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THE UNIVERSITY OF ALBERTA

UNAVOIDABLE BLAMEWORTHINESS: MORAL DILEMMAS AND OBLIGATIONS TO DO THE IMPOSSIBLE

by

BRYAN GARY WIEBE

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH

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Date 6 December 1988

Dedication

To the memory of my friend,

Michael Wiebe

Abstract

Unavoidable blameworthiness is possible. Against certain ethical rationalist positions I argue that genuine dilemmas and unfulfillable obligations can exist. The first chapter introduces key concepts and theories.

Philosophers have held that the following positions together are contradictory: 1.) genuine moral dilemmas exist 2.) "'ought' implies 'can'" and 3.) the agglomerations of obligations are obligatory. The second chapter shows that for some versions of "'ought' implies 'can'" no contradiction arises. "'Ought' implies 'can'" becomes less attractive when the narrow sense needed here is revealed. Nevertheless, strong motivation to adopt the principle in the sense required exists, as the view that no unavoidable blameworthiness exists is attractive.

Indeed, aversion to unavoidable blameworthiness motivates both denying the genuineness of dilemmas and adopting "'ought' implies 'can'". So the third chapter argues for rare cases of unavoidable blameworthiness on pragmatic grounds. The position that either the action was avoidable or the agent is not blameworthy is not true to some cases of moral risk taking. Rare blameworthiness for more than one can do need not discourage. Contrariwise, this possibility motivates some kinds of moral behaviour and creates challenge.

The fourth chapter develops examples of genuine dilemmas based on ethical rationalist moral systems. The usual arguments against such cases, for example that the agent must have previously done wrong or that one duty must be conditional, are shown to fail.

The fifth chapter criticizes Alan Donagan's proposals for eliminating dilemmas resulting from promises. Oddly, his conditions on promising require too much of promisers, making many promises immoral, yet the protection for promisees is inadequate. His use of an epistemic concept to determine when blame was avoidable is problematic.

Moral systems that allow no unavoidable blame retreat to an area the agent controls, her inner states. The sixth chapter explores how children learn to be accountable. Morality is learnt by participation; this presents unavoidable "first cases" of being held accountable. The retreat to the agent's internal decisions makes assessing blame almost impossible, as Kant

recognized. Not knowing the internal decisions of others, we would not be justified in holding them accountable.

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I wish to thank all who helped make this dissertation possible. Special thanks are owed to Wes Cooper, Bruce Hunter, Bernie Linsky, and Cameron MacKenzie for thought provoking questions and other encouragement. Cameron deserves additional gratitude for patiently helping with stylistic problems. I must also acknowledge financial assistance from the Province of Alberta and the University of Alberta Graduate Studies Scholarship Review Committee. I am deeply indebted to my wife, Carol. She has put up with this dissertation while juggling a family and full-time employment for several years.

Table of Contents

Chapter I

INTRODUCTION

As far as I can recall, the initial shiver of inspiration was somehow prompted by a newspaper story about an ape in the Jardin des Plantes who, after months of coaxing by a scientist, produced the first drawing ever charcoaled by an animal: this sketch showed the bars of the poor creature's cage.
— Vladimir Nabokov "on a book entitled LOLITA"

Philosophers and ordinary folk alike often enough suppose that an action for which one is blameworthy must be an action one could have avoided doing. But consider the following case of an adopted boy.

> Occasionally when a baby is "put up" for adoption complications such as medical problems will result in the child not being adopted. One such boy, in the same foster home from birth, was later adopted at the age of five. The foster father had died during the boy's years there. The government agency wished to place the boy in a new adoptive home because of the foster mother's age. The adoptive couple, following the social worker's advice, adopted the foster mother as a third grandmother; the boy visited her from time to time. Persuading the boy to come home was sometimes a heart-wrenching task for the adoptive parents. They felt as though they were deliberately reopening a serious wound, which would sooner heal if left alone. But they also knew that the child's pain was a sign that the love-relationship, which was the basis of the boy's ability to be close to others, was not extinguished.

This adoptive couple has three main options. They can continue the visits, they can discontinue the visits, or they can leave the boy with the foster mother. They have an obligation not to cause their children pain needlessly. Continuing the visits might well violate this obligation. They have obligations to bring up an emotionally complete person who is not so calloused of heart as to be incapable of intimacy, and not to ruin this child's life in their attempt to help him. Discontinuing the visits seriously risks violating these obligations. They have obligations to live up to their commitments which they have made in adopting. Further, we may assume that the adoptive family has grown sufficiently attached to one another that returning the boy will just create another problem of estrangement. So they cannot fulfill their obligations by giving the boy back.

In a case like this the issue of unavoidable blameworthiness is complex. One obvious question unanswered is whether the obligation to bring up an emotionally whole person justifies, by making necessary, the repeated heartbreak of continuing the visits. On the other hand, perhaps the influence of one relationship on the boy's future capability for intimacy has been exaggerated, and no obligations would in fact be violated by discontinuing the visits.

More important is the further issue which in this particular case starts from the question of whether the adoptive parents can convince themselves either way on the need for the visits. For if they believe that they are violating obligations, then will they not be culpable for doing what they think of as wrong, even if what they do is not actually wrong? Can they avoid intending to do wrong even if they do not do wrong? Certainly while comforting the child and listening to his sobs, the parents will have great difficulty convincing themselves that they can choose to do no wrong.

The possibility of previous wrongdoing or previous blame creating the situation where blame cannot be avoided is also an important issue. Some would claim that being worthy of blame in this case was avoidable in that the adoptive parents could have chosen not to adopt. In the predicament facing the adoptive parents every alternative course of action supposedly involves failing to meet some moral obligation; such cases are called ethical conflicts or moral dilemmas. Alan Donagan, following Saint Thomas Aquinas, argues that the only cases which are properly called moral dilemmas are cases where the agent has put herself into the fix by previous wrongdoing.[1] But far from claiming that adoption is wrong, surely we wish to encourage adoption, and especially of "hard to place" children like the boy in our example. Does morality really rule out altogether noble but morally risky endeavors like the adoption of older children?

Another attempt to locate the source of the problem in previous wrongdoing would have us believe that the adoptive parents should blame others entirely for the heartbreak their boy must suffer. Perhaps the birth-mother did wrong to give him up, or the agency did wrong by removing the child from the foster home. But these claims again tend to condemn the

[1] "Consistency in Rationalist Moral Systems", Journal of Philosophy LXXXI, No. 6 (June, 1984), pp. 291-309, especially 306.

practice of adoption, even though we surely wish to have children grow up in emotionally healthy, stable and permanent homes. Moreover, these supposed wrongs would not be committed without the participation of adoptive parents. Adoptive parents share some "complicity" in adoption's status as an acceptable social institution. Seeing what the previous wrong might be if the adoptive parents are to have no share in it becomes very difficult.

The case of the adoptive parents, and whether they can avoid blame for their child's pain, introduces us to some of the topics to be discussed. Their case provides a prima facie example of unavoidable blame. They apparently cannot meet all their obligations: not to inflict pain on their child willfully, to bring up someone emotionally complete who is capable of intimacy, and to live up to their commitments expressed by the adoption. I shall be arguing in the next few chapters that cases similar to this one are indeed cases of unavoidable blame.

The question whether there are ever cases in which an agent is unavoidably blameworthy for her actions can be broken into two further questions: 1.) are there ever cases of obligation to do the impossible? and 2.) are there ever cases of genuine moral dilemma? There could only be unavoidable blameworthiness if there were unfulfillable obligations or genuine moral dilemmas or both. Of course, not all genuine moral dilemmas or impossible to fulfill obligations need give rise to some agent's being unavoidably subject to blame. Indeed, if one sets out to defend the possibility of genuine moral dilemmas against the objections of Alan Donagan, an ethical rationalist, one quickly realizes that he objects only to the claim that there are dilemmas which embody unavoidable blameworthiness.[2]

Before giving an account of moral dilemmas and discussing their relation to obligations impossible to fulfill, I shall briefly consider the two key concepts of blameworthiness and avoidability.

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[2] Cf. Donagan, "Consistency in Rationalist Moral Systems", p. 306.

A. Blameworthiness and Avoidability

Arnold Kaufman has argued that the concept of responsibility is theoretically prior to concepts of blameworthiness and praiseworthiness. "Personal responsibility is generally regarded as a necessary condition of the justice of a person's receiving what he deserves."[3] Our particular interest is in the justice of a person's being held blameworthy. So the conditions required for the attribution of responsibility will also be required for the attribution of blame.

Kaufman claims that two conditions are generally accepted although interpreted variously:

> A person is regarded as morally responsible for some act or occurrence x if and only if he is believed (1) to have done x, or to have brought x about; and (2) to have done it or brought it about freely.

This formulation leaves open what is to count as human actions or bringing some outcome about. For example, can one bring something about by an omission? More importantly, the concept of freedom is subject to competing interpretations. Since we are concerned to show the possibility of deserving blame for an unavoidable action, one might suppose that the central task will be to argue for the compatibility of freedom with what is unavoidable. This is a line of argument pursued by Daniel Dennett in Elbow Room: The Varieties of Free Will Worth Wanting.

My view, however, is that the requirement of freedom for the assignment of responsibility begs too many questions. So I am forced to question the philosophically popular view expressed by Kaufman's second condition for responsibility.[4] I do so by arguing against ethical rationalism's view that freedom is required for the assignment of responsibility. The large variety of beliefs about the nature and extent of our freedom creates problems for the ethical rationalist's use of freedom. I shall advocate a pluralist community based ethics as a superior alternative to ethical rationalism. I shall introduce the general features of ethical

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[3] "Responsibility, Moral and Legal", in The Encyclopedia of Philosophy, ed. P. Edwards (New York: Macmillan and The Free Press, 1967), vol. 7, pp. 183-188 especially 183.

[4] See the beginning of chapter II below.

rationalism and pluralist community based ethics below, but first I must keep my promise to consider the concept of avoidability.

Dennett explains the concept of avoidability epistemologically as relying "on the existence of a tacit background of the way things are expected to go."[5] He gives the example of a comet which is expected to hit the earth. In this context we may speak of a second comet preventing the catastrophe by deflecting the other. On the other hand, if we knew that the two comets would collide and move away from the earth, never realizing that without the collision one would hit the earth, we could not speak of a prevention of that event. Similarly, an event which is not expected or judged to be likely to occur, is not an event we will credit ourselves with the ability to avoid.

Dennett's explanation of 'avoidable' can be understood for our purposes in terms of the agent's expecting to become blameworthy by choosing a certain course of action over the alternatives. But we may still ask whether the agent can then avoid those courses of action expected to make her blameworthy. When we ask whether deserving blame is sometimes unavoidable, we want to know if, given the agent's morally acceptable previous choices and her resulting epistemological state, blameworthiness was nevertheless inevitable. Could the agent not have been expected to take practical steps within her area of control to bring about a different result?

Having briefly introduced some of the issues pertaining to the notion of unavoidable blameworthiness I shall now provide an account of moral dilemmas.

B. Moral Dilemmas: Definitions

One might at first think that the world would be better if the demands of morality never required us to choose from among our genuine obligations when we were unable to fulfill all. While it is widely accepted that in the world as it is one must sometimes choose between the lesser of two evils, when the choice is a moral one, some thinkers may dispute the appropriateness of this description of the situation because it suggests, counter-intuitively,

[5] Dennett, Elbow Room: The Varieties of Free Will Worth Wanting (Cambridge, Mass.: MIT, 1984), pp. 125-126.

that evil (albeit "lesser") is sometimes chosen when an agent makes the morally best choice. On the other hand, it may be that moral dilemmas express, and are necessary to, deeper good facts about the world — so that the world would not be better in this deeper sense if moral dilemmas were eliminated. Before these and other questions can be discussed some definitions are in order.

A.) Moral dilemmas are roughly those situations where the usual demands of morality require the moral agent or agents to fulfill each of two or more obligations which cannot both or all be fulfilled. For example, I promise a friend that we will see a certain show before it leaves town. Thinking the show will be around for some time, one morning I promise my wife to take her out for dinner. When my friend tells me that that very evening's show is the last, I realize that I cannot keep both promises.

I mean to include at this point even the merely apparent dilemmas. A dilemma is "merely apparent" if some of the usual demands of morality happen not to apply in the given case, so that for some course of action the usually morally obligating reason to perform it is annulled. These dilemmas may also be called prima facie moral dilemmas because at least one of the conflicting obligations only appears obligatory, and is not, all things considered, obligatory.

B.) Irresolvable moral dilemmas are moral dilemmas where we are unable to determine a single performable course of action with greater support from moral reasons than any other. This may occur in two kinds of case. One is when the moral reasons (i.e. morally obligating reasons and any other moral reasons which might apply) are symmetrical and equally strong, as when a parent is able to rescue only one of her identical twin babies from a fire. Here the dilemma comes from the conflict of the obligations when fulfilling one excludes the other; the irresolvability comes from the equivalence of the obligations. The other kind of case is when the moral reasons are incommensurable, if they ever are, as perhaps when one must decide between saving a life of a family member or winning a just cause for one's larger society, but where no lives are currently at stake.

Irresolvable dilemmas command most of Lemmon's attention in his early paper "Moral Dilemmas".[6] He proceeds by outlining five types of moral situation. In the first, one knows what one ought to do and does it. In the second, one knows what one ought to do, but suffers from weakness of will and so does not do it. The third situation is a simple dilemma where one ought to do some act and ought not to do it. This is also the case in the fourth situation, but with the further feature that the agent does not have enough information to decide which way to resolve the dilemma. So Lemmon's fourth situation can be categorized with those I call irresolvable moral dilemmas. In the fifth type of moral situation, the irresolvability of the dilemma could only be removed by rethinking or significantly advancing moral theory itself.

Perhaps part of Lemmon's point in including his fifth situation is that irresolvable dilemmas may include not only those which result from some unavoidable contingency of the world, but also those which result from some unavoidable ignorance about moral reasons on our part. For example, the choice between the life of a family member and justice for one's society may be seen as forced on one by the limited state of our knowledge of the competing moral principles. Perhaps there was a time when our ancestors were less confident than we about the priority of saving innocent lives over abstaining from deceiving those who would needlessly harm them; similarly our descendents may be more confident about, say, the priority of winning justice over saving a life. On the other hand, one might see the dilemma as resulting from the contingencies of the world in that one happened to command so limited resources when this life happened to come into danger at the same time as the opportunity to win justice.

Lemmon seems to take the question of whether there are in principle no irresolvable dilemmas to be <u>the</u> question about the genuineness of moral dilemmas.[7] But while the question of irresolvability is of interest to moral theory and this thesis, I take the question of the genuineness of moral dilemmas to involve a somewhat different and independent issue.

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[6] E.J. Lemmon, "Moral Dilemmas", <u>Philosophical Review</u> LXXI (1962), pp. 139-158.
[7] Cf. "Moral Dilemmas", p. 154, where Lemmon claims that arguments aiming at establishing one's exact place on the moral landscape are indistinguishable from those which attempt to resolve the dilemma.

C.) Resolvable moral dilemmas are those where we are able to determine which course has the greatest support from moral reasons, for example when one must lie to the Nazis to save a life.

D.) Genuine moral dilemmas are those, resolvable or irresolvable, where no course of action will fulfill the obligations in such a way that no remainder of real moral obligation exists. In other words, in these situations, no matter what one does, at least one moral obligation will remain unfulfilled and indefeasible; one will be morally accountable no matter what. A dilemma which is not genuine is one that is merely apparent.

In the case of resolvable genuine dilemmas one can still lessen one's moral accountability if not completely escape it. Perhaps an example is the case of a lawyer who while defending a client on another charge acquires good evidence that the client has committed some awful murders for which an innocent man has been found guilty and sentenced to death. How does one decide between one's obligations to one's client and profession, and the obligation to save an innocent life from needless execution in such a way that one will not be morally blamable for unfulfilled obligations? If this case seems too obviously resolvable, then it may not seem to provide a strong example of a genuine dilemma. But notice that either side of the example may be strengthened — what if the life facing execution is not so innocent? or what if the moral agent is a priest, a doctor, or a psychologist, rather than a lawyer?

In any case, the question of resolvability is a question about strengths of reasons, but it is not immediately apparent that obvious differences in strengths of reasons would necessarily eliminate every remainder of obligation. The question of remainder could well turn out to be independent of the question of strengths of reasons. Hence resolvability and genuineness can provisionally be considered to be independent issues. Thus we can distinguish four types of moral dilemma:

1) genuine-resolvable; for example, if lying is always wrong, when one must lie to prevent a murder.

2) genuine-irresolvable; for example, if breaking a promise is always wrong, when one must break one promise to keep another equivalent promise.

3) non-genuine-resolvable; for example, when one must ignore one person's broken wrist to save another's life.

4) non-genuine-irresolvable; for example, when one must decide which of two strangers' lives to save while knowing nothing about them and having no particular obligation to save both.

That instances of type 3) moral dilemmas occur is not controversial, but whether there are or are not instances of dilemmas of types 1), 2) or 4) has been disputed. My main interest is in the question of whether dilemmas of types 1) and 2) are in principle impossible. It may seem odd to say that an irresolvable dilemma is merely apparent, as we must say about dilemmas of type 4). Dilemmas which are not genuine are merely apparent. Dilemmas of type 4) are dilemmas, but they are dilemmas of decision, more an epistemological problem than a moral one.

I have attempted to define the terminology so that no important questions are begged. This discussion will be more useful with the provisional terminology and definitions supplied.

C. Moral Dilemmas and Contradiction

We are now able to consider the relationship of the possibility of genuine moral dilemmas to the possibility of unfulfillable obligations. It seems that if one is to allow for genuine dilemmas, one must be willing to give up one of two widely accepted principles: 1.) "'ought' implies 'can'", or 2.) what Bernard Williams has called the agglomeration principle.[8]

The principle that 'ought' implies 'can' appears to rule out the possibility of unfulfillable obligations; ought someone to fulfill an obligation which one cannot fulfill? The agglomeration principle we may understand as the claim that when an agent is obligated to perform each of several actions individually, then he is thereby obligated to perform all of

[8] "Ethical Consistency" in Problems of the Self (Cambridge: Cambridge University Press, 1973).

those actions jointly. But in the case of genuine moral dilemmas, performing all of the actions, each of which is obligatory, is precisely what the agent cannot do. And if 'ought' implies 'can', then if the agent cannot do all, then it is not the case that he ought (or is obligated) to do all, as the agglomeration principle claims, in these cases of genuine moral dilemma. Thus a contradiction seems to result from holding to these three: the agglomeration principle, the principle that 'ought' implies 'can' and the genuineness of moral dilemmas.

Donagan claims that Lemmon apparently first pointed out this relationship between genuine moral dilemmas and "'ought' implies 'can'".[9] But Alan Montefiore is clearly aware of the relationship in his 1958 article "'Ought' and 'Can'".[10] He writes, "even to describe such a conflict of duties, it seems as though we must say that while such a man cannot perform them both, yet both are among his obligations; which seems to suggest that 'He ought to do both A and B' does not necessarily imply 'He can do both A and B'."[11]

The statement 1.) 'It is not the case that one ought to do all in a genuine dilemma' follows from the "'ought' implies 'can'" principle, by modus tollens and the fact that it is not the case that one can do all jointly in a genuine dilemma. The statement 2.) 'It is the case that one ought to do all in a genuine dilemma' follows from the agglomeration principle since in genuine dilemmas one ought to do each. Here 1.) and 2.) contradict one another because taken together they claim that something both is and is not the case. But statements 3.) 'One ought to do p' and 4.) 'One ought not to do p' do not contradict one another unless one also accepts both the "'ought' implies 'can'" principle and the agglomeration principle, because, while taken together 3.) and 4.) do claim that something both ought and ought not to be done, they do not, just by themselves, claim that something both is and is not the case.

Having provisionally characterized genuine moral dilemmas, I shall now consider why might it matter to moral philosophy whether they are in principle impossible or not. I shall list four possible answers and then discuss them in more detail later. First, a number of

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[9] Cf. Lemmon, "Moral Dilemmas" p. 150. And Donagan, "Consistency in Rationalist Moral Systems", p. 300.
[10] A. Montefiore, "'Ought' and 'Can'", Philosophical Quarterly, 8, No. 30, p. 26.
[11] Lemmon himself gave credit for the ideas to a discussion he had with professor M. Lazerowitz, so I have not taken anything away from Lemmon.

important moral theories have maintained that genuine dilemmas do not exist, or have claimed to show that they cannot exist. Furthermore, some regard these results as supportive evidence for these theories. Second, the logical structure of moral judgements, or deontic logic, will be affected by the view we take about moral dilemmas. What modifications to deontic logic must be made to avoid the contradiction which results from also holding the agglomeration principle, together with the principle that 'ought' implies 'can'? Third, since psychological facts such as feelings of guilt or regret are often introduced as support for holding that genuine moral dilemmas are possible, some discussion has arisen over the relationship of such psychological facts to the possibility that a remainder of real obligations survives the fulfillment of other obligations in situations of genuine dilemma. A position on the possibility of genuine moral dilemmas might clarify the role of such psychological facts in moral judgement. Fourth, the role of freedom and voluntariness in one's moral theory will depend on one's position on the possibility of various types of dilemma. Some discussion of how competing obligations can come about would seem in order. In particular, the suggestion that competing obligations only arise, at least in significant cases, due to some past or present voluntary morally deficient choice made by the agent involved must be investigated.

D. Moral Theories Critical of Moral Dilemmas

Discussion of certain moral theories in connection with genuine dilemmas has become usual. We will turn now to consider which moral theories are usually thought to eliminate, or not to allow for, genuine moral dilemmas.

Some moral theories have claimed that genuine moral dilemmas cannot exist or should not be allowed within the moral system. If genuine moral dilemmas are possible and do describe some of our moral situations, then they will serve to undermine and so to threaten these theories as traditionally conceived. Where the threat to the moral theory is strong, arguments for genuine moral dilemmas become arguments against the theory in question. On the other hand, in these cases independent arguments in favour of the moral theory will count against the possibility of genuine dilemmas, depending on the strength of the theory's case

against genuine dilemmas as well as the centrality of this case to the theory.

Examples of traditional moral theories thought to be adverse to the possibility of genuine moral dilemmas are those of St. Thomas Aquinas, Kant, Ross, and some versions of utilitarianism. A more recent important theory also thought to reject the possibility of genuine dilemmas is that of Rawls. These theories may be grouped according to the following types: rationalist, neointuitionist, utilitarian, and contractarian.

Rationalism

Rationalists, for example Aquinas and Kant, have tended to argue against genuine dilemmas that if we construct our moral theory according to the dictates of (moral) reason, genuine dilemmas will not be allowed, except in cases where the agent earlier failed to live up to the moral requirements of the system (cf. Donagan). I shall be directing my arguments for the genuineness of moral dilemmas against the objections raised by rationalists because they are particularly challenging.

We should pause, therefore, to consider more closely the characteristics of ethical rationalism. Donagan holds that rationalist theories have five main formal characteristics:

> (1) they rest on a few fundamental principles, sometimes one, which are advanced as true without exception; (2) each of those principles lays down some condition upon all human action as being required by practical reason; (3) those principles do not constitute a set of axioms, from which all the remaining moral principles of the theory can be deduced; but, rather, (4) the remaining moral precepts are deduced from the fundamental principles by way of additional premises specifying further the conditions those principles lay down as required of all human action; and (5) both principles and additional premises are adopted on the basis of informal dialectical reasoning.[12]

Donagan goes on to suggest on the same page that more important than these formal characteristics is a nonformal characteristic.

> When, as sometimes happens, a particular rationalist theory turns out to have implications that fall foul of dialectical considerations at least as strong as those on which it rests, either its principles or its additional premises must be revised. The fundamental methodological idea of rationalism is the nonformal idea that no revision of a premise may be ad hoc, merely intended to obviate an obnoxious implication; each must also turn out either to accord better with the dialectical

[12] "Consistency in Rationalist Moral Systems", p. 293.

> considerations on the basis of which the unrevised premise was accepted, or to follow from a line of dialectical reasoning that is intrinsically superior.

Another nonformal characteristic is surely the "conception of morality as a law common to all rational creatures by virtue of their rationality".[13] Donagan spells this out further — although in a different connection — in a paragraph that deals with "the essence of rationalism". He claims that "no . . . requirement can be a moral requirement unless an adult of sound mind and normal education in a morally decent society, if he wishes to learn, can be brought to see its necessity for himself."[14] These features make up a rather strict or narrow ethical rationalism.

Descriptions of various types of ethical rationalism are provided by Alan Gewirth.[15] We might describe these various types of rationalism as placed on a continuum. At one extreme perhaps all questions with which moral theory has to do would be answered by appeals to general theory, the first principle, and the a priori considerations of consistency and necessity. We will call a rationalist theory stricter as it approaches this extreme. At the other end, considerations of experience, particular truths, are given a greater role. Mill referred in Utilitarianism to this difference concerning the importance of the roles of general theory and experience:

> the detailed doctrines of a science are not usually deduced from, nor depend for their evidence upon, what are called its first principles. . . . But though in science the particular truths precede the general theory, the contrary might be expected to be the case with a practical art, such as morals or legislation. . . . A test of right and wrong must be the means, one would think, of ascertaining what is right or wrong, and not a consequence of having already ascertained it.[16]

Of course if a theory appealed to no considerations of theory it would not be rationalist at all, so our continuum does not extend to this further extreme. The limiting case

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[13] Cf. Donagan, The Theory of Morality (Chicago: University of Chicago, 1977), p. 6.

[14] "Consistency in Rationalist Moral Systems", p. 299. Cf. Kai Nielsen, "Against Ethical Rationalism", in Gewirth's Ethical Rationalism: Critical Essays with a Reply by Alan Gewirth, ed. Edward Regis Jr., (Chicago: University of Chicago, 1984), pp. 59-83, especially 62-63.

[15] "The Future of Ethics: The Moral Powers of Reason", Noûs XV, No. 1 (March, 1981), pp. 15-30.

[16] John Stuart Mill, Utilitarianism (Indianapolis: Hackett, 1979), ed. G. Sher, pp. 1-2.

for Gewirth seems to be the good-reasons approach of Stephen Toulmin and Kurt Baier. In ascending order of strictness Gewirth gives other examples of ethical rationalists: Richard Brandt, R.M. Hare, and himself.

Donagan's position is not so strict as Gewirth's. Donagan writes, "however desirable, a priori demonstrations such as those attempted by Gewirth . . . are not necessary to establishing the truth of the traditional system of morality."[17] The exact place of Donagan's rationalism on this continuum is not clear, since Gewirth does not discuss Donagan's rationalism and Donagan does not compare his rationalism to Brandt's or Hare's.

The varieties of ethical rationalism of interest to this study are those which reject the possibility of unavoidable blameworthiness.[18] If we consider the nonformal features of rationalism given above that moral requirements be acknowledgeable as reasonable by any rational being, then being blamed for requirements which through no fault of one's own one cannot fulfill seems prima facie unreasonable. At least if one adopts simply the viewpoint of an agent trying to decide what it is reasonable to be blamed for in her own case, then where the action is not possible accountability seems unreasonable.[19]

From the wider perspective of what is reasonable for the well-being of a group, one may come to different conclusions. Consider the typical case of a school teacher who must punish the entire class in order to discover who committed some prank. There may well be students in the class who not only were not involved in the prank, but who like the teacher do not know who was. These students are not even guilty of hiding information from the teacher, yet they are often held accountable along with everyone else. This is unavoidable accountability.

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[17] The Theory of Morality, p. 238.

[18] Cf. Donagan, The Theory of Morality, p. 121; cf. Gewirth, p. 24, "it is indeed part of the concept of a moral precept or code that the persons addressed by it are assumed to be able to control their behavior by their unforced choice with a view to achieving what the precept enjoins."

[19] This partially captures Donagan's reasoning about autonomous agents judging and rejecting moral systems as though they were equals with moral authorities. Cf. "Consistency in Rationalist Moral Systems", pp. 299-300.

Someone might object that the innocent students are only treated as if they were blameworthy; they are not really held to be deserving of blame. Even so, this treatment of these students must be morally justifiable. Treating the innocent exactly the same as the guilty is either justified or it is not. If this treatment is justified, then the "innocent" students are justifiably blamed! If this treatment is not justified, then treating one as if one were blameworthy when one is not is just as unjustified as being held blameworthy when one is not.

The reasonableness of the teacher's actions can be acknowledged by rational agents so long as they do not take the narrower standpoint of the individual innocent student. Even the innocent student, if she is willing to learn, can be brought to see the reasonableness of the punishment, so long as she looks to the well-being of the larger group and to the general effectiveness of the punishment.

Of course the standard of reasonableness in this example is not that of a strict rationalism. The reasoning, in offering pragmatic considerations, is appealing to particular truths gained from experience. Still, the common elements of rationalism should provide the basis for continuing discussions between rationalists who are more and less strict.

Neointuitionism

Let us return now to other moral theories' objections to moral dilemmas. Neointuitionists have argued that moral dilemmas always involve prima facie obligations, but once everything is considered one's true obligation should be clear and completely fulfillable in every situation (cf. W.D. Ross, The Right and the Good).

Utilitarianism

Some utilitarian theories that at bottom come down to some single principle seem likely to determine in every instance the one action which ought to be done. For example, if one is obligated only to maximize pleasure, then one need only determine which of the competing possible courses of action does this. If no single course of action maximizes

pleasure over the others, then by this principle there is no obligation to do each and every, but only to do any one maximizing action. One might even provide a utilitarian justification for forming the principle so as to have this result on the grounds that the world will contain more pleasure if there are no genuine dilemmas.

On the other hand, it might turn out that a utilitarian would be justified in holding that a world containing some forced choices between the demands of morality is most likely in the long run to maximize pleasure, and that hence, when all utilities are weighed, the world would be better off with moral dilemmas than without them.

Contractarianism

The contractarian device for avoiding moral dilemmas is the requirement that the agreed on obligations should also be assigned an agreed on lexical order such that observance of those obligations later in the order is required only if one can observe the earlier.[20] This may not be enough to exclude dilemmas arising under a single precept, as in the case where one cannot keep all one's promises. Perhaps contractarians could argue that in cases where only one precept generates the conflict, one is really only obligated to fulfill its requirements once. Richards seems rather optimistic about the possibilities for completeness and consistency in preference orderings.[21] He does admit, however, that he has not come close to the "completeness" which would order all the requirements of morality "in terms of preference and indifference relations" "which would hold in all times and all places".

Two distinct questions are of interest in relation to these various moral theories. First, are the devices, such as lexical ordering, used to deal with situations of moral dilemma successful in establishing the impossibility of genuine dilemmas? Second, would the ability to exclude moral dilemmas really be evidence favouring the theory? Sometimes this second question is answered by appeals to some moral reality, sometimes by appeals to the logical

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[20] Cf. J. Rawls, A Theory of Justice (Cambridge, Mass.: Belknap Press, 1971), pp. 42-43.

[21] Cf. D.A.J. Richards, A Theory of Reasons for Action (Oxford: Clarendon Press, 1971), pp. 30-31 and 212-213.

structure of moral discourse. We have already introduced moral dilemmas' relation to logical structure, so we shall now go on to consider some issues involving their relationship to moral reality, before returning to the question of logical relationships.

E. Moral Dilemmas and Moral Realism

The issue of the relation between the possibility of genuine moral dilemmas and moral realism or cognitivism is complex.[22] For our purposes we may understand moral realism as claiming that moral judgements are true (or false) because they do (or do not) correspond to some real moral universe. This moral universe must be independent in some ways of the beliefs, emotions, attitudes, volitions, etcetera of moral agents. This independence is to be such that no agent or small group could arbitrarily control the truth values of moral judgements by manipulating the wills and emotions of anyone to whom the judgements apply.

In his articles "Ethical Consistency" and "Consistency and Realism" Williams argues that moral realism cannot allow for genuine moral dilemmas. On the other hand, some have argued that it is the anti-realist theories which are unable to accommodate genuine moral dilemmas. For example, Guttenplan argues that anti-realists have greater difficulties to solve than realists do in accounting for genuine dilemmas.[23] Sinnott-Armstrong has rejected these arguments, maintaining that both realists and anti-realists can accommodate genuine dilemmas.[24]

Sometimes this question is expressed in terms of incommensurable values, in part because incommensurable values, as noted earlier, could prove to be a source of some irresolvable dilemmas. One might compare the methods by which anti-realists and realists could attempt to demonstrate an incommensurability of values. Does the ability to

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[22] We need not here distinguish between realism and cognitivism in ethics. Philippa Foot suggests that if there is a distinction to be made, then its basis would be that realism but not cognitivism holds that judgements have their truth values irrespective of our abilities to discover these values. Cf. her "Moral Realism and Moral Dilemma", Journal of Philosophy LXXX, No. 7 (July 1983), pp. 397-398.
[23] S. Guttenplan, "Moral Realism and Moral Dilemmas", Proceedings of the Aristotelian Society LXXX.
[24] "Moral Dilemmas", Dissertation, (1982), Yale University.

demonstrate that values can be incommensurable count for, or against, a theory?

