I hope to deliver arguments which are convincing in their specificity while at the same time indicating how they have a general application.

There are two basic kinds of rationalism, depending upon whether the concept of rationality employed is "Hobbesian" or "Kantian". I

[3] It should be noted that the alternative to rationalism that I offer is also to be contrasted with theories which attempt to justify morality from a *substantive, non-moral* starting point. In favoring my alternative, I shall be defending the idea of giving justifications which have neither a non-moral nor a formal starting point. In other words, my approach is to be contrasted with the idea of giving a justification of the ethical life from an Archimedean point outside it, whether that point is understood in terms of a substantive notion of well-being or a formal notion of practical reason (see Williams 1985, chs. 2–4). In chapter 5, section 2 (hereafter 5.2), I explain how I plan to deal with theories which offer substantive non-moral justifications.

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will focus on the work of the two contemporary philosophers who have perhaps done the most in recent years to develop these two conceptions of reason: David Gauthier and Jürgen Habermas. Gauthier's contractarianism is an impressive attempt to provide a rigorous Hobbesian justification of morality with the help of the tools of rational choice theory; while with his theory of communicative reason, Habermas has surely made one of the most important contributions to the development of a Kantian concept of reason in recent decades.[4]

Because of the deep differences between these two thinkers, and because Gauthier tends to be studied by "analytic" philosophers and Habermas by "Continental" thinkers, the common rationalistic core of their theories has been overlooked. It is sometimes noted in the literature that they are both, broadly speaking, contractarians.[5] However, this book does not criticize them as contractarians. For this reason, I shall not discuss at any length the theory of the other, perhaps most prominent, contemporary defender of a Kantian approach to moral and political theory – namely John Rawls. Rawls is a contractarian and a Kantian, but he is not, in my sense, a rationalist.

To see that Rawls – as opposed to Gauthier and Habermas – is not a rationalist, we need only to consider briefly the attitude of these thinkers to "reflective equilibrium" justifications. Contrary to Rawls, Gauthier and Habermas both distance themselves from the idea of a reflective equilibrium as the ultimate justification of moral and political norms.[6] Roughly speaking, a moral judgment has been given a reflective equilibrium justification if it has been shown that this judgment is in reflective equilibrium with our moral principles and considered moral judgments. A state of reflective equilibrium has been reached if the process of modifying our moral principles in the

[4] In this work, I shall only be concerned with contemporary versions of rationalism. Another recent work which explicitly defends a Hobbesian rationalism is Danielson 1992. Different kinds of Kantian rationalism are offered in Apel 1973; 1988c; Gewirth 1977; Kuhlmann 1985; and Korsgaard 1996.

[5] See Heath 1995, 80–82.

[6] Habermas 1988d, 89 [78–79]; 1988e, 127 [116]; Gauthier 1986, 5, 269. Rawls, in contrast, is happy to see it as the ultimate justification; see Rawls 1993, 28, 51–53. I briefly compare Rawls and Gauthier in 6.2, and Rawls and Habermas in 8.2. (In citing texts which appear in my bibliography under their original German title, I first give the reference to the German text and then, in square brackets, to an English translation.)

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light of our considered moral judgments and vice versa has been completed in the sense that no further adjustments seem proper.[7] The point to notice here is that reflective equilibrium justifications remain firmly *within* morality: moral principles are justified in terms of other *moral* principles and considered *moral* judgments. This immediately raises doubts as to whether such justifications can meet skeptical worries about the rationality of morality. According to rationalism, in order to dissolve these skeptical worries, one must give a justification of morality which – contrary to reflective equilibrium justifications – does not rely on any moral intuitions.

The appeal of rationalism is obvious. To appeal to moral intuitions to demonstrate the rationality of morality seems viciously circular. To rely on other substantive intuitions seems just as hopeless, since it seems that the rationality of following such intuitions can always be called into question. And, in contrast to scientific theses, there seems to exist no empirical confirmation of moral principles.[8] Thus, it seems that the only possible savior of morality would be a *formal non-moral* justification. It is the task of this work to undermine this rationalistic justificatory ideal and to replace it by my substantive approach.

In the next chapter, I shall give a fuller and more precise account of rationalism and sketch my own alternative to it.

[7] For a more detailed discussion of reflective equilibrium justifications, see chapter 15.

[8] According to Alan Gewirth, empirical facts serve to test the correctness of the factual statements of natural science. These empirical facts are an "independent variable" that serves to determine the correctness of factual statements. Gewirth believes that such an "independent variable" seems – on the face of it – to be missing in the case of moral statements and that in the absence of such an "independent variable" no answer can be given to moral skepticism. His rationalism is supposed to solve this problem by demonstrating the existence of an "independent variable" for the case of morality (without assuming any metaphysically suspect moral facts or assimilating morality to natural science) (Gewirth 1977, 4–9, 78, 175–177, 365).