There may of course be cases of theories which are marginally realist. For example, in a utilitarianism that requires maximal satisfaction of desires, whether "Cabbage-Patch" dolls ought to be purchased could in part be controlled by mass marketing undertaken by a few moral agents. But this theory remains realist to the extent that, according to it, no manipulation of desires could ever influence the truth value of the judgement that satisfaction of desires ought to be maximized.

For the purpose of introduction our rough characterization will do, even if it does not indicate in every case whether a system is realist or not. A clear example of a moral realist theory would be Plato's vision of an eternal immutable Form of Goodness determining right and wrong. Stricter rationalisms are also realist theories at least in the sense that moral judgements are held to be objective (i.e. their truth is in important ways independent of the emotions, attitudes, or desires of moral agents), if not in the sense of positing an independent ontological reality (for example, Platonic Forms) to serve as the foundation. The reality which serves as foundation for Gewirth is the nature of human actions and for Donagan it is the nature of moral agents.

Gewirth criticizes Brandt's version of rationalism, which is less strict, for lacking "categorical obligatoriness" and "supreme authoritativeness" and then concludes: "Moral obligation must operate to control . . . predilections rather than being controlled by them. This is why the moral power of [this type of] rationalism is very deficient."[25] But surely this does not show that other varieties of less strict rationalism might not do better. Moreover, moral requirements might control rather than be controlled by predilections (i.e. might be normatively inescapable) without claiming constant categorical obligatoriness or supreme authoritativeness in Gewirth's sense. Also note that I shall be arguing that beliefs have a large role to play even in a very strict rationalism and that although this role is like that of mass marketing vis-a-vis utilitarianism and so does not entirely undermine its realism, it does severely curtail it.

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[25] Cf. Gewirth, pp. 27-28.

Anti-realism denies that any correspondence to a moral reality is needed to explain our use of concepts of truth and falsity or well-foundedness in connection with moral judgements. Emotivism, subjectivism and prescriptivism are examples of anti-realist theories of morality. Some versions of relativism would also be anti-realist. A simple cultural relativism which holds that ethical truths might be discovered by merely taking a poll of the community standards would certainly appear to lack the appropriate independence from agents' beliefs, feelings and inclinations. Yet, a more complex version might hold that the truth value of the claim that cultural standards must be 1.) followed in the case of one's own culture and 2.) respected in the case of other cultures, is not itself to be determined by one's culture. Here the basic principle of the theory is regarded as realist. Such a view parallels utilitarianism on the question of the justification of the basic principle.

Suppose that the basic principle is not realist. We can imagine a utilitarian who wishes to maximize the satisfaction of desires living in a world where, due to the influence of religion, everyone else desired that utilitarianism be neither promoted, nor accepted as true, nor even serve to motivate good actions. Suppose the utilitarian tries to follow the basic utilitarian principle; it requires that he try to satisfy these desires which in this case he can only satisfy by not following the basic principle. We come up against the inconsistency that in order to follow the basic principle he must not follow it. In the case of relativism this possibility is often seen as a sign of inconsistency;[26] the theory sets up an independent authority which the theory itself rejects should that authority require the theory be given up.

Even so, the more complex version of relativism might be able to justify disregarding wide-spread anti-relativist attitudes towards its basic principle. Anti-relativist attitudes towards a precept or principle may be seen as a mark of how strongly the precept or principle is held. A community which holds that human sacrifices are wrong even if they take place in a culture where no one believes this holds this precept more strongly than say a precept about the wrongness of sexual intercourse before a marriage ceremony, which they accept is wrong only in certain cultures.

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[26] Cf. for example, B. Williams, Morality: An Introduction to Ethics (New York: Harper and Row, 1972), especially p. 21.

Now since an intolerance of other ways of doing things is the mark of strongly held precepts, the main problems for someone who wished thus to base morality pluralistically in community standards will arise when two cultures have strongly held opposing precepts. For in such a case, the main principle of the more complex version of relativism, requiring that cultural standards be respected, apparently cannot be followed, in that accepting one standard means condemning the other and not condemning the other means rejecting the first. Consider for example the possibility of one society regarding abortion, like murder, as universally wrong and another society regarding the woman's right over her body, even to the point of choosing abortions, to be absolutely and universally inviolable. In such a case, allowing an abortion does not respect the first society's strongly held precept and prohibiting an abortion does not respect the second's.

These cases might, however, be accounted for as genuine moral dilemmas, since not all the competing obligations can be met. For the obligation to respect the one society's prohibition against abortion conflicts with the obligation to respect the other's prohibition against interfering with the woman's right to choose. Moreover, if there exists a community in which acceptance of genuine dilemmas is strongly held to be morally perverse, this is merely the occasion for a further genuine dilemma for the pluralist according to his own view. In choosing to keep the basic principle he fails to respect the view that accepting moral dilemmas is perverse.

We might now modify the basic principle of the more complex version of relativism considered earlier so as to allow for genuine dilemmas. I shall distinguish between a requirement being overriding on the one hand, and its not being overridable on the other. Obviously, the objectivity of realism requires that precepts are not overridable by the emotions, hopes, etcetera of those to whom they apply. But I maintain that objectivity does not mean that some one moral principle or precept must override all others, i.e. even all other moral principles and precepts. Recall the basic principle of the complex relativism that cultural standards must be 1.) followed in the case of one's own culture and 2.) respected in the case of other cultures. Our pluralist communitarian basic principle is provisionally as

follows: strongly held cultural standards are not overridable by either nonmoral requirements such as prudential and aesthetic requirements, or by cultural standards not strongly held. The important point here is that following the basic principle here could never overridingly require, inconsistently, that the basic principle not be followed.

Given the parallel between relativism and utilitarianism on the question of the consistency of the basic principle in the case of large groups who reject it, utilitarians might do well also to consider allowing genuine moral dilemmas in such cases.

To return to questions of realism and anti-realism, I should note that even a relativist who is not a realist about the ultimate principle (perhaps she has the belief that her own culture just happens not to reject the relativist principle) might appeal to the idea of genuine moral dilemmas to explain obligations in cases of cultural disagreement. I should also like to point out that a pluralistic community based ethic need not be so anti-realist as even the relativist who is only realist about the basic relativist principle.

F. Moral Realism and Community Based Ethics

Because rationalist views have often been criticized by proponents of community based ethics (for example, Hegel, Oakeshott, Hampshire and Bambrough[27]), it will be useful to consider how community based ethics can maintain realist elements needed to stand up to counter-criticism. Also, as we have seen, a pluralist communitarian ethic may be open to the possibility of genuine dilemma, or even depend upon this possibility, but many thinkers would only accept a moral theory if it could provide for the seeming realist features of morality.

First, then, holding that a standard or precept must be followed is different from desiring the results of its being followed. Of course, to hold that a precept must be followed

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[27] Cf. "A Note of Comparison with Hegel" below; M. Oakeshott, Rationalism in Politics and Other Essays (London: Methuen, 1962); S. Hampshire, "Morality and Pessimism" in Public and Private Morality, Ed. S. Hampshire (Cambridge: Cambridge University Press, 1978); R. Bambrough, "The Roots of Moral Reason" in Gewirth's Ethical Rationalism: Critical Essays with a Reply by Alan Gewirth, Ed. E. Regis Jr. (Chicago: University of Chicago Press, 1984). See also Neil Cooper, "Two Concepts of Morality" in The Definition of Morality, Eds. G. Wallace and A.D.M. Walker (London: Methuen, 1970).

one must have some desire that it be followed, but this desire may be merely for the following of the rule itself. So I take it that in community based ethics standards may be held by a society with a fair degree of independence from the desires, hopes, wishes, and certain emotions of the members.

Still, appropriate independence from the beliefs and attitudes of the society's members will be lacking on the account given so far. An important measure of independence, however, can be gained even amongst general community beliefs and standards. Recall the strongly held precepts introduced just above. These precepts' dependence on the community's having certain beliefs and attitudes might be limited to their initial development. Thus, a certain community's holding, for example, that human sacrifice is wrong regardless of the beliefs and attitudes of any community acts as a threshold. Once the threshold is crossed, then the life of the precept acquires an independence of community beliefs and attitudes.

Two objections to this claim of independence must be noted. First, people who hold that human sacrifice is wrong regardless of cultural beliefs do not typically accept that it was acceptable before the first community held it to be wrong in this way. If human sacrifice is wrong regardless of the cultural context, then it was always wrong.

The best response to this objection is simply to grant that to hold a precept strongly means to be intolerant of other ways of life regardless of temporal location. Thus the independent life given to a precept held to be nonrelative is not limited to one temporal direction.

Another objection is that not all precepts passing this threshold seem to acquire the desired independence. The European Christian community arguably has held in the past that unbelief is nonrelatively morally impermissible. Their intolerance can be seen not only in their missionary zeal but also in the crusades and inquisitions. But surely, as western societies have developed, this once strongly held precept has faded, and the community based ethicist will not want to be stuck with claiming it is a binding precept anymore. Clearly, if an ethic is to remain community based and yet allow that some precepts cross the threshold to become realist, then it must also make some provision for the possible mistakes of cultural groups.

Standards currently held by communities not to be relative may be regarded as less likely to be mistaken on the ground that these societies have survived and presumably learned from a history that included a variety of different standards some of which were mistaken. Obviously, any contemporary cultures which have severed too many ties with past cultures rather suddenly will be unable to make this claim. Thus, the standards of the culture of Nazism may properly be considered by the communitarian to have made at best a rather weak claim on moral agents.

We might also give greater weight to those precepts held intolerantly by a greater number of communities. Because of some basic common needs and vulnerabilities, the ways of life which make up various communities understandably have some common elements. There is, for example, nearly universal agreement about certain kinds of killing, certain kinds of sexual behaviour, unauthorized takings of property, and certain kinds of disloyalty or cowardice.[28]

Stuart Hampshire offers a similar community based view in "Morality and Pessimism". He argues that absolute standards (i.e. those which override personal interests and cultural contexts, including the requirements of politeness, aesthetics, and lesser moral precepts) have to be recognized as human inventions, and yet these are not invented from nothing, but rather are developed from the elements which embody a particular way of life.[29] Hampshire is particularly concerned that if traditional absolute barriers are crossed for the sake of rational calculation, rather than with new absolute barriers being implied, then all restraints (i.e. morality itself) are threatened.[30] Indeed this appears to be part of his argument for holding certain human invented standards as absolute; the elimination of these barriers undoes the cultural glue, the way of life which provides the setting, the habits, rituals, observances, and manners, which govern ordinary relations with people, and from which starting point alone one can conceive of an admirable or respectworthy way of life.

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[28] Cf. Stuart Hampshire, "Morality and Pessimism" in Public and Private Morality, p. 9.
[29] Cf. "Morality and Pessimism", p. 19.
[30] Cf. "Morality and Pessimism", p. 9.

Hampshire shares with the sketch above the ideas that traditions are to be respected and that, to maintain the connections to the past, social change must not be too rapid.[31] But unlike my account his is not optimistic about progress in morality. Past ways of life are not to be given less weight on the assumption that we have progressed beyond them on his view. Since he is particularly worried about past moral injunctions being treated as mere superstition by utilitarians, perhaps we may consider his opposition to the idea of moral progress to be inapplicable to our gentler use of it. I suspect, however, that in order for a community based ethics to gain significant realism the disagreement with Hampshire will run deeper.

We will likely need to give reason a greater role than Hampshire would like in order to deal with two remaining problems. One problem is the possibility of world wide cultural regress and the second is that some individuals seem to go beyond their community in recognizing which precepts are mistaken and which should come to be recognized. On the account sketched so far, if there was universal cultural regress, then the community based ethic could still claim, say, that human sacrifice is wrong, for I have not claimed that lack of general acceptance among cultures, or a fading of acceptance among cultures, guarantees a mistaken precept. Still we might reasonably want more explicit guidance as to which precepts we can count on as absolutes. Also should not the community based ethic be able to recognize the possibility that a prophet or genius could be wrongly rejected by most cultures because of habits of prejudice? Again it is not as though the community based ethic cannot discover some absolute precepts, rather the question is whether it can discover with accuracy all the right ones.

Fortunately greater realist underpinning is available for someone wishing to find a basis for moral precepts in community standards. In insisting that cultural standards are a legitimate source of obligations which cannot be overridden one need not deny that some other source of obligations which cannot be overridden, namely reason, is also legitimate. The cases where the two sources give conflicting precepts are explained by the existence of genuine moral dilemmas. Thus, a community based ethic may allow morality to consist of two levels:

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[31] Cf. "Morality and Pessimism", p. 12.

the level at which we all begin through being raised to be participants in a culture, and a level which can be reached by reason.

A parallel exists between these two levels and Hare's "two levels of moral thinking" and Neil Cooper's "Two Concepts of Morality".[32] Hare calls one level the intuitive and the other the critical level. He associates the intuitive level with the principles one acquires from a good upbringing.[33] I simply restrict this level to intuitions determined by one's culture while Hare seems to include uniquely personal intuitions as well. The critical level Hare associates with the use of reason. Cooper, instead of the intuitive versus the critical level, speaks of social morality versus individual morality, but includes in individual morality precepts determined by immediate intuition as well as those given by reason.

Apparently I am taking one level from Hare, the level of reason, and the other level from Cooper, the social level. The disagreement about the remaining levels comes down to where uniquely personal immediate intuitions fit in. Hare lumps these together with those provided by one's culture, calling this the intuitive level, while Cooper groups them with those an autonomous individual could discover by reason, calling this the individual level. Now even though an intuitionist might claim that these personal intuitions unsupported by either reason or culture are self supporting or self evident, I worry that they might be simply unsupported or subjective. I shall simply leave them out of my two levels, foregoing completeness about possible sources of moral precepts, and I shall try not to appeal to mere personal intuitions to support moral precepts.

Given this parallel, I must caution that I disagree with Hare about these levels in two important ways. First, while Hare avoids the mistake of completely discounting the intuitive level,[34] he does give a certain priority to the critical level.[35] Our other disagreement lies in his finding genuine dilemmas impossible at the critical level; they only exist at the intuitive

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[32] Cf. Hare's "Moral Conflicts" and "The Archangel and the Prole" in Moral Thinking: Its Levels, Method, and Point (Oxford: Clarendon, 1981).
[33] Cf. Moral Thinking, pp. 30-32.
[34] Cf. for example, Moral Thinking, pp. 27, 29-31.
[35] Cf. Moral Thinking, pp. 26, 32 and 45-47.

level.[36] I shall be arguing that genuine moral dilemmas exist at Hare's critical level as well as arguing that ethical rationalism fails to eliminate all genuine dilemmas.

The combining of a rationalist level and a community based level within a single ethical system would seem to allow for a realism which is both rich and sensitive. Rationalism by itself may be criticized from a community based view of insensitivity toward ways of life foreign to the rationalist traditions.[37] Yet a community based ethic by itself might be criticized from a rationalist point of view for lacking a richness in the type of precepts which can be overriding in the ways appropriate to realism. But perhaps the more realism incorporated into a community based ethic, the less room for genuine dilemmas.

Let us return now to consider further a problem already introduced — the question of genuine dilemmas together with the agglomeration principle and the principle that 'ought' implies 'can' yielding a contradiction. We return to investigate the relation of the possibility of genuine moral dilemmas to the logical structure of moral discourse as promised earlier when I listed four reasons why genuine dilemmas might matter to moral philosophy. We have discussed the question of moral theories rejecting genuine dilemmas, and this discussion has led to a discussion of moral realism, sometimes seen as ruling out genuine dilemmas. We then discussed a moral theory which appears to allow genuine dilemmas, but which appeared to not be very realist: a pluralist community based ethic. The issue we now turn to is the possible need to change the structure of moral discourse to make room for genuine dilemmas; the structure of moral discourse should not allow contradictions.

G. The Agglomeration Principle and "'Ought' Implies 'Can'"

Some philosophers favouring the genuineness of moral dilemmas have been willing to abandon the agglomeration principle; for instance, Williams, van Fraassen, and Barcan Marcus adopt this alternative.[38] Others, for example Lemmon, Trigg, and Nagel, have been

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[36] Cf. Moral Thinking, pp. 26 and 53.
[37] As N. Cooper points out, among the communities and traditions of a social morality, rationalists must also be counted. Cf. p. 90.
[38] B. Williams, "Ethical Consistency", reprinted in Problems of the Self (Cambridge:

willing to reject the principle that 'ought' implies 'can'.[39] Sinnott-Armstrong has questioned the meaning of "implies" in the principle that 'ought' implies 'can'. He suggests that the sense in which "'ought' implies 'can'" is required as a moral principle is less rigorous than the sense it was usually thought to have when used in deontic logic. We might also question the meaning of the term "can" in this discussion. Perhaps supporters of genuine dilemmas need only abandon the principle that 'ought' implies 'can' for very restricted senses of "implies" and "can".

If we took "can", for example, to just mean "not logically impossible", then, since it is not logically impossible that I now grow a third leg, I "can" do so in this limited sense. And hence the "'ought' implies 'can'" principle would not rule out of order obligations to grow third legs even though we commonly think such a task beyond our abilities. If we find such examples strange, this is perhaps because we see no point in growing third legs, but if we consider cases where there might be an inclination to say that we ought to have a certain ability, as with lifeguards and surgeons, perhaps some of this strangeness dissolves.

The issue of whether the principle that "'ought' implies 'can'" is to be accepted or not is particularly important for any discussion of ethical rationalism and moral dilemmas. Stricter ethical rationalists for the most part accept the principle. Their motivation for doing so is the same as their motivation for rejecting moral dilemmas. They object to holding agents blameworthy for anything beyond their control.

The concern here is not simply to establish a logical structure which allows genuine dilemmas without creating contradictions. Nor is it merely to provide some favoured structure with a semantics which is logically unobjectionable and open to genuine dilemmas. Rather it is

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[38](cont'd) Cambridge University Press, 1973), pp. 181ff.; B. van Fraassen, "Values and the Heart's Command", Journal of Philosophy LXX, No. 1 (January 1973), pp. 12-13 & 15; R. Barcan Marcus, "Moral Dilemmas and Consistency", Journal of Philosophy LXXVII, No. 3 (March 1980), p. 134; See also P. Foot, "Moral Realism and Moral Dilemma", p. 383 where she appears to follow Williams.

[39] E.J. Lemmon, "Moral Dilemmas", Philosophical Review LXXI, No. 2 (April 1962), p. 150; R. Trigg, "Moral Conflict", Mind LXXX, No. 317 (January 1971), p. 46; T. Nagel, "War and Massacre", reprinted in War and Moral Responsibility (Princeton: Princeton University Press, 1974), p. 24, and in his Mortal Questions (Cambridge: Cambridge University Press, 1979), p. 74.

to ensure that the structures and semantics developed reflect accurately our reasoned moral judgements and many of our community's strongly held standards in a variety of cases, including but not restricted to cases of moral dilemma. The structures and semantics must be seen as warranted from the point of view of morality. Logical considerations may clarify the problems involved, but we should like ethical considerations to decide the solutions to be adopted wherever possible.

If we are able to sort out considerations of the logical structure and semantics of morality in a morally attractive manner, we should be in a position to see whether or not they can accommodate genuine moral dilemmas. If they cannot be accommodated, then we have a straightforward sense in which they are impossible; if they can be accommodated, then they are possible.

H. Moral Dilemmas and Emotions

Another reason listed above as to why genuine dilemmas matter to moral philosophy was that the role of emotions in moral judgements may depend on an acceptance or rejection of these binds. At issue is the relation between the genuineness of moral dilemmas and an agent's feelings of guilt and regret. Having made a choice in a dilemma, an agent will often experience such feelings. These feelings play a role in Williams' argument about the similarity of the remainder in cases where not all conflicting desires can be realized to that in cases of conflicting moral obligations. Clearly the question of a remainder is an important one for the issue of the genuineness of moral dilemmas. Some have objected that the fact that dilemmas may result in a remainder of such feelings as guilt and regret is insufficient to establish the existence of a remainder of genuine moral obligation.[40]

If those favouring the genuineness of moral dilemmas can point to no more than a remainder of feelings and emotions, then they will need at least some further argument demonstrating that these feelings embody a residue of obligations. If the arguments for a remainder of moral obligation can be strengthened in the face of these recent objections that

[40] Cf. e.g. P. Foot, "Moral Realism and Moral Dilemma", pp. 381-382 & 387-389.

the remainders are merely emotion, then perhaps we could establish the possibility of genuine moral dilemmas. Even so, if the arguments need to be strengthened anyway, and exactly on the point of showing that feelings of guilt reveal real obligations, then arguing directly for the blameworthiness of agents in dilemmas should prove a better strategy for establishing the genuineness of moral dilemmas. Thus I shall be directing my discussion more towards blameworthiness than towards the feelings of regret and guilt experienced by agents in dilemmas.

I. Moral Dilemmas and Voluntary Wrongdoing

The final reason given above for genuine dilemmas mattering to moral philosophy was that the place of freedom and voluntariness in moral systems turns on their possibility. We may begin by asking how competing obligations can come about. The ethical rationalism I am opposed to is willing to admit that one can culpably create conflicting obligations. For example, one might knowingly promise to be in two places some distance from each other at the same time, or one might accumulate more indebtedness to several lenders than one could reasonably expect to pay off. But, it is argued that nothing follows from cases of this sort which could support, in general, the view that genuine dilemmas are possible. The argument goes on to suggest that when one knowingly or carelessly, i.e. voluntarily, gets oneself into moral conflict, one's deserved blame lies not in failing to fulfill each of the acquired obligations but in the indifference or carelessness of acquiring them at all.[41]

This rationalist move can be used either 1.) to suggest that these voluntarily assumed dilemmas are not genuine, perhaps on the grounds that obligations cannot be immorally assumed — the idea being that when, say, you promise an individual that you will murder him you have made a morally reprehensible threat but you have not incurred a moral obligation —

[41] Cf. P. Foot, "Moral Realism and Moral Dilemma", p. 388, where she seems to suggest that these are special cases that are not central; but see also A. Donagan, "Consistency in Rationalist Moral Systems", Journal of Philosophy LXXXI, No. 6 (June 1984), pp. 304-306, where he suggests that, at least for rationalist systems, if one can deal with these cases, then examples of genuine conflict become very hard to find.

or 2.) to suggest that these voluntarily assumed dilemmas if genuine are insignificant in that morality is not at fault or inconsistent if it is no longer completely obeyable once disobeyed — once disobeyed the moral system's consistency is no longer in question.

Some objections to these rationalist alternatives may be suggested. First, it would not really be careless or indifferent to assume obligations if one had reason to think they would not conflict but which turned out to conflict nevertheless. Donagan, however, suggests that in the case of promising promisees generally accept promises with the understood condition that should things nevertheless turn out that the promiser either cannot or may not keep a promise he is released from it. Secondly, not all obligations are incurred by voluntary conscious decisions, and some that are may be long term commitments with attending obligations that were not themselves directly undertaken voluntarily; moreover one may find the making of such long term commitments to be of considerable moral value. This is to say that not all obligations assumed are like the promises described by Donagan. In particular, obligations embedded in social roles are not.

When one undertakes to fill the role of father for a child what could correspond to the "understood condition" for release from promises? So when the contingencies of the world have left one a single parent, and when one's role as breadwinner takes one from home on significant occasions (for example, a tenth birthday), how is it that one is to be considered released from the obligations attendant on one role or the other? Sometimes one's employment may include some "understood conditions" for release from certain obligations. But this is not always the case, and when it is, "significant" family events do not always constitute releasing conditions. For instance, a political office might require one to attend a meeting that cannot be rescheduled, and we should not like to require that single parents be excluded from holding political office.

I will not claim to be able to finally resolve these questions about conflicts arising due to roles here and now. I merely suggest that they provide intriguing questions to deal with; they certainly deserve some consideration. Not only are there grey areas where it is not clear how the voluntariness of the assumption of the conflicting obligations will eliminate all

problems of genuine dilemmas, there are also questions about agents deliberately creating genuine dilemmas for others. Once it is allowed that deliberate man-made dilemmas can be genuine, some mechanism will be required to explain what it is that ensures that no agent can by doing evil place another in genuine dilemma, as when the evil agent demands "shoot one of your kids, or I shoot both".

J. Accountability and Challenge

Finally, a few words about where an investigation like this into the possibility of unavoidable blameworthiness fits into the larger picture of moral enquiry. It may be objected that the more important philosophers historically have been not only opposed to moral dilemmas but interested in more basic moral questions, questions such as "Why do moral obligations bind?" or "How are moral obligations justified?". In response I should like to point out that my questions about moral dilemmas, and obligations to do the impossible, are also part of larger more basic problems. The larger problem towards which I shall be proposing partial solutions is the question of how moral agents may be justifiably held blameworthy.

The question of justifying agent accountability is one which certainly interested Kant. My contention is that however we justify holding agents worthy of blame, sometimes they cannot avoid being justifiably held blameworthy. Nor should this possibility be lamented. Why should the goal of blamelessness not be faced with real dangers of failure? Morality is challenging. If morality seems unexciting to many, perhaps this is because the view that success is attainable by anyone's reasonable effort is too popular. The Edmonton Oiler hockey team does not play up to its potential when they do not find the opposing team challenging. But if the other team is more skilled in every aspect of the game, the Oilers might not be able to avoid a loss. There is something very childish about insisting on only taking part in endeavors one knows in advance one will succeed at with any reasonable effort. On the other hand, morality is not so harsh that blamelessness is rare; "challenging" does not mean that success is nearly impossible.

Chapter II

DOES 'OUGHT' IMPLY 'CAN'?

I have heard a professional philosopher illustrate
one of the ways in which a study of philosophy may
have practical consequences by recalling the effect
on him personally of learning that 'ought' implies
'can' . . . . Before studying philosophy, he used,
when confronted with irreducibly conflicting obligations,
frequently to torture himself with feelings of guilt,
with the hopeless conviction that he ought to do
something which he knew it was impossible to do.
At Oxford, however, he was taught that if the performance
of an action is impossible, it is equally impossible
that its performance should be truly obligatory.
After this he ceased to worry in the way that he
had previously done. . . . At the end of all this he
was a happier person, who worried less, and to whose
life philosophy had made a definite contribution.
— Alan Montefiore "'Ought' and 'Can'" (p. 33)

A. Introduction

We shall consider a variety of interpretations of the principle that 'ought' implies 'can'. Furthermore, we will also look at related principles. One of these related principles is "'moral responsibility' implies 'freedom'" which roughly captures Kaufman's view as presented in the last chapter. I shall be arguing in this chapter that the principle "'moral accountability' implies 'freedom'" is the main motive for those, whom Alan Donagan calls ethical rationalists, holding "'ought' implies 'can'".[42] Alan Montefiore also argues that the principle about "blame" or "censure", which is a matter of moral accountability, is basic to the principle about "ought".[43] Peter van Inwagen claims that almost "all philosophers agree that a necessary condition for holding an agent responsible for an act is believing that the agent could have refrained from performing that act."[44]

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[42] A. Donagan, "Consistency in Rationalist Moral Systems", Journal of Philosophy LXXXI, No. 6 (June, 1984), pp. 292-293.
[43] A. Montefiore, "'Ought' and 'Can'", Philosophical Quarterly 8, No. 30 (1958), p. 39.
[44] "The Incompatibility of Free Will and Determinism", Philosophical Studies 27 (1975), p. 189.

Harry Frankfurt, as van Inwagen mentions, is an exception to this general agreement.[45] Montefiore and Bas van Fraassen at least recognize that this claim about freedom being necessary for responsibility is a substantive ethical thesis rather than a matter of logic or the meanings of terms.[46] Even so there is evidence for van Inwagen's claim that philosophers generally agree about the necessity, in order to hold someone accountable, that she could have done otherwise. For example, after discussing voluntariness, choice, and deliberation, Aristotle wrote:

> Therefore virtue also is in our own power, and so too vice. . . . Now if it is in our power to do noble or base acts, and likewise in our power not to do them, and this is what being good or bad meant, then it is in our power to be virtuous or vicious.[47]

St. Augustine claimed that

> both justice and injustice, to be acts at all, must be voluntary; otherwise, there can be no just rewards or punishments; which no man in his senses will assert. The ignorance and impotence which prevent a man from knowing his duty, or from doing all he wishes to do, belong to God's secret penal arrangement, and to His unfathomable judgments, for with Him there is no iniquity.[48]

> . . . and where nature and necessity rule, there is no culpability.

> Whatever the cause of the will, if a man is unable to resist, there is no sin in his yielding to it; if he can resist, he must not yield to it and there will be no sin. Or does it perhaps deceive a man caught off his guard? Then let him take care not to be deceived. Or is the deception so powerful that it is simply impossible to be on one's guard against it? If this is the case, there is no sin, for how can anyone sin where he cannot possibly be on his guard? But sins are committed, and therefore it is possible to be on one's guard.[49]

> Who sins in that which he cannot avoid in any way? Yet sin is committed; therefore

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[45] Cf. Frankfurt's "Alternate possibilities and Moral Responsibility" in Journal of Philosophy LXVI, No. 23 (Dec. 1969), pp. 829-839.
[46] Cf. Montefiore, "'Ought' and 'Can'", pp. 24-40. And van Fraassen, "Value and the Heart's Command" in Moral Dilemmas, Ed. C. Gowans, (Oxford: Oxford University Press, 1987), p. 147.
[47] Nicomachean Ethics, Book III, Chapter 5, 1113b 5-14.
[48] Contra Faustum, 74-79; in The Political Writings of St. Augustine, ed. H. Paolucci (Chicago: Regnery Gateway, 1962), pp. 170-171.
[49] St. Augustine, The Free Choice of the Will, 3.1.1 and 3.18.50, in The Fathers of the Church, vol. 59 (Washington, D.C.: Catholic University of America Press, 1968), trans. R.P. Russell, pp. 210-211.

it can be avoided.[50]

St. Thomas Aquinas likewise claims that "moral good and evil lie in an activity in so far as it is voluntary."[51]

A principle close to "'ought' implies 'can'" is also found in Thomas Hobbes' Leviathan, Chapter 14. Hobbes writes, "to promise that which is known to be impossible is no covenant. But if that prove impossible afterwards which before was thought possible, the covenant is valid, and binds, though not to the thing itself, yet to the value, or, if that also be impossible, to the unfeigned endeavor of performing as much as is possible, for to more no man can be obliged" (my emphasis).[52]

B. Can and Possibility

In an attempt to understand the principle that 'ought' implies 'can' consider first what is meant by 'can'. A number of philosophers have interpreted "'ought' implies 'can'" as "'ought' implies 'is possible'".[53] Furthermore, Immanuel Kant seems to have held that 'ought' implies 'is possible':

> This 'ought' expresses a possible action . . . . The action to which the 'ought' applies must indeed be possible under natural conditions.
>
> For since reason commands that such actions take place, it must be possible for them to take place.[54]

G.P. Henderson points out that according to one kind of possibility, possibility follows from necessity, but the kind used in "'ought' implies 'is possible'" excludes

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[50] St. Augustine, The Retractations, 1.8, in The Fathers of the Church, vol. 60 (Washington, D.C.: Catholic University of America Press, 1968), trans. M.I. Bogan, p. 35; see also p. 37

[51] Summa Theologiae I-II. 19, 6.

[52] Cf. Leviathan Parts I and II (Indianapolis: Bobbs-Merrill, 1651, 1958), p. 116.

[53] Cf. D.C. Dennett, Elbow Room: The Varieties of Free Will Worth Wanting (Cambridge, Mass.: MIT, 1984), pp. 147-148; G.P. Henderson, "'"Ought" Implies "Can"'", Philosophy XLI, No. 156 (April, 1966), p. 104; T. McConnell, "Moral Dilemmas and Consistency in Ethics" in Moral Dilemmas, Ed. C. Gowans p. 155 and note 6; K.E. Tranøy, "'Ought' Implies 'Can': A Bridge from Fact to Norm?", Ratio 14 (1972), especially p. 118.

[54] I. Kant, Critique of Pure Reason, A547-A548=B575-B576 and A807=B835, trans. N. Kemp Smith (Toronto: Macmillan, 1929), pp. 473 and 637.

necessity.[55] Terrance McConnell indicates that something stronger than mere logical possibility is meant.[56] He suggests the notion of physical possibility. Daniel Kading speaks of duties being physically and psychically possible.[57] Daniel Dennett distinguishes logical, physical and epistemic possibility.[58] Neil Cooper notes three kinds of impossibility: logical, physical and technical; he also writes of a psychological kind of 'cannot'.[59] We shall test these various types of possibility to see if any will be of use in the "'ought' implies 'can'" principle.

The case of an obligation to rescue a drowning person will illustrate these various types of possibility and some problems they cause for the "'ought' implies 'can'" principle.[60] As not everyone may agree that there is an obligation to rescue a drowning person, or that it is very strong, we shall suppose that the case is one involving a lifeguard on duty. She has specifically undertaken the obligation to rescue those who are in distress within a certain area of water.

Logical Possibility

Logical possibility should be understood in the usual way as what is consistently describable (without contradictions).[61] Logical possibility will not make much difference to the lifeguard's obligations. In no case would a description of rescuing a drowning person need to involve a contradiction. There is nothing which she is obligated to make be both the case and not the case. Had she agreed to produce a "round square", "'ought' implies 'is logically possible'" would rule that she has no obligation to do so, because these are logically impossible. As Henderson points out, for our interest in these principles, their contrapositives

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[55] "'"Ought" Implies "Can"'", p. 104.
[56] McConnell, p. 172 note 6.
[57] D. Kading, "Moral Action, Ignorance of Fact, and Inability", Philosophy and Phenomenological Research 25 (1965), p. 336.
[58] Elbow Room, pp. 147-148.
[59] N. Cooper, The Diversity of Moral Thinking (Oxford: Clarendon, 1981), pp. 180 and 185.
[60] The example is used by D. Kading, "Moral Action, Ignorance of Fact, and Inability", pp. 340-342, and a more complex version of it by M. Zimmerman, "Sharing Responsibility", American Philosophical Quarterly 22, No. 2 (1985), p. 118f.
[61] Cf. for example, Dennett, Elbow Room, pp. 146-148.

might be more useful.[62] In this case, "'logical impossibility' implies 'not the case that ought'".

Obviously the lifeguard might not be able to rescue some individual, even though no logical impossibility is involved. For example, she may have just moments earlier been shot, making swimming very difficult, too difficult. In these cases, if the "'ought' implies 'is possible'" principle were as McConnell says stronger, it could excuse the lifeguard from any obligation to rescue. Surely most of those who accept the principle would hold that under certain conditions being shot really could and should release a lifeguard from obligations to rescue swimmers.

Physical Possibility

Consider then whether 'ought' implies 'is physically possible'. Dennett explains physical impossibility with the example: "It is physically impossible to travel faster than the speed of light, even though one can describe such a feat without contradicting oneself."[63] At first glance, it seems that being shot, even in many cases where the lifeguard does not die, would make rescuing swimmers physically impossible. But if we think about the matter more carefully problems abound. If the lifeguard is totally paralyzed, unconscious, or dead from her injuries, then we may say that these states place physical limitations on what she can do. But clearly, "'ought' implies 'is possible'" would be expected to release her from her obligations in other cases too. But for all we know, there may be some machine which even the most seriously injured lifeguard could use to save anyone from drowning. True, no such machine may now exist or be available to her. But this unavailability is not likely to be a matter of pure physical impossibility.

I know that we typically would expect that the owner or operator of the swimming facilities, rather than the lifeguard, would be responsible for providing equipment and thus any possible rescue machines. But in this case the lifeguard and not the owner or operator has undertaken a specific obligation to rescue. In any case, it is no less physically possible for a

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[62] "'"Ought" Implies "Can"'", p. 104.
[63] Elbow Room, p. 148

lifeguard to provide such a machine that an owner.

The fact that the machine does not exist would be a matter of epistemic rather than physical impossibility if it had yet to be invented. In all other cases its unavailability apparently would be a matter of negligence in that the physical possibilities it creates could have been provided for. Philosophers now generally look to previous times as well as the present when evaluating "can".[64]

When someone takes on the responsibility of lifeguarding, they take on obligations to maintain a certain level of physical ability. A lifeguard who lets her body deteriorate to the point where it is physically incapable of swimming does wrong. Something more than physical impossibility must be appealed to in order to explain any difference between not having a machine present to use in case of unexpected injury to the lifeguard's body and her simply not maintaining that body, for in either case, given a lack of provision, rescuing a swimmer may be physically impossible for a specific duration of time.

Thus we may contrast unconditional physical impossibility such as, presumably, exceeding the speed of light, with conditional physical impossibilities which are temporary or local to some set of conditions. No one would wish to maintain without qualification that 'ought' implies 'is conditionally physically possible', because the lack of the proper conditions may be the agent's own fault, in which case she is not released from the obligation. Moreover, the qualification gives too much away, since we are here supposing the agent can be held accountable for, at fault for, anything not logically or physically impossible. Unless one has been, say, in shackles from childhood there are probably no purely physical, and certainly no logical, limits which would make impossible providing a machine to help rescue drowning swimmers in the case where the lifeguard is injured.[65] The restraints, once the

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[64] Cf. for example D. Kading, "Moral Action, Ignorance of Fact, and Inability", p. 339-341, and M. Zimmerman, "Remote Obligation", American Philosophical Quarterly 24, No. 2 (1987), p. 199 where he writes "It has become a common practice to ascribe a double time-index to "can"-contexts . . . ."

[65] Consider for example the possibility of a huge net lying on the bottom of the entire area the lifeguard is accountable for. The net could be attached to strong hydraulic lifters along the edges that when raised in emergencies would scoop everyone out of the water. This could be controlled by a simple remote-control like that used for our televisions.

epistemic restraints are overcome, are much more likely to be economic, and social in so far as cooperation is required, although even these limits could be bypassed if moral constraints were not recognized.

The problem is that conditional physical possibility is so variable that even individuals can influence it and even more so with more time. Unconditional physical possibility, on the other hand, is not much stronger than logical possibility — certainly not strong enough to release an injured lifeguard from obligations to rescue drowning swimmers in many cases other than when she is unconscious, completely paralyzed, or dead.

Psychological Possibility

Does psychological possibility fare any better? (Psychological possibility may just be a specific type of physical possibility if physicalism is right.[66]) We can imagine a lifeguard irrationally terrified of the water because of a recent boating accident in a severe storm. A debilitating fear could prevent her from doing her duty. This is a case of conditional psychological impossibility. What we shall refer to as unconditional impossibility here will not be so unconditional as "exceeding the speed of light". Psychological impossibilities are limited to individuals and lifetimes. Some render the individual incapable of participation in the moral community. Moreover, we might expect an agent with a lesser but continuous psychological disability to avoid taking on obligations which they could not fulfill.

A large problem with psychological impossibility is the difficulty of judging even in one's own case whether an action is impossible or just very difficult. Thus a principle like "'ought' implies 'is psychologically possible'" will be very difficult to apply in practice. This problem actually makes this version of the principle seem more acceptable. Because of the difficulty in telling whether something is really psychologically impossible or not, we are often inclined to be sceptical of agent reports of impossibility. An example of someone who is not very sceptical is J.J.C. Smart. He suggests that it is just as pointless to say that someone ought to do something "when a person is merely unmotivated to do it" as "when a person is

[66] Cf. J.J.C. Smart, Ethics, Persuasion and Truth (London: Routledge and Kegan Paul, 1984), p. 107.

physically unable".[67] The scepticism, which is more usual, makes it hard to provide a counter-example which all will agree clearly is a case where the agent should be released from her obligations, but where the "'ought' implies 'psychologically possible'" principle fails to agree.

Even so, since not everyone reacts with irrational debilitating fears to similar situations, we might wonder whether agents cannot take steps to prevent these fears, steps which are not themselves psychologically, physically or logically impossible. The impossibility or limitation one comes up against once again is epistemological; none of us is sure which habits of thought to foster in oneself, which to purge and how.

Consider an example where we may be inclined to be less sceptical about the impossibility than in the case of a debilitating fear: an agent is hypnotized. Herman Tennessen uses the real life example of Mr. Palle Hardrup, who robbed two banks and killed two bank clerks in the process.[68] Mr. Hardrup claimed to have done so for idealistic reasons, but a psychiatrist later discovered that he had acted under hypnotic influence. The courts then released Mr. Hardrup and imprisoned the hypnotist, Mr. Schouw-Nielsen.[69] We might imagine a similar case, where a lifeguard is hypnotized into not rescuing some swimmer.

Now either the agent knows or does not know what the hypnotist is up to. If she knows, she is not released from her obligations. However, if she does not know, her ignorance need not be a matter of psychological impossibility. Obviously, ignorance is most likely a matter of epistemic impossibility. While we may wish to allow that epistemic and conditional psychological possibility are related, clearly the epistemic questions are basic in our example; the epistemic conditions have influence on the psychological, in so much as had she known that she should investigate what the hypnotist was up to, no psychological block need have prevented her from doing so.

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[67] Ethics, Persuasion and Truth, p. 108.
[68] "Must the Free Will be a Free Wheel?", Fifth Conference on Value Inquiry, (Geneseo, New York: 1970).
[69] Tennessen cites H.K. Schjelderup, Det skjulte menneske (Oslo: J.W. Cappelens forlag, 1969) pp. 95-97.

Epistemic Possibility

Perhaps epistemic possibility and impossibility seem more promising. Indeed, Dennett holds that epistemic possibility "is the key to the resolution of the riddle about 'can.'"[70] So now we turn to consider "'ought' implies 'is epistemically possible'".

The notion of epistemic possibility can be captured by the idea of being limited in what one can do by a lack of "know-how". (We shall consider another notion of epistemic possibility below.) J.J.C. Smart claims that it is usually pointless to tell someone she ought to do something when she is "unable to do it because of ignorance of how to do it."[71] The problems which faced conditional physical and psychological possibility repeat themselves here. Typically one could have controlled the conditions so that one could have had the know-how. For the conditions influencing lack of know-how are simply those of education, and who among moral agents are really incapable of further learning?

Take an extreme case: one thousand years ago, or even one hundred years ago, no one could have kept a promise to travel from North America to Europe in a day. They did not have the flying machines we use to do this. The reason they did not have these machines was that they lacked certain bits of information and experience which we have accumulated along the way. Stuart Hampshire writes: "Looking back to an age and a culture remote from our own, we allow that possibilities of action, based on discriminations then unrecognized, were not genuine possibilities of action for those who lived at that time."[72] But they were not prevented by the level of information and experience they had accumulated by then from gathering the rest of the knowledge needed, otherwise we could never have accomplished the feat either, since we just took over from where they left off, and our intellectual abilities are not essentially superior.

Of course we would not expect what several thinkers took a hundred years to discover to be learnt by one person in a few years starting from the same vantage point with no help. But this is not to say that it would be epistemically impossible for one person to do so. Some

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[70] Cf. Elbow Room, p. 148.
[71] Ethics, Persuasion and Truth, p. 108.
[72] S. Hampshire, Thought and Action (London: Chatto and Windus, 1959), p. 184.

individuals have made great advances in human knowledge. Nor does our lifeguard example need such a huge advance in knowledge as learning how to build passenger planes "from scratch" requires. Figuring out how to set up a machine to pull people out of the water, or checking up on one's hypnotist, are surely matters within the intellectual reach of the average lifeguard especially since help would be available for specific difficulties with which they may have trouble.

We would not release a lifeguard from her obligations to save someone because she did not know mouth to mouth resuscitation techniques; we, the guard's moral community, expect lifeguards to know this. Likewise, we expect a lifeguard to know whether a particular swimmer in her area is drowning. But we do not expect her to know whether she has been hypnotized not to respond, or expect her to have a device installed which would rescue people in the eventuality that she is temporarily incapable. Yet she might equally need, in order to do her duty, these things we do not expect of her as those we do. Moreover, the things we do not expect of her are not always logically, physically, psychologically, or epistemologically impossible for her. We could go on to look at other types of impossibility and their combinations. But I do not believe that even the economic and social difficulties which she would typically encounter would be insurmountable.

Humans are of course limited by lifespan, the need for sleep and other resources, the amount of energy and excitement any of us can generate, the need to balance a number of goals, lack of cooperation, and so on. But these conditions are not often outside our control to the point where we can say that we could not have done better. Nor does it seem likely, in normal everyday cases, given the pattern of our investigation, that any individual could point to a specific source of impossibility, preventing her from doing her duty. Thus I cannot agree with Dennett that epistemic possibility is the key to interpreting 'can', although I do agree that it is important. Still, there is only so much that we would expect of any individual. We, the community, draw this line of expectation; it is not based in any precise way on a specific sort of possibility or combinations of possibilities. So 'cannot' or impossibility will not be as good a guide to the limits of our obligations as one might have thought.

C. Can and Contradiction

Many philosophers have claimed to see a contradiction resulting from holding the "'ought' implies 'can'" principle, the agglomeration principle, and the position that genuine moral dilemmas exist.[73] I will now show that for some versions of the "'ought' implies 'can'" principle no contradiction arises. So a defender of genuine dilemmas is able to hold that 'ought' implies 'can' in a number of senses without fearing contradiction. And those who wish to oppose genuine dilemmas on the grounds of this contradiction must argue in favour of some other versions of the principle against these versions.

The contradiction arose, recall, because if we accept the agglomeration principle, then when in a moral dilemma one ought to do at least two things which one cannot both do, which contradicts "'ought' implies 'can'". In the following discussion we shall be supposing that the agglomeration principle holds. But if 'can' is not used in the same sense in the principle as it is in the definition of moral dilemma, then a contradiction will not follow. In other words, if the contradiction is to be derived, the type of possibility referred to in "'ought' implies 'can'" must be the same as the impossibility which makes an agent unable to meet all her obligations in a dilemma.

Toni Vogel Carey argues that moral dilemmas are not cases where logical impossibility prevents one from fulfilling all one's obligations.[74] He claims that they are rather matters of causal incompatibility, which would be classed under what we have called above physical impossibility. Carey must allow, then, that a defender of genuine dilemmas could hold that 'ought' implies 'is logically possible' without fearing contradiction.

Furthermore, if moral dilemmas were exclusively matters of physical impossibility, then one could hold that 'ought' implies 'is logically, psychologically, and/or epistemically possible' without worrying about contradiction (if, contrary to J.J.C. Smart, psychological

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[73] Cf. for example, A. Montefiore, "'Ought' and 'Can'", p. 26, E.J. Lemmon, "Moral Dilemmas", Philosophical Review LXXI (1962), p. 150, and B. Williams, "Ethical Consistency", in Problems of the Self, pp. 179-180.

[74] T.V. Carey, "What Conflict of Duty is Not", Pacific Philosophical Quarterly 66 (1985), pp. 204-215.

possibility cannot be reduced to physical).[75] The one possibility which cannot be added to the list of possibilities meant by 'can' is physical, since dilemmas are being defined here in terms of physical impossibility.

The contradiction ceases to be a problem, under other interpretations of the "'ought' implies 'can'" principle as well.

Presupposition

"Implies" might be taken to mean entailment. Henderson rejects this interpretation on the grounds that 'A ought to do X' and 'A cannot do X' are not straightforwardly logically contradictory.[76] Neil Cooper claims that it "is plain that the 'implies' here does not represent the relation of entailment but that of presupposition."[77] Cooper understands presupposition, in p presupposes q as the logical impossibility of p's being true at the same time as q is false, and equally the logical impossibility of not-p's being true at the same time as q is false. The truth of the second is a necessary condition of the assertion or denial of the first.

Walter Sinnott-Armstrong uses 'presuppose' in a manner which agrees with Cooper: "If 'ought' presupposes 'can', and the agent cannot do the act, then it is neither true or false that the agent ought to do the act."[78] In other words, if the implication is understood as "'ought' presupposes 'can'", then neither that it is the case that 'ought', nor that it is not the case that 'ought', follows from 'cannot'.

Notice now that "'ought' presupposes 'can'" does not threaten to result in the usual contradiction in the case of genuine moral dilemmas. In a dilemma one ought to do each of the two or more actions which cannot be done together. By the agglomeration principle then, one ought to do all these actions together. But if 'ought' presupposes 'can', and if all the actions cannot be done together, that it is not the case they ought to be done together just

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[75] Ethics, Persuasion and Truth, p. 107.
[76] Henderson, "'"Ought" implies "Can"'", p. 102. Cf. also J.J.C. Smart, Ethics, Persuasion and Truth, p. 106.
[77] N. Cooper, The Diversity of Moral Thinking p. 181.
[78] Cf. W. Sinnott-Armstrong , "'Ought' Conversationally Implies 'Can'", pp. 249-50.

does not follow, as it does in the case of entailment. The absurd conclusion that it be both the case and not the case that they ought to be done together does not follow.

But perhaps a different contradiction, a meta-linguistic contradiction, need be feared here. According to "'ought' presupposes 'can'", if one cannot do all, then that one ought to do all is neither true nor false, i.e. the agglomerated 'ought' is without truth value.[79] But from the agglomeration principle we may in cases of dilemma derive the truth of the claim that one ought to do all, i.e. the agglomerated ought has truth value. To assert that the agglomerated ought both has and does not have truth value is a meta-linguistic contradiction.

Henderson has pointed out a couple of problems, one of which is crucial, with taking the implication here to be that of presupposition.[80] First, it is odd to claim, for example: "He doesn't have to educate his child at home only if he is competent in one way or another to do so". But more important is the objection that contraposition does not hold in the case of presupposition, i.e. from "'ought' presupposes 'can'" we cannot derive "'cannot' presupposes 'not the case that ought'".

Part of the meaning of 'presupposes', recall, is 'has as a necessary condition that'. "We do not want to say that it is a necessary condition of being unable to do something that you need not do it."[81] Our inabilities are not on a rationalist view dependent (perhaps via some mysterious metaphysical force) on the absence of obligations; that would be putting the cart before the horse. Rationalists are rather interested in discovering what are the limits of our obligations by way of the limits of our possibilities. For example, the limits of our possibilities play a role in Donagan's attack on moral dilemmas.[82] So we are interested in the contrapositive of "'ought' implies 'can'". Rationalists want to be able to use 'cannot' to determine when it is 'not the case that ought', which is precisely what presupposition will not allow them to do.

Even so, we should look further into the possibility of denying "'cannot' implies 'not the case that ought'". Could one consistently deny that "'cannot' implies 'not the case that

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[79] I owe this point to Bernard Linsky.
[80] Henderson, pp. 102-103.
[81] Henderson, p. 102.
[82] A. Donagan, "Consistency in Rationalist moral Systems", pp. 297, 300 and 303.

ought'" while at the same time holding that 'ought' implies 'can'? Well perhaps one might believe that if one 'ought' to do some action, then, even if that action would normally be impossible, that action is possible — as though some mysterious metaphysical force makes impossible actions doable whenever they are morally required. R.M. Hare speaks of "God on his traditional machine [ensuring] that there are no real conflicts of duties . . . ."[83] (We need not worry whether this force operates on the action or the agent.) Thus, the usual 'cannot' does not imply 'not the case that ought', since this 'cannot' is always outweighed by any 'ought' and the attendant miracle. Similarly, 'ought' does imply 'can', though not the usual 'can', rather 'miraculously can', i.e. even though otherwise cannot. Hare does not go on to discuss this position because he does "not think that even many Christians will believe that God has fixed things in this way . . . ."

I should point out that this position does not hold that unconditional possibilities might come into, or pass out of, existence. The claim, when interpreting "'ought' implies 'can'", is about what is possible on the condition that God or any mysterious metaphysical force helps. From the unconditional viewpoint whatever God could do is possible, and this does not change with time. So from this unconditional viewpoint, it is still true that 'cannot' implies 'not the case that ought'. Conditional possibility, however, could come into existence, if the conditions could come into existence. Conditional possibility is referred to by the "cannot" in the claim that the usual, i.e. without a miracle, 'cannot' does not imply 'not the case that ought'.

It is useful to use the concept of conditional possibility when discussing moral questions because our abilities can change. If one finds this use of conditional possibility unacceptable, then perhaps the claims about help from mysterious metaphysical sources could be interpreted in terms of a mysterious pre-established harmony between obligations and possibilities. A particular possibility, like being able to rescue a swimmer at a particular time even though one had just been shot, would always have existed in such a harmony.

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[83] R.M. Hare, Moral Thinking: Its Levels, Method and Point (Oxford: Clarendon, 1981), p. 34.

One might think that Kant is at times somewhat open to the interpretation that 'ought' implies 'miraculously can'. One passage suggesting mysterious metaphysics is in The Conflict of the Faculties. "For man must be able to become what his vocation requires him to be (adequate to the holy law); and if he cannot do this naturally by his own powers, he may hope to achieve it by God's cooperation from without (whatever form this may take)."[84] But Kant's real point here is that the lack to be made up by God is made up in the justification and not in the deeds or actions. Reason "is entitled to adopt on faith a supernatural supplement to fill what is lacking to [one's] justification . . . ."[85] Kant is not particularly likely to have made claims about mysterious metaphysical forces or pre-existent harmonies.

In any case, no such mysterious metaphysical force or pre-existent harmony exists, for we never observe that under moral requirement one can perform actions which she and others normally cannot. The point should be made that our abilities and inabilities are pretty much independent of our obligations. If there is a dependency, and I have doubts, it is that our obligations depend on our abilities. There may well be other explanations of how one might hold both that 'ought' implies 'can' and that 'cannot' does not imply 'not the case that ought'. But since rationalists will not find them acceptable, as they wish to draw conclusions of 'not the case that ought' from 'cannot', we will not consider these further.

Generality

The next possible contradiction I wish to consider is where "'ought' implies 'can'" is general rather than particular. Must the act be possible for each particular agent in every particular circumstance and time that the ought applies to her? At the general level, if we ought not to steal, then not stealing must be among the types of action possible for us. Now if a particular person has been hypnotized into robbing a bank on a given occasion, the fact that she cannot avoid stealing will not count against the general prohibition against stealing. So the general 'ought' does not imply any particular 'is possible', even if it does imply the

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[84] I. Kant, The Conflict of the Faculties, Trans. M.J. Gregor (New York: Abaris, 1979), pp. 75-77.
[85] See Appendix A, V.

action is generally possible.

The distinction I am drawing is different from that drawn between general and particular 'cans' by A.M. Honoré.[86] According to Honoré the particular use of 'can' has a close connection with success, and is almost equivalent to 'will'. But of course "'ought' does not even almost imply 'will'" as people often enough fail to do as they ought.[87] The distinction between general and particular used here will be closer to that used by Henderson.[88]

Presumably one might hold that 'ought' implies 'can' on the general level, without being committed to it holding in the particulars. Neil Cooper, for one, seems to hold that the general prohibition, against harming other people's property in his example, continues to apply to the particular agent even when complying happens not to be a possible action for her.[89]

One can allow that the general 'ought' continues to apply in such a case without thereby begging the question against "'ought' implies 'can'" at the particular level. For as Henderson suggests, although the general 'ought' applies, this simply need not imply any corresponding particular 'oughts' in these cases.[90] (In Henderson's example, however, the general 'ought' is not capable of capturing what the conscientious agent has in mind.) The question then is what does claiming that the general 'ought' applies mean? If it means only that the agent continues to recognize and assent to its generality, or its truth for the most part, then 'ought' implies 'can' at the particular level remains possible. Thus one can maintain both 1.) 'ought' implies 'can' at the general level, and 2.) the general 'ought' continues to apply to the agent even when the corresponding particular action is impossible, while leaving the question open as to whether 3.) 'ought' implies 'can' at the particular level.

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[86] A.M. Honoré, "Can and Can't", Mind LXXIII, No. 292 (1964), pp. 463-479.
[87] Honoré's own conclusions about the use of can for assessing responsibility are gentler but still not favourable cf. p. 478.
[88] "'"Ought" Implies "Can"'", p. 105.
[89] The Diversity of Moral Thinking, p. 182.
[90] "'"Ought" Implies "Can"'", p. 105.

Perhaps one might object that any reason for holding the principle at the general level will count for holding it at the particular level, so why would anyone be motivated to hold it for general prohibitions and obligations but not for particular applications of these? The objection fails because reasons for the general version just do not always count equally for the particular. For example, the general version may be held because one believes that the general requirements of morality are determined by human nature, but one need not equally believe that individual requirements are likewise determined by the individual's nature. The individual version of this belief seems to lead directly to a fairly strong relativism, since each has a unique nature. The general version focuses on our common nature, leaving the possibility of relativism only for the abnormal. (Notice that this is only a possibility of relativism, for if the particular version of "'ought' implies 'can'" is not held, then happening to be abnormal — for example, a lifeguard too weak to swim well — need not entirely excuse.)

In any case, "'ought' implies 'can'" must apply to each particular case, in order to raise the problem of contradiction for genuine moral dilemmas. Recall, in a dilemma one ought to do each of the two or more actions which cannot be done together. By the agglomeration principle then one ought to do all these actions together. But if 'ought' implies 'can', since they cannot be done together, it is not the case that they ought to be done together. But it cannot be both the case and not the case that they ought to be done together. Now if 'ought' implies 'can' is only general, then the fact that one cannot keep, for example, all her current promises on this occasion (i.e. a particular dilemma) does not establish the general impossibility of keeping all one's current promises, and so the denial of the general ought does not follow from the general "'ought' implies 'can'". Thus no contradiction to the effect that "one ought to keep all her current promises" both is and is not the case can be produced.

"'Ought' implies 'can'" may be general in one of at least three ways. First, the human physical ability referred to in the concept of possible action might be either the general capabilities of humans or the particular abilities of this individual with her unique body.

Second, the principle may refer either to particular actions or to types of actions. J.J.C. Smart makes these distinctions too, but he identifies particular actions with particular agents.[91] Some types of action may be possible only for other species or for large cooperating groups, or for the very gifted. So we might speak of a general sort of action being possible without suggesting that it is possible for the typical human agent. We can also speak of the typical human agent being able to do some specific action — we will not need to speak of it as a type of action although it will necessarily be that as well. Of course, only possible types of actions can be done by the typical human agent. Finally, if one considers epistemic possibility, one may have in mind either the particular mental capabilities of the agent in question, or some universal reason typically found in rational agents.

I Think I Can

Let us return then to epistemic possibility to see if the contradiction we have been fearing is always present here. Above we were considering epistemic possibility as "know-how", but now I wish to turn to a different notion. What I want to consider is the notion that we must act under the idea of freedom. In other words the idea that our moral actions all take place in conjunction with a certain epistemological state. Thus the principle comes to something like "'ought' implies 'I think I can'". By modus tollens, if I do not think I can then it is not the case that I ought.

One wonders whether there is any reason to think that someone's assessment of her abilities will be in one to one correspondence with her moral obligations. "'Ought' implies 'I think I can'" seems to force one to hold that moral obligations are as subjective as one's assessment of one's abilities. By being sceptical of my abilities I can minimize my moral obligations. Indeed, for the convinced hard determinist, who does not believe she can do (in the sense of "originate" or "ultimately change") anything, there is literally nothing which she ought to do, even if hard determinism turns out to be false (if 'ought' implies 'I think I can'). Would Donagan's ethical rationalists really wish to grant this? I think not, but I hope

[91] Ethics, Persuasion and Truth, p. 107.

to show that they can be pushed into holding this.

Daniel Dennett writes,

> Note that the fear here is not that a certain proposition is true, but that true or false it may come to be believed. . . . Modern science isn't making determinism true . . . so things aren't going to get worse, unless it is believing in determinism rather than determinism itself that creates the catastrophe.[92]

Someone might object that the principle really should be: "'I think I ought' implies 'I think I can'". But since people do not think of all the implications of their thoughts, and not all minds think alike, it is hard to see what guarantees the implication here. Perhaps the claim is that the consequent is unconsciously thought in virtue of the meaning of the terms involved in thinking the antecedent. But in that case I might unconsciously think I can, while consciously believing I cannot or vice versa. This version then, has the advantage of not allowing easy excuses from moral obligations. Indeed, nothing follows for morality from what one consciously believes cannot be done. More importantly, this version of the principle will not produce the contradiction which we have been worrying about for genuine moral dilemmas. This version merely claims that in a genuine dilemma the agent will continue unconsciously to think that she can yet keep all her moral obligations (i.e. even if she cannot).

Kant comes close to holding that 'ought' implies 'I think I can' and even suggests that 'ought' implies 'I know I can'.

> He judges, therefore, that he can do something because he knows that he ought . . . .[93]

> [H]e must judge that he can do what the law unconditionally commands he ought to do.[94]

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[92] Cf. D. Dennett, Elbow Room, pp. 14-15; Dennett cites P.F. Strawson's "Freedom and Resentment", Proceedings of the British Academy, (1962).
[93] Critique of Practical Reason, p. 30 (Academy edition pagination).
[94] Metaphysical Principles of Virtue (Part II of The Metaphysics of Morals), p. 37. Notice, though, that this passage can be read in two opposing ways. On the one hand, the 'must' in "he must judge" may refer to some mysterious epistemological force which determines the agent's judgement in accordance with the dictates of the moral law. On the other hand, the 'must' here may simply indicate that this judgement is a necessary condition of an apparent obligation being genuinely the

> [T]o know that we can do it because our own reason acknowledges it as its law and says that we ought to do it . . . is inseparably present in the consciousness of the law . . . .[95]

> [M]an is aware that he can do this because he ought to . . . .[96]

Admittedly, Kant phrases his claims about knowledge or awareness in terms of the more general 'we', and 'man'. But, it should be noted, all the same, that "'ought' implies 'I know I can'" will fare no better than "'ought' implies 'I think I can'". Indeed, 'I know that X' implies 'I think that X'. If 'not knowing that one can' implies 'not the case that ought', then the hard determinist will again find no ought applies to her. For we can hardly say that this person knows that she can do anything while we allow that she is convinced that she cannot.

On the other hand, do not the actions of the hard determinist belie her theoretical convictions? Even she appears to live and act under the idea of freedom. If we grant this then, either she is dishonest or she is not conscious of her own ideas or knowledge of freedom in acting. But this latter possibility cannot be ruled out, and as we have seen "'ought' implies 'unconsciously thinks one can'" does not threaten a contradiction for moral dilemmas.

If we look ahead for a minute, we shall be considering Donagan's view quite carefully; he holds that an agent should only be accountable for what is done knowingly.[97] Thus he could not hold agents accountable for their unconscious beliefs, nor could he hold them accountable for contradictions between unconscious beliefs and conscious beliefs. Indeed, not many would require that for any new belief one was thinking of accepting, one first make explicit all beliefs not held consciously to check for possible contradictions. This requirement itself would likely violate "'ought' implies 'can'". Complex language users like ourselves will simply have too many beliefs not held consciously.

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[94](cont'd) unconditional command of moral law.
[95] Critique of Practical Reason, p. 159 (Academy edition pagination).
[96] "On the Proverb: That May be True in Theory, But Is of No Practical Use", in Perpetual Peace and Other Essays on Politics, History, and Morals, p. 70.
[97] A. Donagan, The Theory of Morality (Chicago: University of Chicago Press, 1977), pp. 121-122.

A rationalist like Gewirth finds freedom and well-being to be the generic features of action, and thus every action involves a right-claim on the part of the agent — even hard determinists — to these features.[98] He wants to claim that every agent must admit on pain of self-contradiction that all others have these rights too. But since not everyone is explicitly aware of having made a right-claim in acting, it seems that the claim may not be consciously made. But in that case are we really willing to hold the agent accountable for her self-contradiction?

So if "'ought' implies 'a certain idea of freedom'", then either some are excluded from the realm of morality, for example hard-determinists, children, many from non-Western cultures, perhaps even all those who lived before Kant,[99] or this version of "'ought implies 'can'" cannot be used to raise the usual contradiction against those accepting the genuineness of moral dilemmas. Alan Montefiore makes a point similar to the first part of this disjunction:

> . . . a man can only be judged as a free and autonomous individual. This respect for the individual as such, however, is most typically a (comparatively modern) Western European phenomenon and to treat it as a necessary condition of any form of moral evaluation seems unduly parochial.[100]

Though I have suggested that I need not worry about "'ought' presupposes 'can'", I need to consider "'ought' presupposes 'I know I can'" (which avoids the problem of hard determinists not having any moral obligations). Or perhaps the principle should be: "'my reason's acknowledging that I ought' entails 'I know I can'". Consider the following passage from Kant:

> Taken objectively, morality is in itself practical, for it is the totality of unconditionally binding laws according to which we ought to act, and once one has acknowledged the authority of its concept of duty, it would be utterly absurd to

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[98] Cf. A. Gewirth, "The Future of Ethics: The Moral Powers of Reason" Noûs XV No. 1 (1981), p. 29, and Reason and Morality (Chicago: University of Chicago Press, 1978).

[99] Cf. Charles Taylor, "Kant's Theory of Freedom" in Philosophy and the Human Sciences: Philosophical Papers 2 (Cambridge: Cambridge University Press, 1985) where Taylor argues that Kant's theory marks a crucial step in the development of our idea of freedom.

[100] A. Montefiore, "'Ought' and 'Can'", p. 39.

> continue wanting to say that one cannot do his duty. For if that were so, then this concept would disappear from morality (ultra posse nemo obligatur) . . . .[101]

In this version, not knowing would imply not acknowledging, which does not in itself allow any conclusion as to whether it is or is not the case that one ought.

Moreover, those opposed to genuine moral dilemmas might think this version useful. In a genuine dilemma the agent does not know she can because presumably she knows she cannot. So she must not acknowledge the 'ought' which in these cases requires more than she can do. But if she does not acknowledge the 'ought', then she, at least, cannot see herself as in a dilemma. But if genuine dilemmas exist, we should be able to recognize and identify them. I am temporarily granting that if I do not know if you (or she) can, then I should not acknowledge that the 'ought' applies to you (or her).

The problem with this attack on genuine dilemmas is that the meaning of presupposition shifts to entailment as the stronger conclusion is argued for. If the conclusion is to count against the existence of genuine dilemmas, then 'not knowing that can' really does imply 'not the case that ought' (most likely by way of a presupposition that there are no unrecognizable 'oughts'), and hard determinists again would have no moral obligations.