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2

Alternative resolutions of the justificatory crisis

1 SUBJECTIVIST RATIONALISM

It is Gauthier's declared aim in *Morals by Agreement* to argue that "[m]orality . . . can be generated as a rational constraint from the non-moral premisses of rational choice."[1] One way of interpreting the project of starting from non-moral premises – and this is indeed how Gauthier understood it in this work – is that the goal is to show that "agents lacking all moral concerns . . . would rationally introduce morality into their interactions in order better to achieve their nonmoral ends."[2] In his more recent article "Value, Reasons, and the Sense of Justice," Gauthier has outlined another justification that can also be understood as relying only on non-moral premises. There, the idea is not to show that moral sensibility – or, more specifically, the sense of justice which is the focus of Gauthier's discussion in this article – is a "mere instrument for our nonmoral gratification."[3] Rather, the aim is to show that the sense of justice is of value to agents "whatever their particular aims and concerns."[4] It is on account of this idea, as will be explained, that I take Gauthier to be a rationalist. This idea can be captured by saying that "justice is a necessary instrumental value."[5] To show justice to be a *necessary instrumental* value is, in my terminology, to give a *subjectivist rationalistic*

[1] Gauthier 1986, 4.
[2] Gauthier 1993a, 201.
[3] Gauthier 1993a, 201.
[4] Gauthier 1993a, 199. This claim must be qualified. For example, it does not hold for "an agent whose life-plan is focused on the destruction of his fellows, who lives to kill." Strictly speaking, it holds only for "those persons whose overarching life-plans make them welcome participants in society" (Gauthier 1993b, 188, 189) (see 6.3).
[5] Gauthier 1993a, 199.

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justification of justice.[6] The subjectivism is reflected in the instrumentality of the value and the rationalism in the necessity.

What does it mean to say that something is of necessary instrumental value? To say that something is of *instrumental* value is to say that it is valuable as a means to something else that is valuable. This is where Gauthier's subjectivism surfaces. Practical reason is strictly instrumental: it is silent on which ends we should have and can only tell us how best to pursue our ends, where these ends are taken as subjectively given.[7] To show that something is of *necessary* instrumental value is to show that it is valuable – in the instrumental sense – whatever our ends may happen to be.[8]

Gauthier's justification of morality is thus *formal* in two senses. First, reason is understood instrumentally and it is thus silent on which ends we should pursue. Second, morality is supposed to be rational for the agent no matter what the substantive contents of her goals are.

By showing that morality is of necessary instrumental value, Gauthier wants to solve two problems he sees morality confronted with. The first problem is a variation on the problem of the *rationality of morality* which I mentioned in the last chapter. For Gauthier, this problem takes the following form: since for him instrumental rationality is the only notion of practical reason there is, morality cannot survive a conflict with the deliverances of instrumental reason. However, according to Gauthier, in order to show that it is rational for a person to be moral, it is not enough to show that she must be moral in order to achieve the (moral or non-moral) ends that she happens to have. Gauthier wants to be able to say that actions may be irrational even if they are the best fulfillment of the ends that the agent *happens to have*. Having those ends – for example, to be kind to one's fellow humans – may stand in the way of the person's reaping some benefits which she might otherwise be able to enjoy. Now since instrumental reason is incapable of evaluating the agent's ends

[6] I do not assume that Gauthier thinks that we can, or need to, show that all of what we ordinarily think of as morality can be shown to be of necessary instrumental value. In showing in *Morals by Agreement* that the rational constraints on actions are moral constraints, his concern is really with showing that these constraints are *just*. The principle of interaction justified in that work is a principle of justice (Gauthier 1986, 6, 150–156, 208–223, 233–267).

[7] Gauthier 1986, 24–26, 46–55.

[8] Gauthier 1993a, 198–199.

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directly, morality cannot be shown to be rational by establishing that it helps the agent to fulfill certain rationally privileged ends. Thus, the only possible way of demonstrating the rationality of morality consists in establishing that it is instrumentally rational to be moral *whatever* the agent's ends are, i.e., in showing that morality is of *necessary* instrumental value.[9]

The second problem Gauthier wants to solve concerns the "*categorical force*" or "*unconditionality*" of morality. He takes morality as presenting us with unconditional demands because "[f]rom the standpoint of the agent, moral considerations present themselves as constraining his choices and actions, in ways independent of his desires, aims, and interests."[10] This does not just mean that moral requirements sometimes conflict with our self-interest. According to Gauthier, morality has a "prescriptive grip" which cannot be explained entirely (as a Humean might think) in terms of our sympathetic feelings, since morality speaks to those "hard cases" where even our sympathetic feelings would not move us to act in accordance with what morality demands of us. Morality operates somehow independently of our affections, including our sympathetic concern for the well-being of our fellows.[11] The problem is that instrumental reason seems – at first sight – to be unable to deliver morality's unconditional demands.[12] Since what is instrumentally rational for an agent depends on her contingently given ends, it seems that unconditional demands can never be shown to be instrumentally justified. By showing that morality is of necessary instrumental value, Gauthier would solve this problem: if morality is indeed of necessary instrumental value, it is rational to be moral not just if one happens to have certain goals but whatever one's goals are.[13]

Before defining rationalism, a misunderstanding of Gauthier's claim that morality is of necessary instrumental value must be dismissed. It might be thought that Gauthier's point is simply that it is in the long-term interest of the straightforward instrumental reasoner

[9] Gauthier 1986, 11; 1988b, 386–389; 1991a, 18–25; 1993a, 180–183, 189, 197–204. For a more elaborate discussion of this point, see 6.2.
[10] Gauthier 1991a, 16.
[11] Gauthier 1991a, 17–18.
[12] This problem does not coincide with the problem of the rationality of morality. One surely does not need to assume that morality speaks to us in unconditional demands in order to question the rationality of morality.
[13] Gauthier 1991a, 20–25, 29–30.

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