In summary then, for "'ought' implies 'can'" to be of use in raising a contradiction against those who accept both the existence of genuine dilemmas and the agglomeration principle, the meaning of 'can' must include the sense by which it is not the case one 'can' meet all one's obligations in a dilemma. Secondly, "'ought' implies 'can'" must not be merely general. Thirdly, "'ought' implies 'one unconsciously thinks one can'" does not threaten the contradiction either. Notice, moreover, that none of the problems I have raised for the "'ought' implies 'can'" principle here have depended on the meaning of 'ought'. Thus problems cannot be avoided by changing the principle to "'must implies 'can'" as Rescher seems to think.[102] Given the problems we noted earlier about specifying the right type of possibility to guide us in releasing agents from obligations, and now these further restrictions

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[101] "To Perpetual Peace A Philosophical Sketch", in Perpetual Peace and Other Essays on Politics, History, and Morals, p. 127.

[102] Ethical Idealism: An Inquiry into the Nature and Function of Ideals (Berkeley: University of California Press, 1987), pp. 41-44. Rescher rejects "'ought' implies 'can'" but accepts "'must' implies 'can'".

on the principle, why do thinkers like Donagan wish to maintain that "'ought' implies 'can'" in a sense which contradicts the acceptance of dilemmas given the agglomeration principle?

D. Morality And Determinism

The search for the motivation for holding a version of "'ought' implies 'can'" that threatens a contradiction for dilemmas begins with a brief study of Kant. Immanuel Kant is usually credited with saying that 'ought' implies 'can'. But David Baumgardt claims that as "a matter of fact, no proposition of that kind appears in any of Kant's writings".[103] This brief study of Kant should prove useful not by deciding an interpretive question, but by bringing to light some important motivation my opponents may have for holding that 'ought' does imply 'can'. Alan Donagan, in particular, sees his rationalist moral theory as indebted to Kant.[104]

While interpreting Kant is a tricky business, the question of whether or not he held "'ought' implies 'can'" seems at first glance straightforward. Moreover, Baumgardt's approach to deciding this question also appears to be acceptable. He claims that if you simply canvas all of Kant's writings you will find no proposition of that kind. He further points out that references are never supplied by those who claim Kant held that 'ought' implies 'can'. He suggests that the reason for this is that the view, or at least the phrase "Du kannst, denn Du sollst", originates with Friedrich Schiller rather than Kant, and Baumgardt provides the reference to Schiller.

Baumgardt even provides a quotation from Kant which he calls "relevant" to the question of whether Kant held "'ought' implies 'can'". The passage he cites "Certainly . . . [does] not suggest that ought implies can". Baumgardt's quotation from Kant reads: "'How the ought (which . . . has never . . . taken place) should determine man's activity . . . as far as we consider a . . . man entirely according to this . . . faculty . . . called reason,' of this

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[103] Cf. D. Baumgardt, "Legendary Quotations and the Lack of References", Journal of the History of Ideas, VII (1946), pp. 99-102.

[104] As well as being indebted to Aquinas. Cf. his "Consistency in Rationalist Moral Systems", Journal of Philosophy , Vol. LXXXI No. 6 (June 1984), pp. 291-309, especially p. 293.

'we cannot comprehend the possibility'".[105]

So has not the matter been settled? I think not. This is not at all to say that I would not be happier if the matter were settled. Since I am inclined to reject the principle that 'ought' implies 'can', I would just as soon it turn out that so formidable a foe as Kant not hold it. Ultimately, however, I expect that I shall have to allow that Kant either holds the equivalent of "'ought' implies 'can'", or the reasons he gives in support of the views he holds would equally support, or at least motivate holding, the principle in versions which matter to the question of genuine moral dilemmas.

There are passages in Kant, pace Baumgardt, which do suggest that 'ought' implies 'can'. Why Baumgardt cites this particular passage is not clear; nor is his criterion for relevancy obvious. (One hopes that he is not simply drawing on the fact that the words 'ought' and 'cannot' occur in the passage.) I begin with some passages from the Critique of Pure Reason.

> This 'ought' expresses a possible action . . . . The action to which the 'ought' applies must indeed be possible under natural conditions.
>
> For since reason commands that such actions take place, it must be possible for them to take place.[106]

A similar passage occurs in Kant's "On the Proverb: That May be True in Theory, But Is of No Practical Use".[107] Although the word 'can' does not appear in these quotations, Kant does say that any action which ought to be done must be one that it is possible to do. In other words, 'ought' implies 'is possible'. Prima facie one might suppose that actions which are possible to do are all those and only those which the agent can do. Thus, Kant may easily be seen as stating the equivalent of 'ought' implies 'can'. These are tougher passages for Baumgardt to explain away. He certainly cannot simply point out that they "do not suggest that ought implies can", as he does with his example.

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[105] Cf. Kant's Prolegomena to any Future Metaphysics, ed. in English by Paul Carus (1902), Section 53, 113."

[106] I. Kant, Critique of Pure Reason, A547-A548=B575-B576 and A807=B835, trans. N. Kemp Smith (Toronto: Macmillan, 1929), pp. 473 and 637.

[107] See Appendix A, I.

But does Kant use 'is possible' as equivalent to 'can' when speaking of actions? We need not worry very much about the answer to this question. We have already seen that a number of philosophers take "can" to refer to some type of possibility. Furthermore, since the type of possibility has not been settled and indeed does not seem likely to be very precise, so long as Kant is not using "possibility" in some completely idiosyncratic manner, we may take his view to also be represented by the slogan "'ought' implies 'can'".[108]

Kant argues that human will has empirical efficacy independent of the natural causes of events; we have the general ability to make a difference.

> Obviously, if all causality in the sensible world were mere nature, every event would be determined by another in time, in accordance with necessary laws. Appearances, in determining the will, would have in the actions of the will their natural effects, and would render the actions necessary. . . . For practical freedom presupposes that although something has not happened, it ought to have happened, and that its cause, [as found] in the [field of] appearance, is not, therefore, so determining that it excludes a causality of our will — a causality which, independently of those natural causes, and even contrary to their force and influence, can produce something that is determined in the time-order in accordance with empirical laws, and which can therefore begin a series of events entirely of itself.[109]

> That our reason has causality, or that we at least represent it to ourselves as having causality, is evident from the imperatives which in all matters of conduct we impose as rules upon our active powers. 'Ought' expresses a kind of necessity and of connection with grounds which is found nowhere else in the whole of nature. The understanding can know in nature only what is, what has been, or what will be. We cannot say that anything in nature ought to be other than what in all these time-relations it actually is. When we have the course of nature alone in view, 'ought' has no meaning whatsoever. It is just as absurd to ask what ought to happen in the natural world as to ask what properties a circle ought to have. . . .
>
> This 'ought' expresses a possible action the ground of which cannot be anything but a mere concept; whereas in the case of a merely natural action the ground must always be an appearance. The action to which the 'ought' applies must indeed be possible under natural conditions. These conditions, however, do not play any part in determining the will itself, but only in determining the effect and its consequences in the [field of] appearance. No matter how many natural grounds or how many sensuous impulses may impel me to will, they can never give rise to the 'ought' . . . . [R]eason will not give way to any ground which is empirically given. . . . And at the same time reason also presupposes that it can have causality in regard to all these actions, since otherwise no empirical effects could be expected from its

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[108] See the Appendix for Kantian passages relevant to "'ought' implies 'can'" and Kant's use of "possible".

[109] Critique of Pure Reason, A534=B562, p. 465. Notice that the terms 'ought' and 'can' do occur in the last sentence here, and while 'implies' does not, 'therefore' does.

ideas.[110]

> [Freedom] must also be described in positive terms, as the power of originating a series of events.[111]

We can choose to attempt almost any action because we are in general free and efficacious. The claim here is that we are able to make choices which are not determined entirely by natural laws and our attempts sometimes succeed or at least make a difference in the natural order. In saying that moral agents have this general characteristic no claim need be made about what is usual or happens most of the time. But the freedom and efficacy required might be general in the sense that it is not unique to some particular choice or even type of choice.

In The Critique of Pure Reason, the main passages addressing the question of 'ought' implying 'can', which we have just quoted, are contributions to the discussion of the antinomy of freedom and determinism. Kant argues that we must have efficacy — apparently in order to make sense of imperatives and especially the categorical 'ought'. The 'ought' is meaningless without our having efficacy. Where we have no efficacy the production of the 'ought's' dictates is limited to the causes of nature alone. Daniel Dennett claims, "Kant apparently fell for some version of this underground argument. He could not see how a human act could be both the effect of physical causes and also the execution of a decision of a rational will."[112]

My position is that moral responsibility or accountability can co-exist with determinism. But I do not believe that I am thereby forced to accept a compatibilist position on the question of freedom co-existing with determinism. "'Compatibilists' or 'soft determinists' [are] those who believe that free will and responsibility are compatible with determinism . . . ."[113] I must of course say that responsibility is compatible with determinism; I do not wish to take a metaphysical position about the compatibility of free will and determinism. Strawson is an example of someone who wishes to maintain an independence for

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[110] Critique of Pure Reason, A547-548=B575-576, p. 472-473.
[111] Critique of Pure Reason, A554=B582, p. 476.
[112] Elbow Room, p. 27.
[113] D. Dennett, Elbow Room, p. 83.

moral accountability from metaphysical questions of free will and determinism.[114]

Kant argues in addition to the need for efficacy that although natural causes may "impel" the will in some direction they do not determine the will. So someone might interpret Kant's use of 'can' and 'possible' in terms of the claim that we have freedom in general, rather than the claim that we are always able to do the specific action we ought to do. At least there is no suggestion that new 'oughts' mysteriously create new abilities to perform them, abilities which must mysteriously pass out of existence with the fulfillment of the obligation. So prima facie Kant holds that efficacy or the freedom to perform these actions is general at least to the extent of existing even in the absence of particular moral obligations. (Kant also seems to hold that we have efficacy to sometimes bring about that which which we ought not to do, or to on occasion not do as we ought.)

The stress here is on 'can in spite of previous conditioning' rather than on 'can in spite of current nonpsychological physical conditions'. When Kant speaks of the "causality of our will" producing "empirical effects", "in accordance with empirical laws", and doing so "even contrary to [the] force and influence" of natural causes, he is not saying that sheer will-power will overcome the natural causes which prevent us from rescuing drowning swimmers just after being shot. The same is true when he speaks of reason not giving way "to any ground which is empirically given". The consequences of our willing will be in accordance with empirical laws. The point at which we can override the natural laws is at the point where they act on our will; at this point sheer will-power can produce the empirical effects aimed at provided the nonpsychological means available to the will's causal influence are sufficient.

It is sheer will-power that resists natural inclinations (such as our desire for pleasures and aversion to pain) and conditioning (such as constantly being rewarded for some types of behaviour and consistently punished for others, thus creating appetites and aversions which might not otherwise exist) in favour of the dictates of reason. To use Thomas Nagel's terminology, in the passages from Kant we have been looking at, Kant aims primarily at

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[114] Cf. P.F. Strawson, "Freedom and Resentment", in Studies in the Philosophy of Thought and Action, ed. P.F. Strawson (Oxford: Oxford University Press, 1968), pp. 71-96.

denying that morality includes "constitutive luck" (i.e. luck in dispositions and temperament), or luck in "how one is determined" by the particular circumstances.[115]

The Kantian claim may be as general as that 'morality' implies 'freedom'. In the Critique of Practical Reason, Kant explicitly says, "freedom and unconditional practical law reciprocally imply each other."[116] Thus, unconditional practical law, in other words morality, implies freedom. In this same "remark" Kant does something which should be helpful: he gives examples.

> Suppose that someone says his lust is irresistible [i.e. cannot be resisted] when the desired object and opportunity are present. Ask him if he would not control his passion if, in front of the house where he has this opportunity, a gallows were erected on which he would be hanged immediately after gratifying his lust. We do not have to guess very long what his answer would be. But ask him whether he thinks it would be possible for him to overcome his love of life, however great it may be, if his sovereign threatened him with the same sudden death unless he made a false deposition against an honorable man whom the ruler wished to destroy under a plausible pretext. Whether he would or not he perhaps will not venture to say; but that it would be possible for him he would certainly admit without hesitation.[117]

Here Kant is dealing with a counter-example to his position. That is to say, Kant presumably believes that one 'ought' to resist his (or her) lust in the example and that this is possible, but he is considering a case where it is claimed that this is not possible, the lust is claimed to be irresistible. Kant points out that with a change in the circumstances, and new natural causes having influence on the will, the lust turns out to be resistible after all. Now if Kant were making a particular claim, then these changes in the particular details of the case would be illegitimate, for his objector could simply reply that in the case as originally given, without the greater incentive to resist, it still is not possible to do as one ought.

Dennett makes a similar point: "If what one is interested in is whether under the specified circumstances I could have done otherwise, then the other case mentioned is utterly irrelevant."[118]

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[115] Cf. T. Nagel, "Moral Luck", in Mortal Questions (Cambridge: Cambridge University Press, 1979), pp. 24-38, especially p. 28.
[116] p. 29 (Academy edition pagination).
[117] p. 30 (Academy edition pagination).
[118] Elbow Room, p. 133.

Kant has done nothing to show that in the original particular circumstances the individual could resist. But this is not the response Kant anticipates from his opponents. Rather a new counter-example has been suggested by Kant's answer to the first. The new counter-example is that perhaps no one can overcome their love of their own life (when they have this natural impulsion). So if doing as one 'ought' should happen to require that one overcome the very natural and strong impulse to go on living, doing as one ought may not be possible. In this case Kant admits that overcoming this impulse is difficult enough that one might well hesitate to predict success, yet he believes that one would admit without hesitation that success is possible for one.

Now Kant likely intended to suggest a further point which involves a closer relation between the two counter-examples than I have so far admitted. The point is that since we allow that overcoming our love of life is possible in the second case, the love of life can not have been the factor which completely determined the agent's overcoming his lust in Kant's answer to the first case. If this is a point Kant means to suggest, then he once again is guilty of changing the particular details of the case to establish the freedom he espouses (i.e. we are not completely determined by our love of life in cases where our lives are threatened).

Someone might suggest that Kant intended that these examples and counter-examples be particular rather than general in a different sense, namely that the discussion is about one individual who is able to overcome his particular natural psychology. The problem with this interpretation is that Kant does not tell us by which particular features of this individual and his unique psychology he has been able to overcome his lust and his love of life. Kant does not do much by way of character development here; the agent is not named or given identifying marks.

It is surely more likely that Kant is taking cases which are especially difficult; he is asking his audience (meaning to include any rational agent) to imagine being overcome by lust to the point that one is convinced that this lust can not be resisted and to imagine having a particularly strong love of life, "however great it may be". Then showing us that we can overcome, or at least will agree without hesitation that this is possible, even in these difficult

cases, shows that we can overcome in most other cases as well, because in most actual cases the natural impulse which must be overcome in order to do as one ought will not be as strong as these, and the individuals involved will not be under the influence — of even the same natural impulses (i.e. lust or love of life) — to the same extent.

Notice again that the emphasis is clearly on 'can' in the sense of ability to rise above natural psychological conditioning and constitutive make-up, rather than on 'can' in the sense of the physically possible (so far as the physical does not include the psychological) as the example does not even address a problem of nonpsychological physical difficulty. Resisting lust and not telling lies simply are not matters of exerting more or less nonpsychological physical force. Exercise programs at the local gymnasium or physiotherapy in the hospital will have at best limited indirect influence on overcoming lust or the love of life. Building and training muscles can overcome some difficulties such as achieving the four-minute mile (impossible without well-developed and well-trained muscles), but Kant does not raise that sort of problem. Nor is the problem one of augmenting some human sense with mechanical devices to enable it to apprehend objects which would otherwise impossible to see, hear, etcetera.

Most importantly now, Kant's reasons for holding that morality implies freedom (with the emphasis on psychological and epistemic possibility) may well provide a motivation for also holding 'ought' implies 'can' in the sense 'is physically possible'. Kant seems to explicitly include nonpsychological physical possibility when he writes: "The action to which the 'ought' applies must indeed be possible under natural conditions. These conditions, however, do not play any part in determining the will itself, but only in determining the effect and its consequences in the [field of] appearance."[119] Kant is apparently allowing that there are natural conditions, under which the action required by the 'ought' must be possible, other than those which play a part in determining the will itself.

Indeed, in spite of the arguments to the contrary above, the principle must hold for each particular obligation, agent, and action. For presumably the reason morality needs

[119] Cf. Critique of Pure Reason, A548=B576, p. 473.

freedom is just that only so are agents responsible for their actions otherwise the natural conditions are the cause of all that happens. But in many cases where the specific agent is faced with a specific physical impossibility, she is not the cause of her failing to do it, and so she equally should not be held responsible for the nonperformance of that action.

Of course, to some extent an agent can create specific physical impossibilities (for example, breaking one's arm to make manual labour impossible for a time). But in these cases, the agent is still the cause of her failing to do the action, and can be seen to be responsible for the nonperformance of that action. But if the agent is not the cause, no moral blameworthiness seems deserved in such a case, just as in the case where she is not free but determined.

The lifeguard who because she was shot lacks the physical strength to rescue a drowning swimmer is not, on the ethical rationalist view, blameworthy for failing to do so any more than a robot programmed so as not even to notice such a need. Kant is concerned about moral accountability when he claims we must "presuppose" we can have causality in regard to moral actions, "since otherwise no empirical effects could be expected from its ideas".[120]

This line of reasoning might be taken to be general — as saying that morality implies we as agents have causality. But it need not be taken in this way. If in a particular case an alert and bright agent is aware of believing that she cannot do the action, she also could not (rationally) expect empirical effects from any thought that she ought to do the action. So the particular instance parallels the general case; where the agent believes she cannot, either specifically or in general, then the corresponding empirical effects (specific or general), could not be expected. Ethical rationalists do seem to hold "'ought' implies 'I think I can'", and this will prove a source of trouble for them.

Kant is arguing that moral reasoning must presuppose that it can have causality, since this is a necessary (though not likely a sufficient) condition enabling empirical effects to be expected from moral reason's dictates. This argument in turn suggests that the condition

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[120] Critique of Pure Reason, A548=B576, p. 473.

where empirical effects could be expected from moral reason's dictates, even more obviously than our having causality, must be presupposed for morality. After all Kant appeals to it rather than appealing directly to the moral 'ought'; i.e. he does not at this point say that the presupposition of causality is a necessary condition for the existence of moral obligations. So one might think that the condition where empirical effects could be expected from moral reason's dictates is also necessary to (though again, not likely sufficient for) moral obligations.

Someone might continue to try to argue that Kant's point must be general here. Kant is writing about what could be expected. The fact that some result could be expected does not imply that anyone actually does expect it. Similarly, stating that a necessary condition for moral obligation is that empirical effects could be expected does not imply that it is thereby a necessary condition that this particular agent expects empirical results from the moral dictates that apply to him.

In response, the question arises: empirical effects could be expected by whom? In the passage in question, reason is doing the presupposing and having the ideas. So perhaps reason must also be the "one" that could expect empirical results. Now whether Kant means reason in general or the reason of the particular agent in question is not clear.

Why would the possibility of expecting empirical effects be so important? One interpretation says this expectation is important because only if one could expect that the effects can be achieved would one be accountable for trying to bring them about. Perhaps we would never bother ourselves about morality if we did not believe in general we could produce empirical effects. As a number of thinkers note, we do not usually require people to attempt anything that is truly impossible, for we suppose that there would be no point in doing so.[121] But now, if someone really believes a particular task is impossible, then she may see no point in attempting it or requiring it of herself either.

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[121] Cf. N. Cooper, The Diversity of Moral Thinking, p. 183; G.P. Henderson, "'"Ought" Implies "Can"'", p. 103; J.J.C. Smart, Ethics, Persuasion and Truth, p. 108, and A. Montefiore discusses the view, "'Ought' and 'Can'", pp. 27-28.

One might object that those who deny 'ought' implies 'can', seem thereby to be committed to requiring agents to attempt the truly impossible — and does not the oddness of this result count in favour of "'ought' implies 'can'"? W. Sinnott-Armstrong has responded to this objection that whether or not (stating) a particular judgement serves any purpose is a separate question from whether or not it is true.[122] But this answer will not do if the objection is strengthened by the plausible claim that moral judgements always have some point. For if moral judgements always have some point, and this judgement has no point, then this judgement must not be a true moral judgement.

My own response is twofold. First, we use the word 'ought' even in contexts where we do not, and perhaps could not, expect any attempt to be made to bring about that which ought to be. For example, when one tells a severe alcoholic that he ought to quit drinking, one sometimes cannot really expect him to make any attempt given perhaps the strength of the dependency or the past history of the fellow to similar injunctions in the past. Second, and more importantly, I think there just is some point to requiring agents to attempt to do the impossible. I shall clarify just what the point is.

The view that accountability requires the expectation of results is surely faulty. First, so long as I only really believe the task impossible and do not actually know it is so, then there is a point in attempting it, namely the chance of success in the cases where my belief is false. Mothers often enough tell us, "you do not know that you cannot do it until you have really tried". Nicholas Rescher reasonably points out that in "life we seldom know in advance of 'having a try' and actually pursuing a goal whether or not its attainment is possible for us".[123]

Secondly, the hard determinist never expects empirical effects to originate from her actions. Does this mean that she is never morally accountable for her actions? Surely not. I will admit that if hard determinism is true, then possibly no moral accountability exists. But we are not supposing that it is true here, only that someone believes it so. The rest of us just

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[122] Cf. "'Ought' Conversationally Implies 'Can'", Philosophical Review , XCIII, No. 2 (April, 1984).
[123] N. Rescher, Ethical Idealism, p.8

do require of hard determinists that they also act morally. Of course the more important question now is: are we justified in this requirement?

Thirdly, as Rescher points out, sometimes only by pursuing an admittedly impossible goal can one achieve certain other goals.[124] He gives the example of a commander who sets out to win a hopeless battle in order to satisfy his conscience, or impress his superiors, or leave a mark in history. Similarly, a teacher may need to place impossible expectations on some students in order to gain needed information from others in a case of finding out a prankster. Daniel Dennett writes, "Sometimes the only way to get what you really want is to try to do something else." Dennett uses the example of how even though it is impossible for one's literal follow-through to influence the golf ball's flight, concentrating on the proper follow-through can.[125]

Fourthly, there may be a point to attempting the impossible since sometimes when striving for impossibly high goals we achieve more than we would have in trying for a goal that looked realistic (even though we fail to gain the impossible goal as set). A performer such as a musician or figure skater might reasonably try to execute the perfect performance. Doing so is likely to bring out a better result than merely trying to play one's best. Rescher speaks of enhancing achievement by aiming too high.[126] In these cases "we believe that we cannot do something, but we cannot quite hold ourselves back from trying to do it anyway."

Fifthly, a further reason for holding agents morally accountable in circumstances where they could not do otherwise, is as a means of encouraging all of us to do more to anticipate and avoid such circumstances.[127] So if one thinks that expecting empirical effects is important because it is needed for moral accountability because people could not to any purpose be required to do the impossible, then he is mistaken.

Perhaps a better position would return to the claim that the expectation of empirical effects is important because reason simply cannot command one gain them without itself

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[124] Ethical Idealism, p. 9.
[125] Cf. Elbow Room, p. 16.
[126] Ethical Idealism, pp. 12-16.
[127] Cf. R. Barcan Marcus, "Moral Dilemmas and Consistency", Journal of Philosophy , LXXVII (1980), pp. 121-136 especially 133-35.

(reason) expecting that they can be gained. The point is not that commanding the impossible has no point, but rather that the nature of a command includes the assumption that what is commanded is possible. So when empirical effects are commanded, they are at least in this sense expected.

In any case, if the expectation of empirical results is important at the general level, it will likely also be so in particular cases. And by requiring that empirical efficacy accompany the moral 'ought', Kant thereby specifies a 'can' which refers to nonpsychological physical possibility, and not just to freedom of the will in the face of determining influences and constitutive make-up.

Of course, we have already granted that Kant holds morality implies this power at a general level. Our question is whether each particular 'ought' implies that the agent be able to cause the particular result commanded. As suggested above, the answer is that if Kant is reasoning on the basis of what is required to hold agents morally accountable, then this reasoning will apply equally well to the particulars. Thus particular freedom to perform each particular 'ought' will be required, and along with the freedom, particular efficacy in the empirical realm to bring about that which ought to be.

Indeed, Kant goes on to address questions of moral accountability.

> The real morality of actions, their merit or guilt, even that of our own conduct, thus remains entirely hidden from us. . . . How much of this character [i.e. the empirical character of an action] is ascribable to the pure effect of freedom, how much to mere nature, that is to faults of temperament for which there is no responsibility, or to its happy constitution (merito fortunae), can never be determined . . . .[128]

Dennett comes to a similar conclusion:

> If our responsibility really did hinge, as this major philosophic tradition insists, on the question of whether we ever could do otherwise than we in fact do in exactly those circumstances . . . it would be unlikely in the extreme . . . that anyone would ever know whether anyone has ever been responsible.
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> Or look at the point another way: those who claim to know that they have performed acts such that they could have done otherwise in exactly those

[128] Critique of Pure Reason, A551=B579 note, p. 475. See also Kant's Groundwork of the Metaphysic of Morals, Chapter II, especially the first three paragraphs, H.J. Paton trans. (New York: Harper Torchbooks, 1785, 1964).

> circumstances must admit that they proclaim this presumably empirical fact without benefit of the slightest shred of evidence, and without the faintest hope of ever obtaining any such evidence.[129]

Thomas Nagel in "Moral Luck" begins by pointing out that Kant wished to make moral assessment of persons and actions immune to the influence of moral luck. "Prior to reflection it is intuitively plausible that people cannot be assessed for what is not their fault, or for what is due to factors beyond their control."[130] "The result of such a line of thought is to pare down each act to its morally essential core, an inner act of pure will assessed by motive and intention."[131] "Joel Feinberg points out further that restricting the domain of moral responsibility to the inner world will not immunize it to luck."[132]

In the passage I have just quoted from Kant, he seems to be aware of these problems raised by Nagel, and consequently he despairs of our ability to make moral assessments at all. While this move is at least logically acceptable, it is one Nagel appears not to consider.

Kant is supposing here that one is not accountable for what mere nature causes, but only for the effects of one's freedom. But surely this will be true not merely for the issues of the conditions determining the will and one's constitutive nature, as in his examples here, but also for those of nonpsychological physical possibility and impossibility.

The question of moral accountability is more closely tied to 'ought' implies 'can' in Religion Within the Limits of Reason Alone.

> For when the moral law commands that we ought now to be better men, it follows inevitably that we must be able to be better men. . . . Yet he [i.e. man] must be able to hope through his own efforts to reach the road which leads thither . . . because he ought to become a good man and is to be adjudged morally good only by virtue of that which can be imputed to him as performed by himself.[133]

Consistency would seem to require that one could only be adjudged to have done wrong "by virtue of that which can be imputed to [one] as performed by himself". So while some possible Kantian versions of "'ought' imply 'can'" may perhaps be explained away, the underlying reasoning, if applied consistently, would require that Kant held this principle in a

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[129] Elbow Room, pp. 135-136.
[130] "Moral Luck", p. 25
[131] "Moral Luck", p. 31
[132] "Moral Luck", p. 32
[133] Religion Within the Limits of Reason Alone. p. 46.

fairly strong sense.

We have now gained some familiarity with a number of versions or variations of the "'ought' implies 'can'" principle. Moreover, we have seen that if the implication is one of presupposition, then the principle does not threaten those accepting genuine moral dilemmas with contradiction. Also, if the principle is held as only a general principle not applicable in each and every case, no threat to genuine dilemmas follows. Thirdly, if the 'can' referred to by the principle is 'can in the imagination' or 'can in unconscious thought', then too the principle poses no problem for genuine dilemmas.

Unfortunately, Baumgardt's position looks wrong-headed now, for the important issue here is not whether Kant wrote down a particular phrase. We want to know whether he held a particular view. The principle that 'ought' implies 'can' fits particularly well with the Kantian passages we have considered here. Particularly important to any project of denying "'ought' implies 'can'" will be the answer to this question: how can we justify holding people morally accountable for actions they cannot do? I wish to turn to this question now.

Chapter III

ON BEING BLAMED FOR NOT DOING THE IMPOSSIBLE

We choose to go to the moon in this decade, and do the other things, not because they are easy, but because they are hard; because that goal will serve to organize and measure the best of our energies and skills.
— John F. Kennedy

A. Introduction

I have been arguing that a position on moral accountability is a central issue in, or the main motivation for, the acceptance of versions of "'ought' implies 'can'" which are problematic for moral dilemmas. The argument has been primarily against what Alan Donagan calls an ethical rationalist position, namely Kant's.[134] I shall now go on to argue against the ethical rationalists' position on moral accountability (i.e. the position that agents are not accountable for more than they can or could do).

I shall begin by clarifying what I mean by 'ought' in cases where there is no question of being able to do what is required. In particular, I argue against treating all of these as cases where, although the act ought to be done, the agent will not be held blamable for not doing it because its impossibility excuses. If the view that agents are not blameworthy for obligations unfulfilled due to dilemmas were true, then genuine dilemmas would not provide much incentive to try to fulfill requirements that look impossible or to arrange our lives so they will not arise. Moreover, genuine dilemmas would not be very tragic, would not be so problematic to theory and real life as they are, if no blame could be assigned in these cases (i.e. if one would simply be excused).

[134] Cf. A. Donagan, "Consistency in Rationalist Moral Systems", Journal of Philosophy LXXXI, No. 6 (June, 1984), p. 293.

B. Ought And Blameworthiness

A motivation for holding "'ought' implies 'can'" is the assumption that moral accountability requires as much. And it is true that we do not typically hold someone blameworthy for not doing something which was impossible to do. Why does this fact about blameworthiness motivate so strongly the claim that 'ought' implies 'can'? It does so because we also typically regard those who fail to do what they ought as blameworthy. Now if failing to do what one ought makes one blameworthy, and if one is never blameworthy for failing to do the impossible, then, it is tempting to suppose, one does not fail to do what one ought in failing to do the impossible. Since impossibility so generally excuses, people assume this must be because there is no ought which requires doing the impossible. In other words, 'cannot' implies 'not the case that ought', i.e. 'ought' implies 'can'. Indeed, Thomas Nagel maintains in "Moral Luck" that the generality is so strong that merely discovering new ways in which we lack control persuades us that moral assessment does not apply in corresponding new ways.[135]

Nicholas Rescher or Walter Sinnott-Armstrong might respond to this line of reasoning by objecting that sometimes we do speak of others failing to do as they ought without holding them blameworthy.[136] One example would be cases where what really ought to done is also supererogatory. We might say that an agent ought to have behaved as a moral saint or hero would have, but of course we cannot blame someone for not being a saint or hero. Another example would be the role excuses play in some moral theories. Walter Sinnott-Armstrong sees excuses as admissions of failing to do what one ought which at the same time deny accountability for the failure.

Richard Brandt gives some examples of this in an article on suicide.[137] One is an

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[135] "Moral Luck" in Mortal Questions (Cambridge: Cambridge University Press, 1979), p. 26-27.

[136] Cf. N. Rescher, "Does Ought Imply Can?", Ethical Idealism: An Inquiry into the Nature and Function of Ideals (Berkeley: University of California Press, 1987), especially pp. 36-39, and W. Sinnott-Armstrong, "'Ought' Conversationally Implies 'Can'", Philosophical Review XCIII, No. 2 (1984), p. 250-251.

[137] "The Morality and Rationality of Suicide", in A Handbook for the Study of Suicide , Ed. S. Perlin (Oxford: Oxford University Press, 1975) Also in Moral Problems , Ed. J. Rachels, 3rd edition (New York: Harper and Row, 1979), pp. 460-489 especially pp. 461-64.

example of mistaken moral conviction or belief. Someone might think she ought to commit suicide because she has a terminal disease and the cost of continuing to treat it would make her family destitute. Brandt is supposing that while she may have the facts right, they do not really justify suicide, so she ought not to kill herself. He goes on to argue that given that she acts, if she does, out of a genuine sense of duty, we cannot hold her blameworthy.

I point to this example to show that some independent reason supports disconnecting blameworthiness or moral accountability from the failure to act as one ought, apart from the need to protect the agent from blame in cases of genuine dilemma or impossible obligations. Both Brandt and Sinnott-Armstrong suggest that 'ought' applies to actions while 'blameworthiness' applies to agents. Sinnott-Armstrong writes: "Another common argument is that we do not blame agents for failing to do acts which they could not do, so it is not true that the agents ought to have done the acts. No such conclusion follows. The premise is about agents, but the conclusion is about acts."[138] This is not a good statement of the position, for the premise is not solely about agents, nor the conclusion solely about acts.

Compare this distinction with that of Alan Donagan in The Theory of Morality.[139] Donagan claims "first-order" questions are about the rightness or wrongness of actions, while "second-order" questions are about the culpability or inculpability of agents. This parallels his distinction between actions considered objectively (things done) and subjectively (doings of agents). Donagan admits, however, that the doings of agents may be culpable or inculpable, so his view differs a little from Sinnott-Armstrong's.

(Consider a parallel move against "'ought' implies 'can'": the antecedent is about acts while the consequent is about agents. Statements about what an agent 'ought' to have done are about acts. Statements about what one 'can' do are about the agent's abilities, or at least are ambiguous between this interpretation and the view that they are about acts. To clear the ambiguity, perhaps we should adopt the Kantian, "'ought' implies 'is possible'" along with "'blamable' implies 'capable'". However, I shall be resisting this move not to consider

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[138] Cf. "'Ought' Conversationally Implies 'Can'" p. 250.
[139] The Theory of Morality (Chicago: University of Chicago Press, 1977), pp. 30, 37, 54 and 112.

some acts as blame-conferring. Moreover, only agents morally 'ought' to do certain things.)

So no one should be surprised, given Sinnott-Armstrong's distinction, if the conditions for applying these terms do not result in blameworthiness applying to every agent who fails to do as she ought. The evaluation of acts just is a different matter from the evaluation of persons.

Even so, I do not find this response satisfying. And indeed, we might wonder whether this response just weakens the meaning of 'ought'. Even those who would like to reform the way language is used so that it agrees with their moral theory must take care, for extensive reforms of language will hamper communication, limiting the persuasiveness of their arguments if not the intelligibility of their position. In any case, rationalists with their emphasis on the overridingness of moral claims will not approve of a weakening of the meaning of 'ought'. What is left of the meaning of 'ought' when there is no question of one's being blameworthy for failing to comply with its dictates? Donagan writes: "Not only rationalists are apt to be bewildered by what a moral obligation could be, if there should admittedly be no question of doing what one is morally obliged to do."[140]

Donagan, of course, regards the meaning of 'ought' to be already decimated by the denial of "'ought' implies 'can'". I am suggesting that the answer to Donagan's question lies in one's being held blamable for not doing as one ought even in the cases where one cannot. (This motivates striving harder to fulfill moral requirements, and trying to organize our world so that conflicts will be rare.) Thus the question of what 'ought' might mean arises anew if blameworthiness is denied for cases where one 'ought' to do what one 'cannot'.

Rescher, who denies that 'ought' implies 'can', seems to answer this question by pointing to what he calls residual obligations, i.e. duties to compensate or atone.[141] And while he holds that regret is appropriate, he specifically denies that blame is. Now I agree that residual obligations and regret are important, but I do not believe that these concepts without the concept of blameworthiness adequately capture the meaning of 'ought' when the agent

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[140] Cf. "Consistency in Rationalist Moral Systems", p. 300.
[141] Cf. Ethical Idealism: An Inquiry into the Nature and Function of Ideals (Berkeley: University of California Press, 1987), pp. 39-41.

cannot meet the obligation. A regret which says "I am sorry" only to insist "But I am not at fault" is not morally significant. One can feel similar sorrow over any natural misfortune striking another. Furthermore, one may hold along with Donagan that residual obligations may bind even when the original putative obligation did not.[142] For an apparent obligation may raise expectations that should be respected.

Sinnott-Armstrong's position in "'Ought' Conversationally Implies 'Can'" is in complete agreement with the ethical rationalists on the point about blame. He holds that if 'ought' is used for blaming, then 'ought' implies '[either] can or culpably cannot'.[143] He holds that when 'ought' implies neither 'can' nor '[either] can or culpably cannot', then the 'ought' must merely be used for purposes of deliberating. Certainly if all instances of 'ought' failing to imply 'can' are cases where one is not accountable, then there will be little room to reasonably feel regret for failing to meet the requirements of the 'ought'.[144]

Even rationalists might find exceptions to "'ought' implies 'can'" acceptable when the agent will not be blamed if she did not cause her own impossibility. Rationalists, of course, will not see unfulfilled impossible requirements generally as occasions for reasonable regret. Rationalists suppose that morality will be reasonable.[145] Also consider Philippa Foot's comments: "There are plenty of feelings which are irrational without being discreditable, as for instance feelings of guilt about giving away the possessions of someone lately dead." I expect that rationalists would dismiss unreasonable regrets as unimportant to morality just as Foot goes on to dismiss the significance of irrational feelings for morality.[146]

But someone like Sinnott-Armstrong, who hopes to show that "the argument from 'ought' implies 'can' fails to prove that moral dilemmas are impossible",[147] ought to be concerned about what sort of dilemmas his argument supports. Moral regret seems unjustified

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[142] Cf. "Consistency in Rationalist Moral Systems", pp. 297-300.
[143] "'Ought' Conversationally Implies 'Can'" p. 259.
[144] Cf. B. Williams, "Ethical Consistency", in Problems of the Self (Cambridge: Cambridge University Press, 1973), also see "Moral Luck" in Moral Luck (Cambridge: Cambridge University Press, 1981), pp. 20-39.
[145] Cf. Donagan, "Consistency in Rationalist Moral Systems", pp. 292-293 and 299.
[146] Cf. "Moral Realism and Moral Dilemma", Journal of Philosophy LXXX (1983), p. 382.
[147] "'Ought' Conversationally Implies 'Can'", p. 261.

when someone knows she is (or was) not responsible. But moral regret will not seem automatically unjustified when one knows that what happened was beyond her power of control.[148] So 'not being responsible' does not seem coextensive with 'not having the power of control'. The situation would be different if rather than being excused from accountability one were forgiven for not doing what one could not do. Even if the forgiveness is assured in advance, regret for being in need of forgiveness seems reasonable.

Moral dilemmas would not play the troublesome role they do in our lives, they would not raise the difficulties they do for moral theory, if they were all just cases where you ought to do more than you can, but you will not be blameworthy in any case (so long as you do as much as you can). Unlike Bernard Williams' vision of moral conflict, no great moral tragedies would arise from dilemmas where no question of blame is at issue. Martha Nussbaum writes: "Tragedy . . . shows something more deeply disturbing: it shows good people doing bad things . . . because of circumstances whose origin does not lie with them."[149] The seriousness of the downfall of the good man who was trapped by moral conflict (in Williams' example, Agamemnon) is proportional to his blameworthiness. Indeed if one's actions are completely excused they do not constitute a moral downfall at all; these actions are merely unfortunate. Rescher fails to distinguish between the tragic and the unfortunate.[150] Unfortunate actions are not owned by agents to the same extent as the tragic actions Williams is writing about.

R.M. Hare also writes about tragic situations, but in his view they are not really tragic if properly described.[151] Hare suggests that the real tragedy in these cases is a failure to use the proper level of moral thinking. Hare also admits that we are not always capable of using the needed level of moral thought.[152] Surely, it is odd to think that the real tragedy of Agamemnon sacrificing his daughter just consists in his not thinking about his action on a

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[148] Cf. Williams, "Moral Luck", Moral Luck.
[149] M. Nussbaum, The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (Cambridge: Cambridge University Press, 1986), p. 25.
[150] Ethical Idealism, pp. 37-38.
[151] Moral Thinking: Its Levels, Method and Point (Oxford: Clarendon, 1981), pp. 31-32.
[152] Moral Thinking, p. 45.

different level.

The case would be of a different kind if she died accidentally with no question of Agamemnon being to blame. Furthermore, there would not be much incentive to create our institutions and practices in ways which will avoid conflicts of requirements, or to try hard to fulfill moral requirements which look impossible, if they are all just cases where you ought to do more than you can, but you will not be blameworthy for failing. Clearly, I disagree with Sinnott-Armstrong's position in "'Ought' Conversationally Implies 'Can'". I do not think the move to conversational implication will make room for significant moral dilemmas.

Now I will grant that sometimes we use the word 'ought' in a rather weak sense which does not assume that failing to comply is automatically just cause for blame. But I wish to deny 'ought' implies 'can' for more uses of 'ought' than merely this one. So let me reconnect, for the purposes of our discussion, moral responsibility (and in particular blameworthiness) with failure to obey the 'ought'. This brings us back around to the problem of impossibility typically excusing.

Indeed the problem has been intensified. If I wish to deny 'ought' implies 'can', and I refuse to disconnect moral accountability from even this 'ought', then I must hold that we are sometimes morally accountable, indeed blameworthy, for not doing what we cannot. Nagel resists this position in "Moral Luck", for I believe he has just this type of view in mind when he speaks of the "compatibilist account".[153] His reason for resisting the view is the strength of the generalization that one is accountable only for what is in their power of control. Indeed, he says that this is not merely "a generalization from certain clear cases"[154] The view that we are sometimes accountable for doing what we cannot may seem counter-intuitive, but, I hope to show, not in all cases.

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[153] "Moral Luck", pp. 35-36.
[154] "Moral Luck", p. 26.

C. The Common Problem

A common problem faces those who wish to deny that 'ought' implies 'can', and those who wish to maintain that genuine moral dilemmas exist. The problem is in very rough terms: how are we justified in holding people morally responsible for more than they can (or could) in fact do? (I say "in very rough terms" because there is a widely recognized class of cases where the problem does not arise. See the section "Inability Chosen or Due to Negligence" below.)

Does Rejecting the Agglomeration Principle Help?

Now someone might object that by denying the agglomeration principle, one may affirm the existence of genuine dilemmas without facing this problem. The agglomeration principle states that if one ought to do each of several actions, then one ought to do the conjunction of all these actions.

A simple illustration of a nonmoral case where one would deny the agglomeration principle is with the attribute "is poisonous". By an agglomeration principle analogous to the one we are considering, one could conclude from the facts that X is poisonous, and Y is poisonous, that X and Y taken together are poisonous. But this conclusion is wrong. The antidote to a poison can itself be poisonous. Consider also that appointments or engagements cannot be agglomerated.[155]

One might be tempted to think that by denying this principle, people need never be held accountable for the performance of the conjunction of all these actions, which after all seems to be what the victim of the dilemma cannot do since she can do each of the acts individually. (We are making this assumption here so as to not mix the problems of holding genuine dilemmas exist with those of denying "'ought' implies 'can'" by design. Obviously, in a dilemma where the 'oughts' are impossible to perform, where the "'ought' implies 'can'" principle does not hold for even the individual obligations, the two positions will seem to have common problems.)

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[155] Cf. P. Foot, "Moral Realism and Moral Dilemma", Journal of Philosophy LXXX, No. 7 (July, 1983), p. 383.

Nevertheless, this objection fails because whatever course the agent adopts when in a genuine moral dilemma, we wish to say that some 'ought' remains for which she is morally responsible and which, given that she chose this course of action, was more than she could do. That she could have fulfilled this 'ought' had she acted otherwise is not to the point since, this being a genuine dilemma, had she acted otherwise some other 'ought' could not have been fulfilled. So we must address this common problem of justifying holding persons morally accountable for more than they can do. (There are parallel problems about holding people accountable for more than they think they can do, or for more than they are aware that they ought to do.)

Rescher goes further in his resistance to jettisoning the agglomeration principle for the sake of genuine dilemmas. By also calling "dilemmas" cases of obligation to do the impossible, he can go on to claim that abandoning the agglomeration principle does no good in these cases.[156] "To abandon it is to pay a price that fails to yield the expected benefits. To see it as pivotal is to become diverted by what is simply a red herring." Rescher is being overly harsh. Those, like Williams, who suggest giving up the agglomeration principle were not "expecting" this move to have benefits for cases of impossible obligation. Rescher should provide an argument for including cases of unfulfillable obligation as dilemmas. He might claim, for example, that whenever some obligation is impossible to fulfill, it competes in dilemmatic fashion with those that are not.

The Significance of this Common Problem

This common problem facing both those who hold that moral dilemmas are genuine and those who deny that 'ought' implies 'can' is important. If an adequate response to this problem can be found, much of the motivation for holding "'ought' implies 'can'" will be removed. The onus should then shift to those wishing to hold the principle to defend their position. They are the ones, after all, making the universal claim here (i.e. they claim that one can count on "'ought' implies 'can'" as a principle which will apply with regularity to

[156] Ethical Idealism, p. 35.

moral situations with at most a few explainable exceptions). With the major motivation for holding the principle neutralized, arguing against counter-examples should become much more difficult. Supporters of "'ought' implies 'can'" will certainly not be able to claim to have canvassed every moral situation and thereby to have verified that as a matter of fact in each case 'ought' did, does, and will, imply 'can'.

On the other hand, those denying "'ought' implies 'can'" are not thereby committed to the position that 'ought' never implies 'can'.[157] Perhaps in many cases one could say that 'ought' does imply 'can'. This is to say that in these cases the 'ought' would not have truly applied to the agent had not the agent been able to perform it. In other words, impossibility may often excuse, that need not be in question here; what we wish to determine is whether impossibility can be counted on to excuse as a principle.

Another reason the onus to defend will shift towards those wishing to hold "'ought' implies 'can'" is that, as we have already seen, I am only interested in denying certain versions of the principle. Indeed, I am inclined to suspect that the project of morality best makes sense if humans are generally efficacious. The onus to defend would bear much heavier on me if I tried to deny all versions and variations of "'ought' implies 'can'".

So we might hope that answering the problem of justifying holding people accountable for more than they can do, will strengthen considerably our rejection of "'ought' implies 'can'". Strengthening this rejection of course will indirectly support the view that moral dilemmas are genuine by weakening the objection that holding dilemmas are genuine results in contradictions. But we might now hope to directly support the genuineness of moral dilemmas if we can motivate or justify holding agents accountable for more than they can do. Any reason for thinking that we can justifiably hold moral agents accountable for more than they can (or could) do will also be a reason for holding that we can sometimes justifiably hold agents accountable for the obligations necessarily left unfulfilled in a moral dilemma. In other words, some dilemmas are such that no matter what the agent does a remainder of unfulfilled

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[157] Cf. J. Margolis, "One Last Time: 'Ought' Implies 'Can'", The Personalist, 48 (1967), p. 35, where he in the course of arguing against 'ought' implies 'can' writes: "I am not denying that, sometimes, when we say a man ought to do A, it must be the case that he can do A."

obligation will exist for which she can justifiably be blamed — i.e. some moral dilemmas are genuine. Can we justifiably hold persons accountable for more than they can do?

Inability Chosen or Because of Negligence

There is a large class of cases where we are obviously justified in holding agents accountable for more than they can do. These are the cases where the agent in question is directly and morally accountable for not being able to do more than she can. (I have heard of cases where persons have deliberately injured themselves so as to be unable to work in order to qualify for Worker's Compensation Benefits.) Michael Zimmerman, for example, holds that "self-imposed impossibility affords no excuse."[158]

One can be morally accountable for inability as a result of culpable negligence or by willful disobedience of morality. In any case, those who argue in favour of "'ought' implies 'can'", or against the genuineness of dilemmas, can perhaps reasonably argue that this class of cases is the exception. The argument is that the immorality lies in the getting into the dilemma or in the taking on of the impossible obligation, rather than in the failure to fulfill any of the obligations in question. This argument is considered but not accepted by van Fraassen.[159]

What the agent is really being held accountable for is the immorality of coming into or creating the situation where she is unable to meet the obligations. On Zimmerman's view the wrong of failing to fulfill an impossible obligation "is committed by virtue of" committing the wrong of creating the impossibility or dilemma.[160] So ultimately the agent is not being held accountable for more than she can do as the agent could, at some point in the past, have done something to avoid the dilemma or impossible obligation.[161] I shall argue in a later chapter that the act by which an agent comes into the impossible obligations must be immoral

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[158] "Remote Obligation", American Philosophical Quarterly 24, No. 2 (April, 1987), p. 200.
[159] Cf. "Values and the Heart's Command" in Moral Dilemmas, Ed. C.W. Gowans (Oxford: Oxford University Press, 1987), p. 147.
[160] "Remote Obligation", p. 200.
[161] Cf. T. McConnell, "Moral Dilemmas and Consistency in Ethics" in Moral Dilemmas, p. 160.

independently of its creating impossible obligations, but we shall not worry about this qualification for the time being. For now let us set aside this subclass of cases where people are morally blamable for being unable to do more than they can.

D. Problems With Accountability For More Than One Can Do

We might begin by asking why the natural presumption is that people cannot be justifiably held accountable for more than they can do. Indeed, one might ask why 'ought' so often implies 'can', as I have held above that inability may often excuse and that I need not deny every version of the principle. But let us postpone this related question until near the close of this chapter and concentrate for now on the natural inclination to not hold agents accountable for more than they can do. Perhaps this presumption is simply basic to the projects of human accountability. We do not wish to assign credit or blame to a person on the basis of actions which cannot be imputed to her as performed by herself.

For example, if a child guessed ten out of ten on an arithmetic test, we would not take this to be an accurate measure of her ability in mathematics. Daniel Dennett notes, "we do expect a lot from [moral agents] and for good reason. We are not just lucky, we are skilled."[162] Similarly, if she had copied the answers from a book or her neighbour, or had used a calculator, or had been hypnotized to give just these answers, we would not see the answers as an indication of her mathematical skill. (Though the answers may reveal either the ability of others in mathematics or the student's abilities at other skills such as the use of a calculator.)

To assess someone's mathematical skill we must observe what they can do mathematically and, indeed, that the person sees the mathematical justification for the answer is often as important as the accuracy of the answer. We take the person's ability to give the justification as evidence of her having performed the tasks necessary to come up with the answer on her own. If we are assessing an ability of a particular type (like mathematical) then we likely regard the principle of only giving credit for what the person has contributed

[162] Cf. D. Dennett, Elbow Room: The Varieties of Free Will Worth Wanting (Cambridge, Mass.: MIT, 1984), p. 94.

from her own skill (the one in question) to be part of what it means to assess that skill.

But the question now arises, is moral assessment just like the assessment of a skill or ability? We assess abilities mainly to predict future performance or to indicate to the individual areas where this skill needs to be developed further, or, if further development is not desired, or not thought to be worth the effort, or is not possible, the assessment may simply indicate that other skills should be pursued and this one left to others more capable. Now, admittedly we do use our moral assessments of others to predict their future trustworthiness etcetera, but moral assessment is never meant to suggest that one give up trying to be moral, leaving that project to those who are better at it. Moral assessment may be useful at showing an agent in which areas his behaviour needs improving, but it is meant to do something much more. It is meant to provide motivation for, to make imperative, the attempting the improvement.

Now as Rescher points out, impossible or "unrealistic goals are frequently counterproductive".[163] Agents "may find unrealizable demands intimidating rather than encouraging". So it can be argued that holding people accountable for more than they can do will discourage them from trying to act responsibly. The argument is that when people find that they may be considered blameworthy even after putting forth their best possible effort, they will see this effort as having been wasted on a project where they had no real hope of success. Zimmerman goes further. He argues:

> that it seems impossible to decide to do, or even to try to do, something if one believes that there is no possibility of success; and it seems quite wrong to hold someone to blame for not making (and acting on) a decision which it was impossible for him to make. And similarly, if one believes that there is only a slight chance of success, then one's decision not to do, or try to do, the thing in question seems at most only marginally blameworthy."[164]

If Zimmerman is right, then convinced hard determinists are never blameworthy even if their theory is wrong. Moreover, I shall argue in a later chapter that since it is impossible for young children to make moral decisions prior to moral training, and since the moral

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[163] Ethical Idealism, p. 16.
[164] Cf. "Sharing Responsibility", American Philosophical Quarterly 22, No. 2 (April, 1985).

training required necessarily includes a first case of holding each child to blame, ethical rationalists will have problems explaining how morality gets started in a life.

Zimmerman does not consider the following kind of example of "sharing responsibility". A commander requires one hundred volunteers to fly a particularly dangerous war mission. This number is required because experience has shown that only two percent of any flight mission can reach the target location, the rest being shot down. So on this mission two planes are expected to reach the target, which is deemed worth the loss of the 98 others. We can now allow two variations: one where both planes are required to destroy the target, and another where the second plane is only provided for backup, in case something unexpected goes wrong. In either case, each of the one hundred pilots must see his chances of success as "very slight" indeed. So if any decides "not to do, or try to do" his duty (given he has volunteered), Zimmerman's view is that he could be held only marginally blameworthy at the court-martial. Clearly some particularly dangerous projects require a sense of blameworthiness different from Zimmerman's.

Let us return to the question of the difficulty of doing or even trying to do the impossible. It is argued that denying "'ought' implies 'can'", or allowing genuine dilemmas, far from encouraging and motivating moral behaviour, will discourage moral behaviour. Of course, if the existence of impossible obligations and moral dilemmas is simply a fact about the moral universe, then too bad for us if we find this discouraging. Should someone complain, "'if I do really believe that achieving the goal is impossible, then I just cannot get myself to adopt it'", Rescher replies: "Too bad! That is <u>your</u> problem — a problem in the psychology of self-management."[165] (I must note that Rescher is not at this point addressing our questions about impossible to keep precepts, rather he is considering the rationality of impossible goals.) The moral universe would no more owe us freedom from discouragement, than it would owe us freedom from unfulfillable obligations. But I do not wish to begin by assuming that which I wish to argue for. So I shall not assume that dilemmas are established moral facts.

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[165] <u>Ethical Idealism</u>, p. 20.

Furthermore, Alan Donagan's rationalism requires that "autonomous moral agents," any "adult of sound mind and normal education in a morally decent society, if he wishes to learn" can be shown the reasonableness of the moral system.[166] In other words, one of Donagan's standards in determining what are the facts of the moral universe is acceptability to reasoners. Neil Cooper agrees. His "meta-moral principle C" states: "Any morality or moral judgement is irrational (out of touch) or 'unrootable' relative to a given community if what it prescribes or commends is not capable of being desired by members of the community."[167] At first brush, there seems little reason to attempt the impossible,[168] or perhaps as Zimmerman claims the attempt is even impossible, and a system that discourages the following of its own precepts may seem not to be reasonably constructed.

In response let me point out that what does or does not tend to motivate or discourage people is an empirical question. I am not qualified to do the empirical research needed to answer it. But let me also point out that I expect that genuine moral dilemmas will be relatively rare, and I do not suppose that even a fifth of our moral obligations will require the impossible of us. Now these odds, which are really the worst case scenarios, are surely better than those in many varieties of solitaire. In some rounds of solitaire winning (i.e. success) is literally impossible. But I at least would not find myself more motivated to play solitaire if only my best effort would guarantee a win four times out of five.[169] I certainly would not go so far as to argue that a game of solitaire where one could never win would not be discouraging. I must stress that I do not hold that every moral obligation is impossible to fulfill. I have shown that I am free to hold, for example, general versions of "'ought' implies 'can'".

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[166] Cf. "Consistency in Rationalist Moral Systems", p. 299-300.
[167] N. Cooper, The Diversity of Moral Thinking (Oxford: Clarendon, 1981), p. 188. See also "Principle IV" on p. 194.
[168] Although we have already seen a number of reasons for attempting the impossible.
[169] Of course I would respond differently if money were to be made at this, but who would put up the money? Of course, when used for gambling, the game is only nominally "solitaire".

Now of course morality is not very similar to solitaire. One does not behave morally to while away the time. So it is important that I show how sometimes holding people accountable for more than they can do may encourage or make imperative moral behaviour.

We might note first, that philosophy is not likely engaged in merely to pass the time. Moreover, like morality, it is an activity of some importance. Yet I should be surprised if many philosophers honestly believe that if only they gave the tasks their best efforts, they would be guaranteed to solve four out of any five of the long-standing philosophic problems. Are philosophers therefore any less motivated to attempt solutions to these problems? Clearly not. Furthermore, if anyone objects that no single philosopher is likely to be held accountable for failing to solve this or that major problem in philosophy, let me point out that philosophers do not like, anymore than anyone else, to think that they are wasting their time. So philosophers will tend to hold themselves accountable for at least the use of their time and talents. We should also note that philosophers like to take credit for their successes, so it seems that some accountability does attach to their endeavors.

E. Reasons For Accountability For More Than One Can Do

I want to suggest that there is some point to sometimes holding people accountable for more than they can do. That doing so can motivate and make imperative certain types of moral behaviour. First, our knowledge of which tasks are impossible for us may be faulty. Thus, in some cases if we would only try harder we may succeed. In such a case knowing that one will be held accountable come what may might encourage one to put forth extra effort. In doing so she might discover if she is not capable, after all, of meeting the moral requirement, which in this type of case is the only way to avoid blame. Secondly, morality in part sets an ideal, which we strive to achieve. Nothing guarantees mediocre accomplishments like mediocre goals. As Rescher argues achievement can be enhanced by aiming too high.[170] Working towards fulfilling an impossible requirement can also lead to the fulfillment of other requirements along the way. For example attempting to pay off all one's debt's might lead

[170] Ethical Idealism, pp. 12-16.

one to keep the contract to do some job one would otherwise put off. Thirdly, we should all be motivated to attempt to discover ways to prevent these situations where people must be held accountable for more than they can do, since in spite of the two benefits just listed they are unpleasant situations to be in. Fourthly, we should like to be able to hold people accountable for the risks they take, without condemning and thereby discouraging their striving after worthy but morally risky goals.

F. Accountability and Risks Taken For Worthy Goals

Sometimes, especially when the pursuit is for some form of human excellence, one might knowingly take large moral risks. By hypothesis, since these are taken knowingly, the agent seems accountable for the consequences. Consider the example of the amateur athlete who foregoes training for a career, foregoes an education, and moreover risks serious debilitating injuries, which could make her unemployable, if not make her entirely dependent on others for financial support. What if such a person has family who are, or might become, financially dependent on her? If she pursues a goal in amateur athletics, she knowingly risks being unable to meet her obligations. Suppose the worst; she is paralyzed in an accident in practice and becomes dependent on the very people she is obligated to support.

My opponents arguing that 'ought' implies 'can' will either be inclined to say that, given how things turned out, she is accountable for failing to meet her obligations, or [illegible] is not. I shall consider the view that she is accountable first. I am not averse to holding her accountable in such a case. She knew the risks. Had things turned out particularly well, with this athlete winning gold medals, securing funds from advertising to meet all her obligations and even giving to charity thus supporting more than she was obligated to, she would have willingly accepted the moral praise accruing to these actions. She would have accepted this praise even though her not having the debilitating accident is not a question of anything she did by choice. (In the worst case, suppose that she does not choose or in any way, for which she could be held blameworthy, cause the accident.)

Now if one is willing to accept the praises which are the result of the blessings of luck, then why should not the blame due to the curses of bad luck also justly attach to the agent? Aristotle uses a similar argument against calling wrongs done in anger involuntary. Is "it meant that . . . of the acts that are due to appetite or anger . . . we do the noble acts voluntarily and the base acts involuntarily? Is this not absurd when one and the same thing is the cause?"[171] (At least these cases are parallel where the risk is knowingly undertaken.) Suppose also that she feels regret at being dependent on those who should be depending on her, and that her "dependents" too feel that she has let them down.

True, someone might actually be willing to forego the praise which comes tainted by chance. Such a move would be a considerable restriction upon the scope of moral judgements. Much of what most everyone would consider appropriate for praise and blame may actually be tainted by influences beyond the agent's control. Indeed, the fact that we happen to be born at a given time and place will influence what opportunities are available to us, and there is usually some risk in virtually every human endeavor. Zimmerman admits that one "is never in complete control of the consequences of one's actions and omissions."[172] So the very existence of the concepts of praiseworthiness and blameworthiness will be in need of explanation should someone claim they never apply in cases tainted by risk. As Dennett wonders, "will there be anyone left to be responsible after we have excused all those with good excuses?"[173]

Perhaps it is more likely that while she blames herself, those around her will tell her that she is not at fault. Even so, their efforts to convince her of this, and even their own belief of this, will be in inverse proportion to her own acceptance of blameworthiness.[174] It is not just that if the athlete shows no signs of regret, those around her will see no need to convince her that it is not deserved, rather, those around her may become suspicious of her

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[171] Nicomachean Ethics, 1111a 25-30.
[172] M. Zimmerman, "Luck and Moral Responsibility", Ethics 97 (January, 1987), p. 382 and 378.
[173] Elbow Room, p. 157.
[174] Cf. B. Williams, "Moral Luck", in Moral Luck, p. 28. Williams uses the example of a truck driver who accidently hits and kills a child.

moral character.[175]

Zimmerman suggests that though self-blame is really still not appropriate, we merely doubt agents' ability to turn regret off in such a fine tuned way. But, I do not find this convincing as the same doubts could arise even if one knew that the agent was usually very good at determining accountability. Indeed, if we know someone well, and know her to be very responsible, we are likely to be shocked by what would be seen as atypical callousness.

Dennett points out that self-blame, along with reminding oneself, asking oneself questions, etcetera, does not fit with the Cartesian view of the mind as a "perfectly self-communicating whole".[176] "Surely all this self-administration has some effect that preserves it so securely in our repertoires." Self-blame can still have valuable influence even when those nearby are willing to excuse. The divergence of attitude towards those who feel regret in these cases and those who do not indicates that self-blame is thought to be doing some pragmatic work such as character improvement or the prevention of similar accidents in the future.

Now, supporters of "'ought' implies 'can'" who view this athlete as accountable for not meeting her obligations to her dependents cannot do so on the basis of her not meeting the obligation after the accident in time. After the accident she cannot meet these obligations, so they do not any longer exist (on the view that "'ought' implies 'can'"). As Zimmerman indicates using a different example: "After he has gambled away all his money so that he can no longer repay the loan on Sunday, it is not true to say that Smith ought then to repay the loan on Sunday."[177] So if these supporters of "'ought' implies 'can'" are to hold her accountable, then they must do so on the grounds of her attempting the project knowing the risks. If she is blamable for failing, then she is blamable for trying.

In this case I do not object to the agent's feeling accountable for the plight of her dependents. But I object to the view that she ought not to have tried, that her decision to take the moral risks and strive for excellence was wrong to the extent of being immoral at that

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[175] Cf. M. Zimmerman, "Luck and Moral Responsibility", p. 383n. See also D. Dennett, Elbow Room, p. 40.
[176] Elbow Room, p. 40.
[177] "Remote Obligation", p. 199, and cf. p. 205 note 5.

time, even if we could only know this after the accident. A system of morality which discourages noble but risky endeavors altogether must be deficient. Any moral theory which disagrees will need to explain and justify certain of its more heroic requirements in the face of risks. No important moral theory is founded on the avoidance of risk, although we may be tempted to suspect the avoidance of risk is important to ethical rationalism. Just consider the wide variety of valued goals which involve risk in the sense that other moral values may come to be sacrificed because of forces beyond the agent's control: adoption; marriage; dangerous military missions; political office; artistic or musical excellence; athletic superiority; great intellectual discoveries of any variety.

Now while some moral theories may not espouse some of these values, none would reject them all. For example, an ethical egoism, which advocates the pursuit of one's own good, might disapprove of adoption, but advocate the pursuit of one's own artistic or athletic excellence even at some risk to one's own general good. A utilitarian may not value unpopular types of art or music and yet highly prize certain risky military missions because of the chance to maximize benefits over harm for great numbers. (Utilitarianism advocates the maximization of benefits over harms for the greatest number.)

Surely in cases like these a person can be blamed for failing without being blamed for trying. I would be more inclined to praise one for trying. In such cases, holding one accountable for more than one can do is preferable to condemning noble efforts.

Now, other ethical rationalists supportive of "'ought' implies 'can'", will object that, while they agree with me about the athlete's striving for excellence not being immoral, I have missed the significance of this point. This group of opponents will argue that because the agent had no reason to believe that she in particular would fail, and because the goal is worthy, she has done no wrong whatsoever. Her feelings of regret are just irrational, as are anyone's feelings that she is in any way blameworthy. This group of opponents want it to turn out that she is not blameworthy for failing, because she is not blameworthy for trying.

I have already suggested some reasons for thinking that the athlete can be held accountable for failing. My reasons were: she knew the risks, she would have been willing to

receive praise had luck favoured her, and she experiences regret. My opponents may respond that certain risks are unavoidable and that so long as the goal is worthy of the risk, no blame accrues to the taking of the risk. And if no blame accrues to the taking of the risk, why one should become blameworthy for "luck's" negative effects becomes difficult to see. On this question I suggested that when one takes a risk, being willing to gain moral praise from success, requires for the sake of symmetry or consistency that one also suffer moral blame for failure.

An ethical rationalist might respond that the praise accepted in the case of success is not praise for the effects of luck but rather praise for the agent's part in the success. So if the athlete were to win gold medals etcetera, she takes credit for working hard and for sharing her success with the more needy and/or meeting her obligations, but she does not take credit for the fact that she did not have a crippling training accident in so far as these can happen to even the careful. And, as mentioned, my opponents will discount any feelings of regret, guilt, self-blame, or even the blame of others as just irrational.

Allow me to respond to the question of the athlete only accepting praise for her actual part in the success rather than for "luck's" part. Of course, similar points apply in the case of failure. The athlete does not blame herself for probabilities outside of her control. Rather, she blames herself for failing to meet her obligations. Some will object that her failing was due to probabilities outside her control. Well the parallelism breaks down here because in this example we suppose that she has no part in the failure. (In other cases she may have played some minor part which normally would not support being held so seriously blameworthy.) In any case, even though we might distinguish between the agent's accepting blame or credit for the luck on the one hand, and the agent's accepting blame or praise for meeting or failing to meet moral obligations on the other, the only difference we are supposing between the two cases is due to luck or probability. So the fact that the agent is able to accept praise in the success example is "due to luck" also.

Some might say, that the fault lies with government's not providing adequate support for the training of amateur athletes and in particular for not providing insurance for injuries

occurring during training. Perhaps some governments already do this, but surely at some point in the past they did not, and surely some still do not. Clearly, other things being equal, the athlete cannot be blamed for her government's failures.

Even so, I am not convinced that the fact that other moral agents must take some blame or share in the blame, precludes the athlete from all blame in these cases. (Perhaps the government in question can alleviate its blameworthiness, but not hers, by providing social welfare for the athlete and her family, as presumably she could have provided better support than this in so far as she was obligated to provide support rather than leave her family to welfare.) Indeed, one reason for thinking that amateur sports should be better supported and insured by the athlete's society is precisely that we should like to keep to a minimum the instances in which people have obligations impossible to keep. We should like to keep to a minimum the cases where athletes must choose between meeting family obligations and pursuing valuable goals. Indeed if someone is particularly talented, we may even wish to say that she has an obligation to pursue some goal even though this risks not meeting family obligations. It could turn out that the decision was actually a moral dilemma should things go badly.

In many ways the case of my amateur athlete parallels that of W.A. Mozart, who had great difficulty supporting his family because he would not compromise his commitment to excellence in music. The resulting difficulties may even have contributed to his dying young. A parallel also exists between my amateur athlete and Paul Gauguin who abandoned his family outright, perhaps to pursue the uncertain goal of becoming a great artist.[178]

In "The Fragmentation of Value" Thomas Nagel speaks of five categories of value.[179] The example of the amateur athlete seems to illustrate a conflict between Nagel's first category, specific obligations (here to one's family), and his fourth category, perfectionist ends — "the intrinsic value of certain achievements". He cites scientific discovery, artistic creation, and space exploration as examples. I believe that pushing back the limits of human athletic ability also falls into this category. In less important ways there is also conflict

[178] The example is Bernard Williams', cf. "Moral Luck", Moral Luck, pp. 20-39.
[179] In Mortal Questions (Cambridge: Cambridge University Press, 1979), pp. 128-141.

between two of Nagel's other sources of value. A conflict exists between utility (the ultimate well-being of the family should outweigh the pleasure of the fans) and value of carrying through on one's commitment to a long-term project.

Those who hold "'ought' implies 'can'" must, in these cases of risk, adopt either of two positions. Either the moral agent is blameworthy in failing, which implies that she was blameworthy for trying, as the failure could only be avoided by not trying (i.e. not risking the nonfulfillment of obligations). Or the agent has done no wrong in trying, and therefore is not blamable for the unfulfilled obligations. There is no question of "can meet the obligations" once the risk has been taken. One does all one can, and then either wins the gamble or loses. So those who hold "'ought' implies 'can'", must hold also that the agent is either blamable for both, or for neither, because the blame for failure must attach to something the agent "can" do or "could have" done.

I find that this either/or position is not fine grained enough to make certain distinctions. Those who hold the athlete blameworthy for failing her family must locate that blame at the point where she could have done something about it: when she risked doing so. They must say that apparently good intentions really are not good at all, being culpable. But we should be able to distinguish between this case, where the goal aimed at is a worthy one, and other cases, where a gamble might be undertaken with the same probability of failure to meet similar obligations, but where there is no goal aimed at, or some unworthy goal such as excessive personal gain.

Surely we should be able to distinguish between betting the rent money at the races and betting on not having training accidents. Now, if the money is not rent money but instead money to spare, then I suspect no wrong in putting it at risk. The wrongness here has to do with failed obligations. So if the same obligations are placed at the same risk, what room is left for the good intentions to mitigate the blame in the case of a praiseworthy goal over, say, a morally neutral goal? In the case of intentions which are evil independently of the risking of obligations, I suppose one might say that the evilness of the intended goal adds to the blame in the one case compared with the praiseworthy goal. But in the cases of intentions which are

normally morally neutral, no such move is available, yet we intuitively attach more blame to those who were not even aiming at a goal of notable positive moral worth.

On the other hand, anyone wanting to argue that because the risk was undertaken innocently, the agent cannot be blamed for the nonfulfillment of obligations, can not distinguish between this case and one where the risk does not go sour. Zimmerman denies that this distinction is important: "Insofar as what happens after one has made a free decision is, in a sense, up to nature, then these events, while perhaps serving as indirect indicators of praise and blame, are strictly dispensable in the assessment of moral responsibility."[180] But innocence is innocence. What room is left to say that the amateur athlete who has no family obligations, no obligations to be risked at training accidents, is "more innocent" in striving for the goal? Yet she surely does so with greater justification. This greater justification is due to the fact that a certain result cannot come about, a result which, whether it came about or not, was not supposed to make any moral difference between the cases of the risk going sour or not. If a certain result's coming about or not can make no moral difference, then the absence of its possibility altogether should not be expected to make a moral difference either. Again, I do not find the black or white position of ethical rationalists fine grained enough to account for the rich variety of our intuitions and judgements in these cases.

Consider also a further example. In the development of nuclear physics, there was a time when scientists and theoreticians realized that further progress risked the creation of a very powerful explosive device. The studies were continued. Quickly, the likelihood of such a device increased, and the studies were continued. Some of the most intelligent people of the time even put their energies into the development of the nuclear bomb. These people took a risk, a moral risk. Some perhaps believed that the device was necessary to stop the Nazis and/or to have as a deterrent to the Nazis under the assumption that the Nazis would create the atomic bomb eventually. These predictions and assumptions turned out to be wrong. Others thought that the device would never be used in war, but would serve only as a deterrent. Again, the predictions were wrong. These very intelligent people knew that there

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[180] "Luck and Moral Responsibility", p. 385, and cf. p. 383.

were risks to their project. They knew that under certain circumstances the harms resulting from their efforts could far outweigh the benefits. Moreover, if the harms of these efforts have not already outweighed the benefits, then we know that they still might.

Some of the people involved in the development of the nuclear bomb came to regret the consequences of their bomb and to feel partially responsible for these, even though determining how it would be used, or whether it would really have been needed to prevent some greater evil, was more than they could do.

Donagan can argue that these scientists do not really share in the blame for the use of the bomb, because he holds that one is accountable only for what one does voluntarily and that the foreseen reactions of others who are not one's agents cannot be considered among one's voluntary actions.[181] The military would be accountable for the use of bomb, not the scientists who developed it. Even so, he does hold that it would be wrong to engage in an action which would foreseeably be met with a wrongful reaction by someone else, if other morally acceptable courses of action are available.[182] While I am willing to admit that we are not accountable for all the foreseen reactions of others to our actions, I would find it surprising if we were accountable for just those cases where we happen to have morally acceptable alternative courses of action.

We sometimes even accept responsibility for the unforeseen reactions of others. Consider the following case reported in the New York Times (February 7, 1968):

> PHOENIX, Ariz., Feb. 6 (AP)— Linda Marie Ault killed herself, policemen said today, rather than make her dog Beauty pay for her night with a married man. . . .
>
> Linda failed to return home from a dance in Tempe Friday night. On Saturday she admitted she had spent the night with an Air Force Lieutenant.
>
> The Aults decided on a punishment that would "wake Linda up." They ordered her to shoot the dog she had owned about two years.
>
> On Sunday, the Aults and Linda took the dog into the desert near their home. They had the girl dig a shallow grave. Then Mrs. Ault grasped the dog between her hands, and Mr. Ault gave his daughter a .22-caliber pistol and told her to shoot the dog.
>
> Instead, the girl put the pistol to her right temple and shot herself.
>
> The police said there were no charges that could filed against the parents except possibly cruelty to animals.

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[181] Cf. The Theory of Morality pp. 120-121.
[182] Cf. The Theory of Morality p. 51.

In this case, Linda made her own choice, she acted as her own agent. But the parents realized the awful role they played as shown by the father's saying to the detective, "I killed her. I killed her. It's just like I killed her myself."[183] Obviously, if the parents had foreseen this reaction, they would have borne even greater responsibility for the death.

Donagan worries about the case where a martyr foresees the reaction of her persecutors to her refusal to deny her faith.[184] Surely she is not accountable for their action. I worry about the cases where one agent knows another well enough to be able to use his reactions to her own purpose. Surely she should be accountable for such reactions even if her only alternative courses of action involve the breach of lesser moral precepts. For example, telling a lie could be better than telling a truth which would anger another to the point of killing. Admittedly, the scientists were not in any danger of using the military, but then neither would be the person holding another's weapons in trust in Plato's early example of a dilemma.[185] When the man comes back breathing threats of murder, undoubtedly the promise to return the weapons should be broken rather than kept knowing what the unquestionable reaction will be.

I suspect that Donagan thinks he can handle my concern about some agents not being held responsible for using the foreseen reactions of others. The mechanism available for holding such agents accountable is that one may act either in his own person or through an agent.[186] One is accountable for the actions of one's agents, who may be either wittingly or unwittingly one's agent. Donagan gives as an example of someone being the unwitting agent of another the case of a man eating something he does not know is poisoned.

Linda Ault, however, was not even the unwitting agent of her parents because she did not react in a way useful to the parent's purposes. But they should bear some responsibility all the same. Nor is the one who returns the weapons as promised acting through the

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[183] Cf. N. Garver, "What Violence Is", in Social Ethics: Morality and Social Policy, eds. T. Mappes and J. Zembaty, (New York: McGraw-Hill, 1977), p. 272.
[184] Cf. The Theory of Morality, pp. 49-50.
[185] Cf. The Republic, Book I (New York: Airmont, 1968), tran. B. Jowett, p. 25. Also see E.J. Lemmon, "Moral Dilemmas", Philosophical Review, 70 (1962), pp. 139-158 especially p. 148; in Moral Dilemmas, ed. Gowans, p. 105.
[186] The Theory of Morality, p. 47.

promisee when the weapons are used for murder. No purpose of the promiser need be served by the foreseen reaction, yet the promiser bears some responsibility for the murder. Moreover, I find the idea of an unwitting agent to be misleading. The unwitting "agent" may often enough be controlled in ways that bring her agency into doubt. Dennett finds evidence for the fact that we can be controlled in these ways in the fact that we dislike to be so controlled.[117]

The names of some great scientists have become notorious by way of association with a great evil. Yet, for the most part I see little point in faulting them for trying to achieve the goals they had in mind. In many cases, the intentions may well have been worthy. Yet I am advocating that we may nonetheless justifiably hold people accountable for the bad consequences of their good intentions, and do so without supposing culpable negligence in the pursuit of the good intentions. (We might reasonably suppose that the scientists involved in the development of the atom bomb exercised reasonable care in making their decisions. They had to act on the knowledge that they had access to. The decisions which had to be made were difficult.) But I would not wish to stand in their moral shoes today as things have turned out.

How things have turned out includes much that was outside their control, that was more than they could have done to prevent given their earlier decisions. To hold these men accountable for not preventing these results is to hold people accountable for more than they can or could do. We should be able to hold people accountable for terrible results without thereby having to condemn the whole project. Nor should a noble quest undertaken with some understanding of the moral risks automatically excuse the most horrid results.

I suspect that the scientists involved in the development of nuclear physics and the nuclear bomb faced genuine moral dilemmas several times in the course of their work. They had some obligation to science to test their theories, as well as their obligation to respond to the Nazi threat. This involved accepting resources from others (i.e. the United States military) to whom they thereby became obligated. It was possible, on Hitler's defeat, to discontinue their efforts at creating an explosive device, but at a cost of not meeting

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[117] Cf. D. Dennett, Elbow Room, p. 57.

obligations built up during the course of their work. (Discontinuing the work at that point also involved moral risk because of the possibility of loss of freedom to many people in Europe via an expanding Russia under Stalin, and because of a war still in progress with Japan which had a history of high cost in human lives.)

I do not claim to know that these scientists found the best possible solutions to their respective dilemmas. Quite possibly obligations to the military left unfulfilled would have been the lesser of evils, given what happened in Japan and the diminished quality of life for everyone under these foreboding conditions.[188] We should not forget that we have no way of knowing what the results would have been had they acted otherwise — they had to deal with risks, probabilities.

I do not wish to be misunderstood. I do not think that every scientist had worthy motives, or even that any intentions remained morally acceptable much beyond the first test. Surely one of the moral risks with many projects is that the project itself will alter our moral character and come to have influence on our intentions in the future.[189] Some of the most worthy projects bear this risk. A traditional Christian position on the origin of Satan has it that he was once the highest of angels. In his project to become more God-like (a normally laudable goal in Christian thought), he went too far, deciding to try a complete takeover.

Here on Earth, some of the highest political ideals seem most likely to have totalitarian (i.e. bad) consequences. Perhaps zeal to implement worthy ideals tends to extend itself beyond a reasonable balance. The result is that one's moral character and intentions become skewed. The fact that we wish to hold agents accountable for this sad result is not a sufficient reason to condemn the original ideals as themselves immoral.

Of course some of the accountability that these scientists bear for the consequences derives from any morally tainted decisions they may have made after the first test. (The mechanism still had to be designed so that it could be detonated without a team of scientists. The scientists may have advised those who had to decide whether to use it in Japan.) I am

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[188] I like to think that I would have chosen not to remain involved, perhaps to not even get involved had the choice been mine.

[189] Cf. B. Williams, "Moral Luck", in Moral Luck, pp. 20-39.

suggesting that their accountability does not derive entirely from their later more direct involvement, because the nature of that later involvement in part depended on the choices made in their earlier dilemmas, indeed the very possibility of later involvement was dependent on earlier decisions.

G. An Objection: The "Utilitarian" Nature of My Reasons

Ethical rationalists may be inclined to object to the reasons I have given so far for rejecting the "'ought' implies 'can'" principle and accepting the genuineness of moral dilemmas, as being utilitarian-like in two ways.[190] First, in elaborating how we should be able to hold people accountable for the consequences of risks taken for the sake of high goals, I place on consequences a morally positive value which is foreign to ethical rationalism. Secondly, all four of my reasons aim at maximizing certain results. Let us consider first the point about holding people accountable for consequences.[191]

Ethical rationalists such as Donagan and Kant do not hold persons accountable for the results or consequences of their actions, but rather for an internal act of the will (i.e. the intentions, and the sincerity, strength, and resolve of the internal effort put forth to act on these), and/or the correctness, rationality, or justifiability of the rule which the attempted action follows.[192] Nagel speaks of paring "down each act to its morally essential core, an

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[190] I offered four reasons. First, we do not know all the limits of our abilities, so in border-line cases, we will be less likely to gamble on the chance that the action is not really morally required, because impossible, if there is also a chance that we will be held accountable in any case. Second, morality sets ideals, and we should like to be able to place these near the limits of our abilities, and since we do not have accurate knowledge of where these limits are, we may be asking the impossible at times, but at least our goals are not limiting the efforts moral agents put forth by being too low. Third, we wish to motivate continual efforts at reducing the incidence of obligations to do the impossible and genuine moral dilemmas. Fourth, we should be able to hold people accountable for the consequences of their risk taking without discouraging the adopting of worthy but risky goals.

[191] Utilitarianism may for our purposes be considered to hold that each moral agent ought to maximize benefits over harms for the greatest number.

[192] Cf. Donagan, The Theory of Morality, pp. 121 and 126-127. Cf. Kant, The Metaphysic of Morals, Part II, p. 51 (Academy, 392). Also in Moral Dilemmas, (Oxford: Oxford University Press, 1987), ed. C.W. Gowans, p. 48. (Note that the Academy pagination in Gowans does not agree with that given in Ellington's translation. I have given Ellington's.)

inner act of pure will assessed by motive and intention."[193]

I have been suggesting, on the other hand, that the scientists involved in the creation of the nuclear bomb can justifiably be held accountable for what they did independently of (in spite of) the moral acceptability of their intentions, efforts, and rules determining their actions. I am thereby forced to accept that agents can be held accountable for actual consequences.

I should point out that utilitarians are not the only moral theorists who place positive moral value on the consequences of actions. Equalitarians (Honderich, for example), who hold that we must always maximize benefits over harms for the worst off, also hold persons accountable for the consequences of their actions.[194] Kantians will object to the consequentialism of my arguments, regardless of the measure used to evaluate the consequences. (I should note that I am not exclusively consequentialist, for I do not hold that the moral value of every action is to be determined solely by its consequences. I do not even think that the consequences of an action necessarily influence the morality of every action.)

So ethical rationalists will not accept my examples. The scientists are guilty of immorality (if they are) solely on the basis of their interior willing on their view. Likewise, the unfortunate athlete, as long as the risk was acceptable according to the rules of rationalist morality, is completely innocent under our assumptions of good intentions and due care and effort in their execution. Of course, no one, except perhaps God, can tell whether the agent's internal state is morally acceptable, praiseworthy, or blameworthy. Kant admits that even the agent cannot make this assessment.[195]

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[193] Cf. "Moral Luck", especially pp. 31-32.

[194] Cf. T. Honderich, Violence for Equality: Inquiries in Political Philosophy, (Markham: Penguin, 1976, 1980), p. 51. "Utilitarianism as a basic morality appears to have had its day . . . ." "There is then the question of what the alternative basic moral principle is to be." "We are right to call it, simply, the Principle of Equality."(p. 55.) We "should always act in such a way as to produce that state of affairs which most avoids distress or inequality. This attitude . . . is the fundamental part of the most common of reflective moralities. It, like Utilitarianism, is 'consequentialist'."(p. 38.)

[195] Critique of Pure Reason, A551=B579 note, p. 475. See also Kant's Groundwork of the Metaphysic of Morals, Chapter II, especially the first three paragraphs, H.J. Paton trans. (New York: Harper Torchbooks, 1785, 1964) and his Metaphysic of Morals, Part II, p. 51 (Academy 392), in Moral Dilemmas, ed. C.W. Gowans, p.

One objection to having moral accountability hang so heavily on internal mental states of the agent is that the door is opened to a certain subjectivity. A claim is subjective if it presents only the speaker's personal opinion (as a matter of taste), or internal emotional state of affairs. Objective claims, on the other hand, give expression to an object of perception or a truth of thought, which is in principle available to other thinkers and perceivers without significant variation.

Since no one can tell otherwise, not even the agent, is not the person likely to give herself the benefit of the doubt in tough cases, and cases where considerably more effort could be expended? I should think that human beings being what we are the answer might be: yes, I have done enough. For consider, the agent can always claim that she did not know that her attitudes, intentions, efforts, etcetera were not quite up to the requirements. And if one is only accountable for inner states, then these are all surely relative to the actual knowledge the agent has. In Dennett's words:

> Of course if I would rather find excuses than improve myself, I may dwell on the fact that I don't have to "take" responsibility for my action, since I can always imagine a more fine-grained standpoint from which my predicament looms larger than I do. (If you make yourself really small, you can externalize virtually everything.)[196]

Ethical rationalists typically appeal to the knowledge under which the agent acts. The scientists could not actually calculate into a mathematical probability the risk that the nuclear bomb would be used. Even if they could have accurate knowledge of the extent of the risk, how could they rate the value of their intended goals against the probability that the results would be bad? So they again lack a certain type of knowledge, without which we cannot say their inner wills were not morally acceptable. Any assessments of blameworthiness or praiseworthiness would just be personal opinions and subjective.

Now the only knowledge which an agent could culpably lack is that which any rational agent would be in possession of given a set of circumstances. There must be reason to think that the agent was aware in advance that further knowledge was attainable and required if she

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[195](cont'd) 48.

[196] Elbow Room, p. 143.

is to be held accountable for deliberately or negligently not pursuing it on a rationalist or Kantian view. But Kant admits that no rational agents, except perhaps God, would be in possession of the knowledge that further moral effort, or that modified intentions were required. One might think that not knowing whether one has lived up to the moral standard should encourage one to strive harder, just in case she has not quite measured up, except that here lack of knowledge, when not culpable, excuses. Thus one has reason to gamble on the goodness of one's intentions. Moreover, one is not much encouraged to set goals, far less, high goals, when one can never tell whether she succeeds in meeting them.

Perhaps a particularly objective element in the ethical rationalist account of what people can be held accountable for are the moral rules, which we ought to be striving to intend following. These are in theory available to all rational agents by way of the "categorical imperative" or Donagan's fundamental principle. Donagan's fundamental principle is just a variation on Kant's second formulation of the categorical imperative. "It is impermissible not to respect every human being, oneself or any other, as a rational creature."[197] But apparently few rational agents have agreed with Kant on what rules really are supported by this test. In other words, doubts abound about even the objective elements of this way of assessing responsibility.

In any case, even though the rules are "objective", we are never in a position to tell, as Kant admits, whether they were culpably not followed in cases where they are not, or praiseworthily followed in cases where they are.[198]

One can easily enough generalize the problem I am posing. Either one reduces what the moral agent can be accountable for to the internal acts of her will, or not. If accountability is a matter of internal acts of will, then external agents, lacking direct access to these inner states, will be unable to objectively assess accountability. (Kant admits as much

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[197] Cf. The Theory of Morality, p. 66; see also pp. 63 and 65.

[198] Critique of Pure Reason, A551=B579 note, p. 475. See also Kant's Groundwork of the Metaphysic of Morals, Chapter II, especially the first three paragraphs, H.J. Paton trans. (New York: Harper Torchbooks, 1785, 1964) and his Metaphysic of Morals, Part II, p. 51 (Academy 392), in Moral Dilemmas, ed. C.W. Gowans, p. 48.

and even argues that the agent herself lacks the appropriate access to her inner states needed to be justified in one's blame or praise. Indeed, the agent cannot objectively tell whether she can do otherwise than she does when she wills. — The question is whether one can justifiably hold persons morally accountable for more than they can do. I am trying to show that those who deny that people can justifiably be held accountable for more than they can do are forced to also hold an underlying claim that we can not in actual cases justifiably hold people responsible at all.)

On the other hand, if what the agent can be held responsible for is not reduced to internal acts of her will, then we cannot be sure that she will only be held accountable for matters under her control. Once the relatively safe haven of internal acts is abandoned, luck plays a greater role. If there is some objective measure by which we can hold persons responsible (be it the results of the agent's actions, the rule under which the action falls, or some other standard), then an agent might on occasion risk being blamable by this objective standard. That one might undertake this sort of risk with apparent innocence is at least conceivable. This is to say that sometimes the chance of becoming blamable by the objective standard will be small and the reason for accepting the risk worthy of the risk. Now, in these cases the risk factor will ultimately be beyond what the agent <u>can</u> do anything about. (One can minimize the risk but not always do away with it altogether.)

Here we find a dilemma, either we make accountability to be an internal, subjective, matter, or we allow the chance that an agent might come to be accountable for more than she can do, in the sense that taking the risk was not wrong (or not wrong so far as the agent could tell at the time when she had to decide whether to take it or not) yet once taken, the risk puts the result beyond what the agent can prevent. The agent will not be able to prevent being blameworthy should things go badly. There is never a time when the agent can do something with reasonable knowledge that doing it will be necessary to avoid wrongdoing.

Some may be inclined to object that the objective standard which determines accountability might be such as not to allow the risking of becoming blameworthy. Risk may be disallowed here, either by some explicit command of the standard that risking

blameworthiness is always wrong, or the character of the standard may simply not be subject to being placed at risk.

For example, suppose the rule against lying is considered an objective standard such that one will be held blameworthy for violating this rule. One might either hold that there exists a further rule that one never risk telling a lie — for instance, never let yourself be hypnotized because the hypnotist might make you say something you know to be false, or, more plausibly, hold that one cannot risk telling a lie because the very concept of lying makes reference to the agent's intent. Both of these lines of objection are problematic. The one attempts to smuggle in subjectivity, attempting to make the apparently objective standard immune from risk. The other asks agents to live in a world where there is no risk, but the no-risk world is surely beyond what we can create.

I can now suggest that if we are to hold people morally accountable with any justification at all, then, we shall have to appeal to non-Kantian ways of assessing moral accountability. (Whatever justification requires in this context, it surely requires that claims which are justified be more than merely personal opinions.) Moreover, non-Kantian ways of determining whether agents are accountable are most likely to encourage higher standards of moral behaviour.

I am suggesting that we can generalize beyond what we sometimes do in our own case in accepting responsibility. Dennett describes the sort of case I have in mind.

> One often says, after doing something awful, "I'm terribly sorry; I simply never thought of the consequences; it simply didn't occur to me what harm I was doing!" This looks almost like the beginning of an excuse—"Can I help it what occurs to me and what doesn't?"—but healthy self-controllers shun this path. They take responsibility for what might be, and very likely is, just an "accident," just one of those things. That way, they make themselves less likely to be "accident" victims in the future.[199]

Because we want others to internalize moral requirements and adopt moral values as their own we prefer that they hold themselves blameworthy, but on occasion we might have to do it for them.

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[199] Elbow Room, pp. 143-144.

The second way in which rationalists may find my reasons too like utilitarianism is my concern that we decide the extent to which persons can be held responsible, with a view to maximizing certain results. But the results I am concerned to maximize are not consequences narrowly defined as, say, pleasure states. For I am concerned with what will motivate moral agents to set and strive for higher goals and second order goals (i.e. goals regarding the creation and prevention of moral situations).

Nevertheless, the deontological nature of Kantianism is usually contrasted with consequentialist ethics. Deontological ethical views are those which evaluate the rightness or wrongness of actions on the basis of their occurring from a good motive or following a praiseworthy rule independently of the action's good or bad consequences however broadly defined.

The response to this objection is straightforward. Although deontological ethics are usually contrasted with consequentialist views, deontological positions can nevertheless tolerate consequentialist elements. Kant himself employs consequentialist arguments. For example, in the Groundwork of the Metaphysics of Morals he argues:

> To assure one's own happiness is a duty (at least indirectly); for discontent with one's state, in a press of cares and amidst unsatisfied wants, might easily become a great temptation to the transgression of duty.[200]

Here, Kant argues that something is a duty on the basis that its not being a duty could well produce bad consequences, namely that moral agents would be needlessly faced with great temptation to transgress duty. Ultimately, the consequences Kant wishes to promote here are the following of duty and increased moral behaviour. These are the same consequences to which I have been appealing in my arguments. If it is acceptable to appeal to considerations of what will promote moral behaviour in determining if some rule expresses a duty, then I see no reason why this is not also acceptable in determining if duties can be impossible or conflict.

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[200] Chapter One, paragraph 12.

H. Pragmatism

The objection to the consequentialist nature of my view can be strengthened. The objection can be based on the distinction between the pragmatic consequentialist value of being held accountable and really being accountable.[201] There could well be pragmatic advantages to holding an agent blameworthy on many occasions when she is not really blameworthy. The example of the utility of executing an innocent man to prevent the mass violence and panic of those who believe him guilty serves as well here as it does against utilitarianism.

Moreover, since I have held that for the most part I can agree with my ethical rationalist opponents, is the explanation of a few cases in a relatively small grey area worth the price of all the problems of pragmatism? Perhaps the differences between my view and that of Donagan, Kant, or Zimmerman do not come to much because these differences impact only a small grey area between all those cases where I agree that the agent can be held accountable, for example where the rationalist sees no 'cannot', and those where I would agree that inability absolves.[202] If this objection is to be fully answered, one must explain not only the importance of my disagreements with ethical rationalism, but also the reasons for the large area of agreement.

Why does inability so often excuse? Why are most cases of 'ought' not cases of 'cannot'? (I shall now keep my promise to explain why 'ought' so often implies 'can'.) Of course I have already indicated that some versions of the principle do not result in contradictions when combined with the agglomeration principle and the claim that dilemmas may be genuine. And some versions are not very strong in that, for example, we do not often attempt, or think that we ought to attempt, the logically impossible. But if I reject the rationalist motivation, namely the desire to ensure that no one be held accountable for more than they can or could do, for adopting any version of "'ought' implies 'can'", strong or weak, then I must still provide some positive reason to accept those versions which I find

[201]Gerald Dworkin uses the term "pragmatic" along with the term "consequentialist" in referring to Daniel Dennett's position in a book review of Dennett's Elbow Room in Ethics 96 (January, 1986), pp. 423-425.

[202] I owe this point to J.C. MacKenzie.

harmless.

Sometimes the impossibility is so obvious that one knows that trying will not produce a hidden possibility. If one is uncertain whether one could swim half a mile to rescue someone, one knows that one could not swim three miles in time to rescue anyone. Sometimes the impossibility is not the result of risks taken in the pursuit of excellence. Sometimes setting requirements too high will not bring out stronger efforts, or perhaps what can be gained by stronger efforts is not worth the unpleasantness of stranding agents in these moral quagmires. Sometimes the agent's level of development must be taken into account. Children are not accountable for everything, nor do they become accountable for everything at one magic metaphysical moment of metamorphosis into agenthood. The worker's mistakes on her first day at the new job are not as serious as they will be later on.

Thus there are cases where the usual pragmatic advantages of accountability are missing. (Even so, not all cases of impossible obligations fall within this class.) If the usual pragmatic advantages are missing, or even just weakened, then it quickly becomes disadvantageous to hold persons accountable. Morality is not to be used to inflict needless suffering. Knowing that one will very often be held accountable beyond one's abilities could be discouraging especially if there was not even some pragmatic point which could be recognized.

I must emphasize that not just any pragmatic advantage will justify holding an agent accountable. The promotion of moral behaviour must be served, indeed moral behaviour of some value. Consider the case of holding someone blameworthy for a crime she did not commit in order to calm the fears of others who see themselves as potential victims of the unknown perpetrator. Preventing mass fear has definite pragmatic value, but does not typically lead to an increase in moral behaviour — acts done from fear are not generally immoral. Preventing a violent riot also has pragmatic value, but holding a man blameworthy for more than he could do by hanging him for a crime he did not commit is not what promotes moral behaviour here, rather a certain deception of the mob does.

Consider also an example from Gerald Dworkin.[203] Preventing people from pretending to be sleepwalking has pragmatic value. Is it worth holding everyone accountable for what they do while sleepwalking? Surely not, especially since we already hold everyone accountable for deception, which also motivates the same moral behaviour that Dworkin would promote. At the same time, however, we can imagine a society where pretending to be sleepwalking got out of hand. Suppose that a majority of the population was behaving in this way; furthermore suppose that nasty crimes were being carried out during these supposed sleepwalking states. Under such conditions the need to take a hard line on accountability for things done while sleepwalking gains merit. We have here some explanation of why different societies have varying standards of accountability or countenance differing excuses, or for example why drunkenness might excuse brawling but not a minor motor vehicle accident.

The pragmatic application of accountability should also be restricted to cultural evolution or the society level. What may seem of pragmatic value to an individual or small group may be biased towards their own interests. Of course the same is true at the societal level, but a society or culture shares a good deal of interest in the interests of all of its members. And in reality we must admit that there just are problems and conflicts in cases of intercultural accountability. Restricting pragmatic justification to the promotion of moral behaviour and the application of pragmatic considerations to non-agents such as cultural evolution greatly reduces the chance of an individual being treated unjustly in being held to blame. Certain features of the environment, in this case the social environment, motivate and improve moral behaviour.

Just because we can understand the pragmatic value of accountability functioning in society the way it does does not mean any agent is consciously aiming at this. Instead conscious agents behave in accordance with, in Strawson's terms, the "reactive attitudes" of their "moral community".[204] Strawson distinguishes reactive or participant attitudes from what he calls the objective attitude. Examples of reactive attitudes are resentment and

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[203] "Book Review of Daniel Dennett's Elbow Room" in Ethics 96 (January, 1986), pp. 423-425.

[204] P.F. Strawson, "Freedom and Resentment" in Studies in the Philosophy of Thought and Action (Oxford: Oxford University Press, 1968), pp. 75-76 and 79.

gratitude. Examples of the objective attitude are when one regards another merely as an object of social policy or an object to be cured or trained.

Strawson argues that the usual problem with the position that determinism is not a threat to accountability is that in giving a pragmatic explanation of accountability only objective attitudes are addressed or recruited. But the attitudes of holding agents to blame or praise are not objective attitudes. The problem is not the incompatibility of determinism with moral responsibility but the need to include reactive or participant attitudes in the determinist account. This can be done since, as Strawson points out, even if determinism were proven true we would not expect humanity to quit having reactive attitudes altogether. Since the objective pragmatic elements of my account are restricted to non-agents, agents are free to have the reactive attitudes which are influenced by their society or moral community.

Now of course society is not a perfect judge of accountability. But unless we can gain direct access to God's judgements we simply have no further way of determining whether someone was accountable for a given action. The distinction between being held accountable and really being accountable can in part be explained by whether just a select few or almost any member of one's society would judge one to be blameworthy or praiseworthy under the circumstances. The distinction is also partly explained by a society regarding some of its past judgements as mistaken as when we admit that we used to hold persons blameworthy for practising witchcraft.

On the question of the size of the grey area of disagreement between a view like mine and the ethical rationalist's I shall argue that while the size may be relatively small it must be nearly universal to all agents in scope; teaching morality must violate "'ought' implies 'can'" in versions primarily supported by the notion that no one is to be accountable for more than one is capable of doing.

The significance of this grey area comes in large part not from the number of cases affected but from the ethical rationalists' outright denial of its existence, their inability to allow a grey area. The disagreement cannot merely be waived off as the difficulty of ever specifying precise boundaries, applied to the limits of 'accountability'. The rationalist does

not claim that the number of moral dilemmas entered into innocently is negligible. He claims it is, and must be, zero; in principle there could be none. At stake is our ability to hold agents accountable at all.

I. Summary

I have been arguing that we can justifiably hold persons morally accountable for more than they can or could do. I have done so as a means of supporting the positions that duties may conflict and that they may be impossible. In other words, reasons for holding persons accountable for more than they can do will also be reasons for accepting the genuineness of moral dilemmas, and for rejecting the "'ought' implies 'can'" principle.

I take it that showing how people can justifiably be held accountable for more than they can do undermines the motivation for holding that 'ought' implies 'can'. Thus the onus thereby shifts onto the supporters of "'ought' implies 'can'" to defend their view, a view which makes sweeping universal claims about every 'ought' and every moral agent (in so far as the view is threatening to the genuineness of moral dilemmas)

Moreover, any reason for thinking that we can justifiably hold agents responsible for more than they can or could do will be a reason for holding that we can justifiably hold agents accountable for the obligations necessarily left unfulfilled in a moral dilemma. In other words, some dilemmas are such that no matter what the agent does a remainder of unfulfilled obligations will exist for which she can justifiably be blamed, i.e. some dilemmas are genuine.

I have tried to argue that part of the point of engaging in moral assessment (that is, in holding persons morally responsible or accountable) is to further motivate moral behaviour. And I have responded to the objection that holding people accountable for more than they can do will discourage, rather than motivate them. I pointed out that in other areas of human endeavor, so long as success is not <u>always</u> more than one can achieve, people are not less motivated knowing that they face the occasional task requiring more than one can do.

I then provided four positive reasons for holding agents accountable for more than they can do. First, we do not know all the limits of our abilities, so in border-line cases we

will be less likely to gamble on the chance that the action is not really morally required, because impossible, if there is also a chance that we will be held accountable in any case. Second, morality sets ideals, and we should like to be able to place these near the limits of our abilities, and since we do not have accurate knowledge of where these limits are, we may be asking the impossible at times, but at least our goals are not limiting the efforts moral agents put forth by being too low. Third, we wish to motivate continual efforts at reducing the number of obligations to do the impossible and genuine moral dilemmas. Fourth, we should be able to hold people responsible for the consequences of their risk taking without discouraging the adopting of worthy but risky goals. I take it that these reasons at least partially justify holding people accountable for more than they can do.

I then concentrated on discussing the fourth reason in the light of two examples. I maintain that these examples help to bring out the possibility that a morally worthy project can end up having morally unacceptable consequences, due to uncontrollable risks.

Finally I answered objections that my reasons are too consequentialist or pragmatic. I argued that if we hold persons accountable for the consequences of their actions, then at least we can provide some pragmatic justification for our assessments (promoting certain types of worthy goals and second order moral behaviour regarding the creation and prevention of moral situations). On the ethical rationalist view, on the other hand, one can never claim with justification that any actual person is actually praiseworthy, or actually blameworthy, for any actual action performed by her.

Chapter IV

PREVIOUS WRONGDOING

Recently I have taken more and more to casting up my life, looking for the decisive, the fundamental, error that I must surely have made; and I cannot find it. And yet I must have made it, for if I had not made it and yet were unable by the diligent labor of a long life to achieve my desire, that would prove that my desire is impossible, and complete hopelessness must follow. — Franz Kafka
"Investigations of a Dog"

A. Introduction

Rationalists maintain that agents only come into genuine dilemmas as a result of their previously doing wrong.[205] In hopes of discovering why moral dilemmas might be thought always to have this feature, I begin by investigating more closely the relationship that is supposed to obtain between the dilemma and the earlier wrongful action. Ultimately, however, I argue that genuine dilemmas do not have this feature universally: they are not always the result of previous wrongdoing.

I shall discuss the pros and cons of a number of interpretations of the presupposed relation between the dilemma and the previous wrong. The differing interpretations can be presented by way of the following distinctions. First, is it the rationalist view that agents come into genuine dilemmas as the result of <u>just any</u> previous wrongdoing, or must the previous wrong also be a cause (in the normal course of nature) of the dilemma? If so, must the agent actually foresee that the action which is wrong will produce a dilemma? Third, does the rationalist consider whatever an agent does that leads to a dilemma to be wrongful, whether or not the action would be wrong independently of the resulting dilemma?

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[205] For example see Alan Donagan, "Consistency in Rationalist Moral Systems", <u>Journal of Philosophy</u> LXXXI, No. 6 (June, 1984), pp. 305-306. See also Michael Zimmerman, "Remote Obligation", <u>American Philosophical Quarterly</u> 24, No. 2 (April, 1987), pp. 203-204.

I argue that the rationalist will want to hold that the previous wrong must cause the dilemma and that usually the dilemma must be foreseen to follow from the previous wrong. I shall also argue that, although the rationalist may for the purpose of making her own system consistent use the claim that the previous wrong may be wrong merely by causing the dilemma, it is circular to argue from just this claim that genuine dilemmas must be preceded by wrongdoing generally.

Moreover, I go on to argue that the rationalist position has very counter-intuitive results as to the actions it must rule wrongful. My argument proceeds by way of a sustained consideration of an example of a genuine dilemma. My example is a variation on the case where one must lie to save a life. Donagan is not aware of the extent of the problems raised by the agent's beliefs in such a case. Either this dilemma is not preceded by a previous wrong, or it is eccentric to the point of being objectionable to call the actions preceding it wrong. I favour the former interpretation of my example: that it is an example of a genuine dilemma which is not caused by a previous wrong. In either case, the rationalist position that dilemmas are always the result of previous wrongdoing is shown to be problematic.

Donagan's moral system divides into two levels. First-order precepts are those ruling on the rightness or wrongness of actions. Second-order precepts are those ruling on the culpability or inculpability of agents.[206] My first example of a genuine dilemma applies to only one level: second-order precepts. So I continue my argument by developing examples of genuine dilemmas using first-order precepts as well. The central cases I shall investigate are those of lying to save one or more lives and those of harming others in self-defence. I argue that Donagan's fundamental principle of morality, contrary to his claims, does not support the conclusions that killing in self-defence is not wrong and that lying to those intending murder is not wrong.

Finally, I turn to the other main candidate for a rationalist fundamental principle, i.e. Kant's first formulation of the categorical imperative, to see if it can provide independent reasons against the possibility of genuine dilemmas occurring in cases where there has not

[206] Cf. The Theory of Morality (Chicago: University of Chicago Press, 1977), pp. 30 and 112.

been previous wrongdoing. I argue that support derived from it is based on a faulty analogy to logic. The rationalist reasons for holding that dilemmas must be the results of previous wrongdoing simply have no purchase outside of rationalist ethical systems. They do not count as reasons for adopting the rationalist view about genuine dilemmas.

B. Moral Binds As Resulting From Previous Wrongs

Donagan, Zimmerman and Aquinas hold that an agent can only come into a genuine moral dilemma as a result of previous wrongdoing on her part.[207] Donagan points out that Aquinas distinguished between two kinds of moral dilemmas: "perplexity simpliciter and perplexity secundum quid".[208] Moral systems which allow moral dilemmas simpliciter (i.e. an agent might find herself in a genuine dilemma even though she had up until then obeyed all the precepts of the moral system) are rejected by rationalists as inconsistent. But rationalists can allow that genuine dilemmas exist only where the agent is in the dilemma as a result of violating one or more of morality's precepts, i.e. they can only allow genuine dilemmas secundum quid.

The similarity between this position concerning dilemmas and the view that 'ought' implies 'either can or culpably cannot' is brought out by Donagan's formulation of his first condition on promising: "it is morally wrong to make a promise unless you can keep it and it is morally permissible for you to keep it".[209]

The clause "unless you can keep it" is meant to complete an expression of "'ought' implies 'can or culpably cannot'".[210] This is to say that the 'ought' created by a promise implies the promise 'can' be kept, or, if it 'cannot' be kept, then the agent is culpable for

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[207] Donagan, "Consistency in Rationalist Moral Systems", pp. 305-306. Zimmerman, "Remote Obligation", pp. 203-204. Zimmerman uses a different terminology such that he denies that there ever are genuine dilemmas but admits that there are genuine moral binds. This distinction need not concern us here because both genuine binds and genuine dilemmas in his sense would fall under my definition of genuine moral dilemmas.

[208] Summa Theologiae, III, 64, 6 ad 3.

[209] "Consistency in Rationalist Moral Systems", p. 303.

[210] But Donagan does not use the phrase "can or culpably cannot"; cf. Sinnott-Armstrong, "'Ought' Conversationally Implies 'Can'", Philosophical Review XCIII, No. 2 (April, 1984), pp. 258-259.

being unable to keep it as she committed a moral wrong in making the promise.[211]

The clause "unless . . . it is morally permissible for you to keep it" is meant to complete an expression of the rationalist view that perplexity simpliciter is not to be allowed; the 'ought' created by a promise implies the promise will not conflict with other moral requirements, or, if it does conflict, then the agent is culpable for the conflict as she committed a moral wrong in making the promise. In other words, there are no undeserved genuine dilemmas.

Donagan's first condition, then, is an application to promising of the more general rules, that 'ought' implies 'either can or culpably cannot', and that any moral dilemmas must be secundum quid rather than simpliciter. Given the assertion of a relationship between an earlier event for which the agent is blameworthy and a later outcome in which the agent cannot keep all the moral requirements, we might pause to examine just what the relationship is thought to be before considering the problems with the assertion.

C. The Relationship Between Previous Wrong and the Moral Bind

I begin by asking: Will any previous moral failing suffice, or must there be a causal relationship between the earlier wrongdoing and the occurrence of the dilemma? Donagan's characterization of moral dilemmas simpliciter suggests the former, while his characterization of moral dilemmas secundum quid suggests the latter. "A moral system allows perplexity (or conflict of duties) simpliciter if and only if situations to which it applies are possible, in which somebody would find himself [in a dilemma], even though he had up to then obeyed all of [morality's precepts]."[212] This view is surprising because it seems to mean that if you told a lie in the third grade, but had lived a morally perfect life ever since, you may yet come into a

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[211] While Donagan's condition considered here is one expression of "'ought' implies 'either can or culpably cannot'", others are possible. For example, in cases where an obligation cannot be kept, it need not be the undertaking of the obligation that constitutes the wrong for which the agent is culpable, as there may exist intervening actions for which the agent is culpable. Donagan's condition does not rule out the possibility that one might culpably render the promise impossible to keep after making it in good faith.

[212] Donagan, "Consistency in Rationalist Moral Systems", p. 306. Cf. The Theory of Morality, pp. 144-145.

moral dilemma, not caused by your lie, but for which you would be nonetheless blameworthy on account of the lie. It is also surprising because most of us are susceptible to facing genuine moral dilemmas on this view.

(Indeed, suppose moral failure is inevitable for everyone. Ruth Barcan Marcus sees this possibility as an "interesting" interpretation of the doctrine of "original sin",[213] It would follow that we would all be equally exposed to the danger of moral dilemmas which are not causally connected to the failures. But if wrongdoing really were inevitable no matter what one did, then avoiding dilemmas would not seem to be within our control in any case. And rationalists, because they accept "'ought' implies 'can or culpably cannot'", cannot even grant the assumption here that wrongdoing is inevitable.)

This view that just any previous moral failure will justify holding an agent blameworthy for getting into a dilemma does not fit well with ethical rationalism. What is it about the earlier event that justifies holding the agent blamable for getting into the dilemma? Perhaps moral wrongdoing invites punishment and being in a dilemma either is punishment or occassions punishment by some further means? What or who ensures that the punishment fits the crime? Remember that natural causation need not be involved here.[214] St. Augustine holds that such a punishment is just:

> We must not be surprised that man in his ignorance does not enjoy the free choice of will to choose the right thing to do or, though aware of what is right and with a will to do it, that he is unable to accomplish it against the opposition of carnal habits . . . . It is a perfectly just penalty for sin that man should forfeit what he would not put to good use when he could easily do so, if he were willing. That is to say, a man who fails to do what he knows is right, and a man who was unwilling to do what was right when he could, forfeits the power to do so when he wants to have it. These two

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[213] "Moral Dilemmas and Consistency", Journal of Philosophy, LXXVII, No. 3 (March, 1980), p. 127.

[214] The question of causation might not be simple. Perhaps the earlier violation of a moral precept causes God (or whatever mysterious force brings about just punishments) to administer the appropriate punishment, which might happen to be placing the agent in a moral dilemma that is otherwise unconnected with the original wrong. But either God is justified in administering this punishment or not; God's action is caused by right reason or something else. If it is caused by right reason, we want to know what reason justifies using dilemmas as punishments. If it is caused by something else, then maybe there is a genuine causal link after all, but given that this link is unknown to us, this view rests on blind faith.

punishments, ignorance and difficulty, are truly present in every soul that sins.[215]

The situation is analogous to the the relation of Captain Queeg to those on the lower deck of the U.S.S. Caine in Herman Wouk's The Caine Mutiny.[216] Captain Queeg's conflicting orders are analogous to the conflicting requirements in a dilemma. We are considering the view that Captain Queeg would be justified in issuing conflicting orders only to members of the lower deck who had ever previously culpably failed to do as he ordered. If he is otherwise unjustified in issuing conflicting orders, then the only justification for his doing so on the grounds of just any previous disobedience would seem to be that this either will constitute or occassion punishment for the earlier disobedience. Even as punishment, contrary to Augustine's view, the action appears to be arbitrary and not particularly appropriate.

In spite of his definition of moral dilemmas simpliciter, I have little doubt that Donagan would reject as impossible any dilemmas or unfulfillable obligations that were not causally related — indeed by natural causation — to some previous wrong committed by the agent. Donagan holds that what an agent can be blamed for are just her actions.[217] The agent's actions can extend to what she causes or allows, if these follow "in the course of nature" from the agent's actions or omissions.[218] The restriction to natural causation is meant to rule out the reactions of other agents, but Donagan is not sympathetic to supernatural causation in ethical examples either.[219]

Now since a dilemma is not an action, if an agent is to be blamed for a dilemma, it must be as something allowed or caused by the agent. So the dilemma must follow in the course of nature from the agent's previous wrongdoing. The relationship between the dilemma and the previous wrongdoing is that of "following in the course of nature", which is to say,

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[215] St. Augustine, The Free Choice of the Will, 3.18.52, in The Fathers of the Church, vol. 59 (Washington, D.C.: Catholic University of America Press, 1968), p. 212.
[216] The Caine Mutiny (New York: Pocket Books, 1951), Cf. Donagan, "Consistency in Rationalist Moral Systems", pp. 298-300.
[217] The Theory of Morality, p. 37.
[218] The Theory of Morality, p. 112.
[219] The Theory of Morality, pp. 35-36.

natural causation.

Donagan also holds that it "is impermissible to blame anyone for an action except as falling under a description under which it is voluntary".[220] If dilemmas could result in some non-causal manner from previous wrong, because the consequence (i.e. the dilemma) is unpredictable, rationalists might well hold that the agent cannot be rightly blamed for not having avoided it. For it is very doubtful that anyone could reasonably voluntarily avoid what they could not predict. Thus for example, Donagan indicates that he would regard a death which resulted from smoking cigarettes to be merely part of the acceptable risk taken by the individual who enjoys smoking.[221] On his view we could not blame anyone for getting into a dilemma unless there was a regular causal link between what the agent did and the dilemma.

Clearly Donagan's position is that the agent, rather than the nature of morality or the contingencies of the world, is to blame for the fix.[222] He complains that "moralists have always tended to find fault with the contingencies of the world rather than with their moral thinking". Because of an agent's wrongful promise, "his consequent moral difficulties are his fault, not the fault of circumstances or of the moral system".[223]

So the agent is not merely accountable for not fulfilling all the obligations in the fix, she is accountable for getting into it. Again, if the agent were not to blame for getting into the dilemma, or impossible situation, the rationalist would not normally blame her for not fulfilling all of the obligations (because the voluntariness condition on blaming would be violated). The previous wrong, then, must be a natural cause of the dilemma, in order for a dilemma to occur. There is no other magical mechanism by which we might transfer the blame for the previous wrongful action to the out of the ordinary blame in the dilemma, except natural causation of the dilemma itself by that wrong action. And we shall see shortly that natural causation by itself is not quite enough to justify the transfer.

At places Aquinas seems to agree with Donagan's characterization of moral dilemmas simpliciter by expressing his worry as one concerning the ability of the agent to avoid

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[220] The Theory of Morality, p. 121.
[221] Cf. The Theory of Morality, p. 80.
[222] "Consistency in Rationalist Moral Systems", p. 301.
[223] "Consistency in Rationalist Moral Systems", p. 303.

wrongdoing (or "sinning").[224] Clearly, one can avoid, or could have avoided, the wrongdoing necessitated by a genuine dilemma simply by living a morally perfect life. This point holds regardless whether some causal connection, between the previous wrong and the current dilemma exists or not. Thus a moral system could allow that any unconnected violation of a precept may occasion genuine dilemmas secundum quid; hence a rationalist view which excludes only genuine dilemmas simpliciter must find this system acceptable — if rationalists merely wish to ensure some opportunity to avoid doing wrong in a dilemma.

On the other hand, Aquinas also seems to have believed that the agent in a dilemma (i.e. having to choose from a selection of actions, each one of which involves wrongdoing), must be able to avoid wrongdoing, while still in the perplexus, by way of "making right" the previous wrong.[225] If this is Aquinas's view then he is not referring to genuine dilemmas at all, as a course of action involving no wrongdoing does exist after all — even for those who committed previous wrongs. Thus, Donagan does not realize how original his use of Aquinas's distinction between perplexity simpliciter and perplexity secundum quid is.

The rationalist, then, will insist that not just any opportunity to avoid wrongdoing will suffice to justify holding an agent blameworthy for a later unavoidable wrong in a dilemma. There must rather be a causal connection between the earlier avoidable wrong and the dilemma.[226]

In order for an agent to have fallen into the dilemma voluntarily, the previous wrong must not only have some causal link to the dilemma, but must also be foreseen by the agent as leading to a dilemma.[227] Donagan holds that an agent can only be blamed for what she does knowingly.

> When a human being does something, he does not know, with respect to many of the descriptions his action in fact falls under, that it does fall under them. Inasmuch as it falls under them, his action is at best fortunate and at worst unfortunate . . . .
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> Now blaming somebody for an action is, in part, holding him answerable for it.

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[224] de Veritate, 17, 4 ad 8.
[225] Summa Theologiae, III, 64, 6, ad 3; de Veritate, 17, 4.
[226] Aquinas's view not applying to genuine dilemmas.
[227] Cf. Donagan, The Theory of Morality, pp. 112-122.

> Hence, since a rational agent, as such, controls his actions in the light of his knowledge of what they are, to hold him answerable for his actions under descriptions he does not know they fall under is to demand that he answer for something for which, as a rational agent, he cannot answer. And that would be to refuse to respect him as a rational agent.[228]

For an agent to be blamable for a dilemma or an impossible to fulfill obligation, then, she must enter into it knowingly. The agent must foresee, if not know, that choosing to do this wrong will lead (by natural causation) to obligations not all of which will be possible to keep. The only exception to this rule is the case where the agent does not foresee because of negligence.

So the rationalist restrictions on genuine moral dilemmas are quite strong. Not only must there be a previous wrong for every genuine dilemma, it must be one which the agent foresaw, or ought to have foreseen, would lead by natural causation to the dilemma. Further, in one place Donagan writes as though the relation is also a logical one; "for it is a logical consequence of some sins that they entangle the sinner in situations in which he cannot but commit others."[229] Thus, there will be fewer genuine moral dilemmas under Donagan's system than one might think if just paying attention to his definition of the excluded perplexity simpliciter. Presumably, if the agent got into a "dilemma" which she did not foresee would be naturally caused by her action, then — except in cases of negligence — because the relationship between the previous wrong and the dilemma is not the one required, the agent is not really in a dilemma. One or more of the obligations must be annulled somehow.

Almost no dilemmas which come as a surprise to the agent will be allowed as genuine. Just those cases where the agent was negligent will be "surprise" dilemmas. It is not the case, on the rationalist view, that we are all subject to dilemmas in virtue solely of the fact that none of us is perfect (in which case dilemmas would be plentiful indeed).

In this light, Donagan's position on conflicting promises looks needlessly complex. For Donagan writes as though in a normal case one might wrongfully make conflicting promises but only discover this upon finding oneself unable to keep both.[230] But if the agent

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[228] The Theory of Morality, p. 121.
[229] The Theory of Morality, p. 145.
[230] "Consistency in Rationalist Moral Systems", p. 304.

is to be blamed for the dilemma in virtue of the wrongful promise, then the dilemma must be foreseen as following from that promise, otherwise the blame really follows from the carelessness (negligence) of not foreseeing the dilemma. And Donagan seems to rule carelessness out when he supposes in his example that the agent had reason to believe that both promises could be kept. One should not be surprised or there is no dilemma. Thus a much more simple test for culpability than Donagan's three conditions exists: if one has reason to believe that the promises can all be kept, then surprise at the opposite result proves innocence and the absence of dilemma.

Of course one might make a promise knowing that there is some risk of it coming to conflict with other moral obligations. The chance of conflict is foreseen, but is it foreseen as naturally caused by the wrong? Does natural causation work like probability? I am not sure, but Donagan's position on the transitivity of voluntariness across events related by probability is unclear. At one point he claims that "there is a difference in culpability between doing something you know is wrong and doing something you think probably or possibly wrong; but it is not a great one. You voluntarily take the risk."[231] Elsewhere, he holds that "risk is a part of normal life, even risks taken solely for the sake of enjoyment and recreation."[232] He means to suggest here that certain ends which would be wrong to aim at directly may be risked. May moral dilemmas be risked as well? Why? Or why not?

I am not inclined to accept that every risk taken can be reduced to either complete innocence or complete blameworthiness. Donagan will see every risk taken as either black or white, even though he is less than clear on how to determine which is which.

Donagan might be tempted to hold that if some agent voluntarily risks a dilemma, then if a dilemma occurs, taking the risk has turned out to be wrong and culpable, while if no dilemma occurs, then the same voluntary act of taking a risk has proven permissible and inculpable. We are hereby introduced to perhaps the most important question about the relation between previous wrongs and dilemmas: is whatever one does that causes a dilemma wrong (i.e. in virtue of causing the dilemma)?

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[231] The Theory of Morality, p. 130.
[232] The Theory of Morality, p. 80.

One may argue that genuine dilemmas simpliciter are impossible because every genuine dilemma is the result of some previous wrong committed by the agent in it. In Zimmerman's terminology: "one commits a remote wrong [in the moral bind] only if one commits an immediate wrong" beforehand.[233] And one may argue that if any agent is in a genuine dilemma, then whatever she did that got her into it was wrong. Zimmerman claims, for example, that an agent ought to avoid the competing obligation which causes the dilemma regardless of how blameless she might otherwise be for not doing so.[234] But to argue both at once as an argument against genuine dilemmas simpliciter is circular.

We are told that there are no genuine dilemmas simpliciter, because for every dilemma there is always a previous wrong. The reason for holding that there is always a previous wrong for every dilemma is that genuine dilemmas simpliciter cannot be allowed. Might the claim "there is always a previous wrong" be held for some other reason? Whatever it might be, this other reason cannot be that every case of dilemma has been checked and found to be preceded by a wrong. Some dilemmas have yet to occur. Other reasons for holding "there is always a previous wrong for a dilemma" which are independent of the reasons for holding "there are no dilemmas simpliciter" are unlikely as each of these statements implies the other. If the rationalist holds that any action whatever (regardless of violating an independent precept or not) which gets an agent into a dilemma is wrong, then this is simply assumed rather than an argued view. The question has merely been begged against the view that one might come into a dilemma which was not brought upon oneself.

Zimmerman suggests that he employs two different senses in saying that 1.) the later wrong is committed "by virtue of" the earlier wrong being committed and that 2.) the earlier wrong is wrong "because" the later wrong is.[235] Which wrong has moral primacy cannot be determined from which is committed by virtue of the other. These two senses are not clearly explained. A later example suggests that moral primacy simply goes to the wrong which is the most serious or which is wrong for the most reasons.[236] This sense would be irrelevant to our

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[233] "Remote Obligation", p. 204.
[234] "Remote Obligation", p. 204.
[235] "Remote Obligation", p. 200.
[236] "Remote Obligation", p. 202.

question of circularity and to the question of which wrong is wrong because of the other. In any case, he grants that his position seems odd in maintaining that there are obligations to avoid certain situations that lead to impossible obligations which are otherwise innocent.[237]

It is one thing to be held responsible for a dilemma because one broke a moral precept which it would be wrong to break independently of its causing a dilemma, quite another to be held blameworthy for getting into a dilemma, simply because one got into a dilemma (unless one was deliberately aiming at creating a dilemma, perhaps hoping to avoid moral obligations by this means). Again, anyone can see that one could be blameworthy for any dilemma caused by a wrongful lie, a kidnapping, a theft, a murder, etcetera. What is harder to see is that someone who gets into a dilemma because they are trying to prevent a murder, further science, develop their artistic or athletic talent, end a hostage taking, etcetera, should have exactly the same moral status.

Moreover, the position that whatever one does which causes a dilemma is thereby wrong does not really settle the question about how to judge risking a dilemma. This question is not settled because the description of the previous wrong that caused the dilemma (or impossible-to-fulfill-obligation) is not settled. For previous wrongs, we now see, may be of two different types: those that are wrong independently of their causing this dilemma and those which are wrong solely because they caused this dilemma. We still must decide whether risking dilemmas is wrong in general (independently of the cases where this results in a dilemma) or only when it does cause a dilemma. As Donagan and Kant argue: why should an agent be judged morally on the basis of what was mere fortune for him?[238] If two women equally risk a dilemma, and only one gets into one, why should she be blamed more than the other for what was merely her bad fortune?

On the other hand, if it is wrong to merely risk falling into a dilemma (or causing an impossible-to-fulfill-obligation), getting on with our lives while avoiding wrong will be very difficult indeed. In fact, we would all seem to be in moral dilemmas as any course of action

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[237] "Remote Obligation", p. 204.

[238] Cf. The Theory of Morality, pp. 126-127, and Kant, The Metaphysics of Morals, p. 51 (Academy 392-393) in Moral Dilemmas (Oxford: Oxford University Press, 1987), Ed. C.W. Gowans, p. 48.

whatever risks causing a dilemma to at least some small degree. Human life is not so regular and certain as ethical rationalists would like.[239]

If any action whatsoever that causes a dilemma is wrong, i.e. the violation of a first-order precept, is it also culpable, i.e. the violation of a second-order precept? First-order precepts, recall, are those ruling on the rightness or wrongness of actions. Second-order precepts are those ruling on the culpability or inculpability, i.e. the accountability, of agents.[240] Presumably these actions which are wrong because they cause a dilemma must also be culpable, otherwise blame for the dilemma cannot not be based on this action. Indeed the previous wrong must be a violation of a second-order precept, but not necessarily the violation of a first-order precept, because Donagan holds that not every violation of a first-order precept is blamable.[241]

I suspect that Donagan, when formulating his conditions on promising, may be confused about what is required by the distinction between dilemmas simpliciter and dilemmas secundum quid. Using this distinction the rationalist wants to shift the blame for the dilemma from the moral system or the contingencies of the world onto the agent, which requires a blamable action, not necessarily a wrong action. And since wrong actions are not necessarily culpable, i.e. blamable, they do not meet the requirement. But, Donagan's first condition on promising, i.e. that "it is morally wrong to make a promise unless you can keep it and it is morally permissible for you to keep it", provides wrongness of action (first-order) rather than blameworthiness (second-order), as the cause of the dilemma.[242]

The rationalist goal, in claiming that genuine dilemmas are always preceded by wrongdoing, is to link the blame for the dilemma to the agent — and so the need for a

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[239] A solution to this problem of the wrongness of risking dilemmas might be to remain in ignorance (if this is not automatically negligence). Only those who have thought about the matter will realize that any course of action whatsoever will risk causing a dilemma to at least a small degree; if one does not foresee that what one does risks a dilemma, then the proper relationship between the previous wrong and the "dilemma" does not exist; without this proper relationship the dilemma is not secundum quid; but since there are no dilemmas simpliciter, there must not be a dilemma after all. My apologies to anyone counting on using this strategy!

[240] The Theory of Morality, pp. 30 and 112.

[241] The Theory of Morality, p. 112.

[242] "Consistency in Rationalist Moral Systems", p. 303.

blamable action.

For an action to be culpable, it must be voluntary; so the agent must believe the action is wrong. On the other hand, the agent cannot believe the action is wrong (e.g. in the cases where a dilemma is risked) unless she believes the dilemma will occur, for we are currently supposing that the wrongness consists in its causing the dilemma. These actions are admitted to be wrong solely for causing the dilemma. If these actions are also to meet the requirements for being culpable, then the agent must be convinced the dilemma will be caused. If the agent does not believe that, rationalists will not admit the dilemma is genuine. So any action whatsoever that causes a dilemma will also be an action expected by the agent to cause the dilemma. Once again the wrongness of risking a dilemma seems not to depend on the dilemma's actually occurring, rather it depends on the agent's expectation of the dilemma. Indeed, from a first-person ethical rationalist perspective "risking" a dilemma seems not to be possible.

Another type of circularity may be present in the position that whatever an agent does that causes a dilemma is wrong and culpable.[243] The out-of-the-ordinary blame that attaches to the dilemma is based on the blame which attaches to the agent's earlier wrong or culpable action. The blame for the earlier wrong is the basis for the blame for the dilemma, which is the basis for the blame for the unfulfilled obligations after the agent has done all she could. But what is the basis of the blame for causing the dilemma? If the reasoning is that because one must be blamable for the dilemma, therefore, there must be an earlier action for which one is blamable, then the blame is being "transferred" from the dilemma to the earlier action so that blame can be "transferred" from the earlier action to the dilemma. An independent source of blame is needed.

We might, however, accept that deliberately bringing a dilemma about, either for the purpose of maliciously flouting morality or for "getting out" of some moral requirement, would constitute an independent source of blame. The intention is wrong in these cases.

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[243] I.e. apart from the circularity involved in arguments appealing to this position to show that genuine dilemmas simpliciter are impossible.

Without the independent source of blame the distinction between dilemmas simpliciter and secundum quid is weakened. The explanation of why some dilemmas are to be tolerated within rationalist systems, and others not, lies in the blame being explained in the one case but not the other. But the blame is not really explained if it is merely presupposed to apply to some earlier act because it is needed to "explain" the dilemma.

Donagan, or a supporter, might object to my charges of circularity, by claiming that the rationalist is merely trying to show how the view can be internally consistent, not attempting to prove it, at this point. Rationalists have claimed that moral systems should not allow genuine dilemmas simpliciter. Rationalist systems can easily meet this internal demand by the assumption that any action whatsoever that brings about a genuine dilemma is culpable. The assumption can be made into a precept of the system: it is culpable to do anything which would bring about any impossible-to-fulfill moral obligations. Promising is normally permissible. But, Donagan holds that "it is morally wrong to make a promise unless you can keep it and it is morally permissible for you to keep it".[244] This is meant merely to show that the rationalist system can meet its own demands, not to argue for the system itself in a positive way (i.e. this gives it no superiority over any other ethical system that meets its own demands for ethical systems — including systems that allow dilemmas simpliciter).

Indeed, Donagan sometimes writes as if he is merely defending rationalist ethics against charges that it is itself unable to eliminate dilemmas within its system.[245] Yet Donagan still leaves the impression that he thinks the fact that his moral system can be dilemma free is a selling point for the rationalist theory. He does not "think that Davidson, or Williams, or Marcus [etcetera] . . . would deny that such a theory would be desirable if it were possible".[246] Furthermore, Donagan claims that a common morality which allowed entrapment in dilemmas would now be considered to be thereby discredited.[247] Again, he holds that "any set of first-order precepts according to which [dilemmas] can arise . . . is inconsistent and

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[244] "Consistency in Rationalist Moral Systems", p. 303.
[245] Cf. "Consistency in Rationalist Moral Systems", p. 302 and 306. The Theory of Morality, p. 143.
[246] Cf. "Consistency in Rationalist Moral Systems", p. 302.
[247] The Theory of Morality, p. 144.

therefore false".[248] These statements are true only if it is generally accepted that being dilemma free is a good feature for moral systems.

Far from making the theory desirable, the moves by Donagan to make the theory possible have a high cost in assigning wrongness to actions merely on the grounds that they played a role in causing a dilemma, and these assignments may be very counter-intuitive.

An ethical theory's capacity to make genuine dilemmas simpliciter impossible within its system should count in its favour only if in actual fact the moral universe contains no genuine dilemmas simpliciter. Otherwise, such a theory is not more desirable than others. Indeed, Donagan admits that to "establish [that the precepts of common morality will not conflict giving rise to dilemmas] it must be shown that in no possible world of the sort with which common morality has to do can a situation arise, except through wrongdoing, in which some moral precept can be observed only by violating another".[249] Yet he believes that "something better should be [and is] possible than disposing of alleged cases of inconsistency as they appear".[250]

Donagan continues by arguing that his system has structural features which allow us to infer that its precepts will not come into conflict. There are two types of precepts: first-order and second-order. Because actions can be wrong but inculpable, or permissible but culpable, Donagan argues, we can infer that precepts of these two different types will not conflict.

Donagan's argument here is weak as his conclusion is meant to apply to every action (i.e. there is no action for which precepts of different types will conflict), but his basic premise has not been shown true for all actions. Certain types of intentions could be necessarily both wrong and culpable (e.g. intending against one's conscience to murder someone). So Donagan's argument does not establish his conclusion which is too universal. This failure of Donagan's argument is not enough to show that there are any conflicts between precepts of the different types — only that Donagan has failed to establish that there

[248] The Theory of Morality, p. 150.
[249] The Theory of Morality, p. 148.
[250] The Theory of Morality, p. 149.

are not.

Donagan might object that first-order precepts apply to actions considered materially, i.e. "no reference is made to the doer's state of mind in doing it", so acts of intending, which refer to states of mind, are not really right or wrong (i.e. first-order), just culpable or inculpable (i.e. second-order).[251] But this objection will not do, for he takes the position earlier on the same page that "judicative acts", which do refer to the doer's state of mind, can be permissible or not. So Donagan's distinction between first-order and second-order cannot exactly parallel the distinction between actions considered materially and actions considered formally.

In any case, an action considered formally may have implications for the same action considered materially such that it would be inconsistent to hold that action materially impermissible and inculpable contrary to Donagan's premise.[252] Donagan goes on to deal with the possibilities of conflict amongst the second-order precepts and amongst the first-order precepts separately.

I now wish to present an example which, I will argue, shows that Donagan's argument for the impossibility of genuine dilemmas simpliciter amongst the second-order precepts fails. This example either is an example of a genuine dilemma simpliciter based on Donagan's system's precepts (and minor tinkering with the precepts cannot fix the conflict as he confidently predicts[253]), or at the very least the example shows the extreme counter-intuitiveness of insisting against all evidence that some previous action must be wrong.

D. A Second-Order Genuine Dilemma Simpliciter

Donagan is aware that his system of morality faces questions of consistency on two levels, for his system is divided into first-order precepts and second-order precepts.[254] In

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[251] cf. The Theory of Morality, p. 55.
[252] The Theory of Morality, cf. p. 149.
[253] Cf. The Theory of Morality, pp. 143, 156, 164, and 173; "Consistency in Rationalist Moral Systems", p. 309.
[254] The Theory of Morality, pp. 149-150.

other words, one might be in a moral dilemma because all available actions would be wrong (as determined by the first-order precepts), or because all available actions would be blameworthy (as determined by second-order precepts).

I do not find much sense in calling dilemmas those cases where all available actions are either wrong or culpable, but not all wrong nor all culpable. In such a case surely the ethical rationalist must hold that one should simply choose an action for which she will not be culpable.

He believes that it is easy to show that dilemmas where all actions are blameworthy (i.e. as determined by second-order precepts), will not arise independently of inconsistencies among the first-order precepts.[255] Donagan's argument proceeds: "the second-order precepts of common morality can generate perplexity simpliciter only if the first-order precepts either generate it and are culpably not thought to, or are believed to generate it". After all, one is blamable only for actions and intentions believed wrong or culpably-not-believed-wrong. Now one of these alternatives just is that the second-order inconsistency is based on a first-order inconsistency — which one is culpably unaware of. Moreover Donagan thinks that such a first-order system, being inconsistent, must be false, and therefore speaking of culpable ignorance of its inconsistency is preposterous. He does not, however, provide any argument showing why the first-order system must be false if inconsistent in this way.

The other alternative is that one believe that the first-order precepts generate the perplexity simpliciter. The argument against extending this believed perplexity simpliciter to the level of the second-order precepts is that it would be "preposterous" to be prepared to blame persons caught in such dilemmas. I, of course, have arguments to show that this (blaming people for more than they can do) is not preposterous at all.[256] Moreover, one might be inculpably unaware that blame in the situation has become "preposterous".[257]

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[255] The Theory of Morality, p. 150.

[256] It is rational to encourage agents to strive hard at fulfilling thei obligations, to set high moral ideals and to try to organize their world so that dilemmas will be rare.

[257] Even after reading Donagan I remain "unaware" of the preposterous character of such blame, because I remain unconvinced. We are not all wholeheartedly ethical rationalists.

In any case, there is a straightforward example of perplexity simpliciter for second-order precepts in Donagan's system. I take my example to be a genuine dilemma simpliciter, but someone might avoid this conclusion by insisting contrary to the evidence that some previous wrongdoing makes the dilemma secundum quid. Let me begin by presenting the example in a form that Donagan can deal with. After showing Donagan's response, I will reveal the modification that on Donagan's own second-order precepts will allow for perplexity simpliciter.

Donagan claims that a system in which the two first-order precepts, against killing human beings and lying, were each absolute, would be consistent. "Unless 'killing' is given an extended meaning which it does not have, there is no way in which not lying can, as such, be killing. It is conceivable that X may kill Y in reaction to Z's not lying; but Z does not thereby kill Y."[258] Well, suppose that the only thing keeping Z's brother, Y, alive is the belief that his wife still loves him and will return. He knows that Z has recently seen her, and asks Z to confirm his belief and hope. He knows Z well enough to take silence to disconfirm his belief and hope, but would not expect Z to lie about this matter. Not lying will directly hasten Y's death, because Z knows that Y's wife has decided to go off with someone new. In my example, the role of X is taken over by Y's frail condition, in which shock or upsetting news could be disruptive enough to cause death.

Donagan's response is, of course, that the example "improperly extend[s] the concept of causing a human death". Z does not cause Y's death if she tells him the truth and he dies. His death is caused by whatever caused his lack of normal health, and perhaps by the disagreeable nature of this news for him.[259] Donagan claims that "if in voluntarily doing A [one] divines that E will come about, not in the course of nature, but as a causal consequence of the reactions of others who are not [one's] agents, [one's] action is not voluntary under either the description 'causing E' or the description 'letting E happen.'" And we are only blamable for voluntary actions.[260] And perhaps Donagan would not accept that the only thing

[258] The Theory of Morality, p. 147.
[259] Cf. The Theory of Morality, pp. 120-121.
[260] The Theory of Morality, pp. 121-122.

keeping someone alive was some belief, unless this was the person's own fault.

Another ethical rationalist, Alan Gewirth, also employs this tactic of denying voluntariness in dealing with a variety of moral conflicts.[261] In the dilemmas under consideration "it is assumed that [the person's] choice is forced by external circumstances beyond his control; hence, his degree of agency is limited". The person "would here be operating under forced choice, so that his behavior would not be free or voluntary . . . . In this situation [he] would not be an agent." But morality is "concerned primarily with the voluntary actions of agents".

The problem with this response by Donagan and Gewirth is that Z might nevertheless be inculpably ignorant of the fact that the concept of causing death has been extended. She may continue to view herself as an agent and her actions as voluntary, especially since she makes the choice. She may have an inculpably mistaken conscience telling her that she wrongfully kills Y by upsetting him with the truth in his current physical state.

On Donagan's view, and this is one of his second-order precepts, one is culpable for doing what one believes is impermissible. So Z is culpable whether she tells the truth or remains silent, as Z believes that to do either is to impermissibly kill her brother. But Z has not given up her belief that lying is impermissible. (Believing something does not imply believing all the implications of that belief.[262]) And since lying is, in fact, wrong, this belief too may be inculpable. Therefore, if Z tells the lie she is culpable, because she violates her belief in the impermissibility of lying, and if Z does not tell the lie she is culpable for violating her mistaken conscience.

There is, by assumption, no first-order dilemma here; I am supposing that the conscience is mistaken. Thus, we are to accept that telling the truth or remaining silent would not really be wrong. Donagan's view is that it would only be wrong to not save a life if saving it did not involve doing something impermissible.[263] While he allows that promoting "the well-being of others . . . . also comprises . . . abstaining from actions that would foreseeably

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[261] Reason and Morality (Chicago: University of Chicago Press, 1978), pp. 350-353.
[262] Not that everyone need admit that the belief 'not lying is impermissible' really implies 'lying is permissible'.
[263] The Theory of Morality, pp. 85-86.

elicit responses by which others would be injured." He insists "it is absolutely impermissible to promote the well-being of others by any action which is impermissible in itself".[264] Perhaps we might say that Z has a mistaken conscience in failing to recognize this absolute impermissibility; many in our society are like Z.

The second-order precepts bring about the dilemma. Moreover, Donagan's argument — about it being "preposterous" for someone who believed in first-order dilemmas simpliciter to be prepared to blame anyone hapless enough to fall into one — fails.

His argument fails even if Donagan is unconvinced by my arguments that we have reason to blame people for more than they can do. His argument fails because people do not believe all the implications of their beliefs. So Z may not notice that she believes in "first-order dilemmas simpliciter", and even if she does notice, she might not notice that this belief implies that second-order beliefs about when she is blameworthy are preposterous. — Missing the first of these implications, may seem to rationalists negligent on her part. But, I must reject any such claim about missing the second of these implications, for, even though I have tried to understand how it could be, I do not believe it is an implication at all.

Actually, on Donagan's view, it matters not to the culpability of not following a mistaken conscience, whether it was arrived at inculpably or not. A mistaken conscience binds in any case.[265] I want to deal with the cases of inculpably mistaken conscience because it is these cases where the dilemma is simpliciter.

Perhaps someone who holds that because an agent is in a dilemma, whatever she did or did not do to get into it was culpable, must hold that the mistaken conscience was culpable. It must automatically be assumed that the ignorance of the fact — that the concept of causing death has been improperly extended — is due to blamable negligence if it causes a dilemma.

For members of societies much influenced by utilitarian thinking, the negligence of not knowing the proper extension of the concept of killing is difficult to see. A student once related an incident to a class I was lecturing to about the morality of lying. A mere few weeks earlier, he had come across the scene of a motor vehicle accident. An injured lady was asking

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[264] The Theory of Morality, pp. 51 and 153-157.
[265] Cf. The Theory of Morality, pp. 136 and 149.

hysterically about the well-being of her dog. Looking about, the student saw the smudge of fluff that had been the lady's pet. Without even having any beliefs about the seriousness of the lady's injuries, or about the likely extent of her reactions to the bad news, he lied. The class was in general agreement with his action. Of course Z's agreement could not be so whole hearted, as she still believes lying is wrong, but she may be influenced by this sort of thinking all the same.

Donagan might claim that our society suffers from false consciousness in this regard.[266] Yet it does not follow from this that Z is negligent for not discovering and correcting in her own case this false consciousness.[267] And, Z's beliefs are subject to other influences. Perhaps the doctor has instructed her not to upset the patient.

Indeed, we might consider the case where Z has been in a similar situation before. Let us suppose that Y had had an identical twin brother, W. And at an earlier time when W had been deathly ill, he had desperately wished that his wife would remain true to him. She had not, and so Z had been in the same situation of having to decide whether to break this bad news at a time when her brother was in such poor health. At the time she decided that telling the truth could not really kill someone, and so told the truth. She then watched W become very upset, go into shock, and shortly thereafter die.

Perhaps in the intervening years she has tried to convince herself that she had not killed her brother, W. She tells herself that his physical condition killed him. She tells herself that it is not her fault that W's wife left him. She tells herself that she did not cause W to have the unreasonable amount of hope he obviously had placed in his wife. She showed faith in his ability to handle bad news by giving it to him. She showed him respect as a rational creature by letting him control his destiny. Her brother, W, ought to have built up better habits and dispositions for dealing with disappointment. She merely provided the experience which tested him. So, even though we cannot say that the twin had chosen to die upon hearing the bad news, we might say that he chose to develop bad dispositions (or not develop good ones) for dealing with having his hopes dashed.

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[266] Cf. The Theory of Morality, pp. 138-142.
[267] Cf. The Theory of Morality, p. 135.

Nevertheless, the vivid memory of her brother's death upon his hearing the news makes her explanations of how she was not really to blame seem like hollow rationalizing in comparison. However much he should have handled the news better, she had foreseen that he would not take the news well. Maybe she should have been willing to sacrifice her honesty to save W's life. And now she is horrified to find herself facing the same awful decision; she can hardly believe her bad luck. No matter how hard she tries to convince herself that she did no wrong the last time, she cannot persuade herself that telling her brother the truth will not wrongfully and significantly contribute to his death.

She loves Y and knows how similar the two twins were in disposition. She has not been negligent about the improper extension of the concept of causing a human death; she has made every effort to convince herself, but given her previous experience, her love for her brothers, and the similarity of the two cases, she fails.

Of course the emphasis we have been placing on the mistaken conscience here supports Hare's understanding of what makes dilemmas tragic, an understanding we have already rejected.[268] Hare's claim is that what "makes the situation tragic is that [the agent] is using moral thinking to help him to decide what he ought to do . . . with no more enlightenment than that provided by those 'absolutist' thinkers who believe in very simple and utterly inviolable principles".[269]

Two points must be made in response. First, our reliance on a "tragically" mistaken conscience is limited to second-order dilemmas simpliciter which are not based on first-order dilemmas. Second and more importantly, even in these cases there exist tragic series of experiences which lead to the agent's adopting the moral thinking used. If the failure to use a higher level of thinking is thought to be the real tragedy in cases like Z's, then surely this is a failure to empathize with the agent's experience.

I do not believe that one can seriously maintain (even though this is exactly the sort of claim the doctrine that whatever action leads to a dilemma is culpable must maintain) that

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[268] See Chapter III above.
[269] R.M. Hare, Moral Thinking: Its Levels, Method and Point (Oxford: Clarendon Press, 1981), p. 32.

Z has been negligent about her mistaken conscience or at fault for this dilemma, a genuine dilemma simpliciter which follows from Donagan's own precepts.

If the rationalist were to look instead for a previous wrong which was not a matter of negligence, then Z must have foreseen that the dilemma would follow from the wrong action in question. The most obvious candidate is "visiting Y knowing what happened with W, and knowing that the situations will be parallel". Perhaps the rationalist will hold that given her previous experience she would have expected that visiting her brother under the circumstances would result in a dilemma and hence be wrong.[270] And if she had some obligation to visit her sick brother, then perhaps she did wrong by not remaining ignorant of her brother's wife's infidelity.

Obviously, the rationalist is grasping at straws if she makes claims like these about the wrongness of visiting sick relatives, the wrongness of knowing information about one's relatives, or the wrongness of not expecting dilemmas in situations that are very similar to those in which one experienced a dilemma. We do not typically regard agents as morally blamable for visiting sick brothers under even these circumstances. The case might be different if she goes hoping that he will ask just so that she can upset him — perhaps to get even with him for some past incident. No matter how similar the two situations are, unless she has been told that her brother will ask, she need not expect that the dilemma will reoccur. And, one is not always able to easily avoid information about close relatives.

Perhaps, then, Donagan might be inclined to modify his position. He might argue that it is not always culpable to do what one believes impermissible after all. In particular, if one has an inculpably mistaken belief that some act is impermissible which really is not (and the agent has done nothing else to cause the conflicting moral beliefs), then in the case of a dilemma, so long as the agent does the wrong she believes is least grave, she does no wrong and is not really culpable. She will, however, think that she does wrong and believe she is culpable. Thus the second-order precept stating that one is culpable for doing what one

[270] There is a version of this candidate for the previous wrong which involves negligence. It might be maintained by rationalists that she was negligent if she did not expect the dilemma given her previous experience.

believes is impermissible becomes less general than in Donagan's actual position. And his limits on the types of precepts to which considerations of the gravity of wrong apply must be changed.[271]

If Donagan were so inclined to change his position, if he means to continue arguing against those types of dilemma he does not believe in, he would need to find independent reasons for making this change. I see no obvious independent reasons, except the desire to model obligation on necessity. But an attempt to do this cannot succeed in any case, since from the fact that an act is obligatory, it will not follow that the agent does it.[272]

Moreover, such a change in Donagan's position does not amount to mere tinkering with a specific application of a precept to an unusual case. Many examples of dilemmas could be revised so as to fit the pattern of involving an inculpably mistaken conscience. Consider Bernard Williams's example involving Agamemnon. Agamemnon is not necessarily culpable for his mistaken conscience about the wrongness of disobedience to the gods who required the sacrifice of his daughter.[273] Agamemnon would have heard many stories of the consequences of disobedience to the gods from an early age.

Let us consider another of Williams's examples: Jim, who has to choose between killing one Indian and watching Pedro kill all twenty, might choose differently after seeing the consequences of choosing not to kill.[274] He might not be able so easily to escape the sense of being responsible for the additional nineteen deaths, after seeing them killed firsthand, try as he might to convince himself that only Pedro and his band are to be blamed. He would have a mistaken conscience on Donagan's view; but it can not be due to negligence if he has tried his

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[271] Cf. The Theory of Morality, pp. 155 (and 145).
[272] The Theory of Morality, p. 145. Cf. G.W. Gowans, "Introduction: The Debate On Moral Dilemmas", in Moral Dilemmas, pp. 23-24. I shall return to consider this argument more closely below.
[273] One wonders whether Abraham could have intended to obey God while not intending to murder his son, Isaac. Of course, we cannot tell whether Abraham believed that killing one's innocent son (who is not a threat to anyone) was wrong; so we cannot know that he was in a dilemma. If the tradition from which Donagan is working is willing to regard the leading of Abraham's conscience as inculpable, why not Agamemnon's? Bernard Williams, "Ethical Consistency" in Problems of the Self (Cambridge: Cambridge University Press, 1973), p. 173.
[274] B. Williams, Utilitarianism: For and Against (Cambridge: Cambridge University Press, 1973), pp. 98-99

best to rid himself of it. I have tried to set the examples so that the agents have extra motivation to really try to see things the rationalist way, but they do not succeed.

The precept "that it is culpable to do what you believe to be impermissible" (which includes beliefs due to a mistaken conscience) is important to Donagan's argument that his position is consistent. It is partly on the strength of this precept that he argues that the first-order precepts cannot conflict with the second-order precepts (and vice versa).[275] This precept is the third of the three major principles from which all second-order precepts are to be derived. Furthermore, he claims that the "chief difficulties about the consistency of the second-order precepts have been anticipated in deriving them".[276] Perhaps ethical rationalism suffers from a structural flaw in spite of Donagan's confident predictions to the contrary.[277]

The strategy of moving towards the internal and subjective seems to backfire on ethical rationalism at this point. True, Donagan at places holds that the second-order precepts are dependent on the first-order for their existence: "Precepts about the culpability or inculpability of agents in doing what they do would make no sense whatever unless their actions were in themselves, objectively considered, permissible or impermissible." "[I]f the first-order [precepts] are inconsistent, it is irrational to invoke the second-order ones at all."[278] But in fact his theory really just makes second-order precepts dependent on the beliefs about the first-order precepts, i.e. subjectively considered. I see this problem for Donagan as following from the general flight — for the purpose of securing agent control — toward the internal and subjective elements of moral life.

If the intentions, the hoped for results, what is done knowingly, are generally given the importance rationalist theories give them, then how can intentionally violating an inculpably mistaken conscience not be culpable? One cannot tell, after all, that one's conscience is mistaken while it truly is. And to aim at acting against one's conscience is to deliberately deaden one's conscience, and is to try to be immoral. As Donagan writes:

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[275] Although I believe his argument is mistaken.
[276] The Theory of Morality, p. 149.
[277] Cf. The Theory of Morality, pp. 143, 149, 156, 164, and 173; "Consistency in Rationalist Moral Systems", p. 309.
[278] Cf. The Theory of Morality, pp. 30, 55, 150.

> A man is not merely held inculpable [second-order] if he does something impermissible in accordance with his conscience, he is held culpable if he does not. The reason is simple. In acting against conscience, a violation of the moral law must be intended; and such intentions are always culpable, even though, because of the agent's erroneous conscience, nothing materially wrong [first-order] is done.[279]

The precept "that it is culpable to do what you believe impermissible" is part of the very structure of rationalist ethical systems. To try to defuse the examples of dilemma I am presenting by arguing that deliberately violating one's conscience need not always be wrong is tantamount to giving up a central feature of ethical rationalism. Apparently, the very structure of the ethical rationalist system is subject to genuine dilemmas simpliciter among its second-order precepts. The remaining question is whether similar dilemmas can result from the first-order precepts.

E. First-order Genuine Dilemmas Simpliciter?

We might begin looking for a genuine dilemma simpliciter among first-order precepts by investigating whether one can be derived from the second-order dilemmas simpliciter we have already developed. We might argue from a first-order precept, explicitly held by Donagan, that it is "impermissible to do what it is impermissible to intend".[280] He also holds that it is always culpable to intend what one believes is wrong.[281] But surely it is impermissible to intend what is culpable to intend (although it might not be culpable to intend what it is impermissible to intend should one's conscience be mistaken about what intention is required). So it is wrong (first-order) to do what one believes wrong.

One could argue that it is not only culpable but wrong to intend to do what one believes wrong, on the grounds that intentionally violating moral law fails to respect oneself as a rational creature. Notice that circularity is avoided here. The believed wrongs which gave rise to the second-order dilemma are distinct from the acts of intending to commit them. We can still grant that the telling of the truth is not really wrong, yet admit that it is wrong to intend to tell the truth when one believes that doing so is wrong. So telling the truth becomes

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[279] The Theory of Morality, p. 136.
[280] The Theory of Morality, p. 127.
[281] The Theory of Morality , p. 136.

wrong, when the intention succeeds, given the mistaken conscience. But the second-order dilemma is not based on this wrong.

I do not know whether this argument from the second-order dilemma to a first-order dilemma is very convincing. I am not interested in pursuing it further here. Let us consider, now, the question of the possibility of genuine dilemmas simpliciter, among first-order precepts independently of second-order dilemmas.

It may have occurred to some that I have been a little generous towards Donagan in granting that the first-order precepts do not really form a dilemma in my earlier example. Not every moral philosopher (especially not consequentialists) will agree that the concept of killing has been improperly extended, if we say that it is wrong to kill someone by upsetting them with the truth at a time when they are vulnerable. Or, in a related case, someone might hold that telling the Nazis the truth about the Jews hiding in one's home, even if the only alternative is lying, is wrong. Not everyone is willing to admit that it follows, given the wrongness of telling the truth in these circumstances and the absence of other alternatives, that lying is sometimes not wrong. Thus, the possibility of a moral dilemma exists.

Kant wrote an article on just this sort of question.[282] If I may be overly quick about Kant's argument, he held that there is a risk of bad consequences following one's choice whichever way one chooses, and if one has lied then one can be held blamable for the bad consequences on the ground of the previous wrong, the lie. But if one did not lie, then, as there is no previous wrong, one cannot be blamed for the bad result from the risk of telling the truth.

Another rationalist device for defusing "dilemmas" of this type is the distinction between perfect and imperfect duties. Perfect duties are those which "exclude . . . specific acts of commission or omission".[283] Imperfect duties are those which require the promotion of some general end. Thus, because of the greater degree of specificity of the requirements of the perfect duties, the opportunities for fulfilling them are more strictly limited. One cannot fulfill tomorrow a promise to repay a loan by today. One cannot put off fulfilling the duty

[282] "On A Supposed Right To Lie From Altruistic Motives"
[283] Cf. Donagan, The Theory of Morality, p. 154.

not to lie, waiting for some later opportunity to avoid lying. There are, it is true, also limits to the opportunities for fulfilling imperfect duties. But these limits are broader and less definite. One limit is one's own death; after death the opportunities of this present life will cease; otherwise, one can always wait for some later opportunity to show extra kindness to those nearby, or to further one's knowledge.

Arguably, some opportunities to help others are unique because, for example, if some life is not saved at the last opportunity to do so, a unique individual will be forever lost. This reasoning partially supports Donagan's inclusion of the precept against "not helping others in grave need when one can" among the perfect duties.[284] But this line of reasoning undermines altogether the distinction between perfect and imperfect duties.

There are starving persons whose unique lives I could save only by robbing banks, lying to loans officers, killing those who inhibit the distribution of food in third-world countries, etcetera. Either these are instances of first-order dilemmas simpliciter, or the precept requiring "helping others in grave need when one can" is not a perfect duty after all. (Imperfect duties are held to yield to perfect duties by rationalists.)

(Sometimes Donagan writes as though he has a more limited precept in mind: "you are not to stand idly by when you can protect your innocent neighbor from violence". I shall, in effect, discuss below the possible reasons for this limitation, when I discuss Donagan's views on forfeiture of rights and changing what counts as respect of rights in these circumstances.)

Now Donagan clearly holds that duties to develop oneself and duties of beneficence towards others are imperfect.[285] He has in mind any duties derived from his principles of culture or beneficence, any "precept, that is, commanding the adoption of some rational plan for promoting human well-being." His "fundamental principle . . . categorically forbids violating the respect owed to human beings as rational". So even though this fundamental principle requires that one promote the general goal of human good, since the ways and opportunities of doing so are indefinitely many, one would never be justified in violating the

[284] The Theory of Morality, pp. 86-87, 151 and 156.
[285] The Theory of Morality, p. 154.

respect owed to humans in some more specific way (for examples, lying, killing, breaking a promise) to pursue the more general end. The more general goal is not violated by waiting for some later opportunity to pursue it.

If we apply this line of reasoning to the case at hand, even ethical rationalists may find the result unacceptable. Since one has a perfect duty not to lie, and since one cannot kill by following this duty (unless the concept of killing is improperly extended), and since one can pursue the goal of general human good in ways other than saving the lives of Jews from their Nazi killers (indeed, there were likely at that time other Jews who also needed saving, presenting further opportunities to do good of the same kind without lying), one ought to tell the Nazis the truth about where the Jews have been hidden. Let the Nazis violate a perfect duty rather than oneself.

One problem with the perfect/imperfect distinction as a means of eliminating dilemmas from a moral system is that imperfect duties can be strengthened by perfect duties in various ways. For example, one might make a promise to the Jews one is hiding to save them from the Nazis. Keeping promises is a perfect duty. Of course, Donagan regards as wrong the making of promises which one cannot, or may not, keep. (We shall be investigating Donagan's views on promising in detail in the next chapter.) So Donagan would regard as wrongful the making of a promise to calm these terrified people, if one believes it is likely to require lying to Nazis on occasion.

Once again the view that dilemmas must be the result of previous wrongdoing has an odious effect: a calming promise of protection offered to the desperate people one is trying to save would not be <u>independently</u> wrong. The wrongness would be derived from the promiser's expectation of a dilemma. We may doubt, however, whether Donagan would actually regard such a promise as wrong at all, if for no other reason than his position that lying to violent or fraudulent agents is not wrong.[286] His precept against lying has an explicit exception clause; it claims, "it is impermissible for anybody, in conditions of free communication between responsible persons, to express an opinion he does not hold".[287] I shall question whether his

[286] See for example "Consistency in Rationalist Moral Systems", pp. 293-294.
[287] <u>The Theory of Morality</u>, p. 88.

fundamental principle really supports this kind of exception.

Donagan does not use the distinction between perfect and imperfect duties for dealing with cases of lying to would-be murderers. Nor does he make use of the distinction between the agent's responsibility and the Nazi's. Part of the reason he does not lies in his acceptance of "the precept that you are not to stand idly by when you can protect your innocent neighbour from violence or fraud" as a perfect duty.[288] But the main reason for his not using the traditional rationalist moves in this sort of case is his view that through violence and fraud one forfeits the right to respect normally held categorically.[289]

I have a number of questions about, and problems with, Donagan's position on forfeiture. Clearly it is a mechanism that allows some obligations to evaporate rather than form part of a dilemma. Is this view derivable from the fundamental principle: "It is impermissible not to respect every human being, oneself or any other, as a rational creature"?[290] According to Donagan it must be derivable, otherwise it is ad hoc.[291] Finally, I also have questions about how exactly the concept of forfeiture is to be applied: what, if any, are the limits to the loss of a right to respect? How is the right to respect regained, if it can be? In treating someone as though she has forfeited her right to respect, does one forfeit one's own right to be respected by this person?

Let me begin with these last questions first. If James attacks Jane with violence, he thereby forfeits his right to be treated with respect in accordance with the fundamental principle. So presumably all the precepts derivable from the fundamental principle governing how we treat others no longer apply to James. Jane is thus morally permitted to lie, maim, kill, or do whatever is necessary to save herself. Suppose she responds with violence. Has she not forfeited her right to be treated with respect by James? Even if we admit that her violence is morally permitted while James's is not, if simple violence is sufficient for forfeiture then she has forfeited her rights to respect. We are reminded here of Hobbes's view that one can

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[288] The Theory of Morality, p. 156, cf. pp. 85-87.
[289] Cf. The Theory of Morality, pp. 84-89. "Consistency in Rationalist Moral Systems", pp. 293-294.
[290] The Theory of Morality, p. 66.
[291] "Consistency in Rationalist Moral Systems", p. 293.

never lay down the right to self-defense; if the sovereign moves to imprison or kill someone, they are permitted to fight back.[292]

Perhaps, rather, Donagan means that wrongful violence results in one forfeiting their right to respect. Against this version we might argue that one will not always be able to tell whether the violence is wrongful or not. Also, if Jane responds to James's violence with violence, might he not rightly think that she has joined the fray, and thereby consented to its continuance? Does not her response suggest an acceptance of violence as a means of settling the dispute between them? James could easily interpret her actions in this way. Finally, Donagan should show that the fundamental principle supports the the view that wrongful violence results in forfeiture over the view that any violence results in forfeiture.

One might suppose that the reason for forfeiting the right to be respected as a rational creature is that normally violence is not rational. Responding to violence with violence may be considered rational if only so can one protect a rational being. Could this reasoning also have the problem of justifying responding with violence whether or not one was the first to initiate it? Even if James has not behaved rationally in initiating the attack, surely he too is rational to respond to a violent counter-attack with violence.

Donagan may object that since the victim of the initial attack has not behaved irrationally she still has the right to be respected as a rational being. Also, since the agent initiating the attack is acting against reason, he is not entitled to justify continued violence on the grounds of protecting a rational agent.

On the other hand, the rationality of responding to violence with violence may be questioned, and certainly from the position of one under attack, rational violent behavior will be difficult to distinguish from irrational violent behavior. Further, it is not true that every irrational action changes one's very nature from a rational being to nonrational. On Donagan's view one's status as rational is much more stable than this.[293]

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[292] Cf. for example, Leviathan, Chapter 14 at "Not All Rights Are Alienable" (Indianapolis: Bobbs-Merrill, 1958), Ed. H.W. Schneider, p. 112.

[293] Cf. The Theory of Morality, p. 171. We shall soon see that Donagan rejects this whole line of reasoning; i.e. that by not behaving rationally one's status changes to nonrational, thus causing the forfeiture of rights to respect.

The view that by acting irrationally one loses one's status as a rational being would be absurd in that for some small action, like an unimportant lie, one would lose the right, for example not to be killed at will. Presumably, Donagan would hold that only those rights to respect have been forfeited which are required to prevent greater violations of respect.

I do not, however, see how this limitation can be derived from his fundamental position, given the either/or character of respect in his precepts. Gewirth explicitly recognizes the needed limitations.[294] "The authorized coercion and harm should be imposed only on the violators, it should not exceed the severity of the antecedent violations it is designed to correct . . . ." It would not be right to stop someone from lying by killing them, even if only so could they be stopped, and even if other innocents would be hurt by the lie. Nor would we find acceptable the prevention of a lie, by a lie to the liar, if the deception could have been prevented more simply by telling the truth to the potential victim as Gewirth again recognizes.[295] "But these requirements override the duties to refrain from occurrently coercing or harming these persons only when the following conditions are fulfilled: the requirements are necessary to prevent undeserved coercion and serious harm; they do not go beyond what is needed for such protection . . . ."

Donagan rejects this particular rationalist approach; he does not allow that a man might lose the dignity that is his as a rational creature.[296] But his position is not very different. He holds with Aquinas that "by violating the order of reason [one] falls from a state in which [one's] freedom among other free men must be respected, and may without prejudice to [one's] human dignity be subjected to coercion [even to the point of being killed] to protect others."[297] Clearly Donagan's view would support the same absurd excesses as the approach we were considering.

The reasoning which justifies removing the violater of the order of reason from the state where respect is required is too strong. There is nothing inherent in the reasoning which forces one to take into account the seriousness of the violation, or the minimum suspension

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[294] Cf. Gewirth, Reason and Morality, p. 342.
[295] Cf. Gewirth, Reason and Morality, p. 344.
[296] The Theory of Morality, p. 163.
[297] The Theory of Morality, p. 163.

of respect needed to curtail the violation.[298] Indeed, Donagan's precepts involving perfect duties are not subject to gradation, except in cases of previous wrongdoing.[299]

Let us turn now to consider the relation between Donagan's concept of forfeiture and his fundamental principle. His fundamental principle is: "It is impermissible not to respect every human being, oneself or any other, as a rational creature."[300] I fail to see how, short of someone literally becoming non-human, this principle allows for the forfeiture of the rights it provides. Someone who violates the order of reason does not literally become non-human; so this principle requires that even someone initiating violence be respected as a rational creature. Perhaps Donagan is confusing the concept of forfeiture with a somewhat different concept.

For Donagan also argues that certain acts, which would count as violations of respect when directed towards a good agent, would not count as violations when directed towards, for example, someone initiating violence.[301] The argument is not that the agent violating the order of reason has forfeited any rights, but rather that what counts as fulfilling those rights in her case has changed.

Unfortunately, Donagan's argument claiming that the fundamental principle supports this move to change what counts as violating respect is obscure. He claims that the fundamental principle provides stronger grounds for including these changes to what would normally count as violations, than for not including them.[302] Donagan claims that it is plain that responding to violence with falsehood or violence does not reduce the initiator to mere means; he or she is still being treated as an end in himself or herself.

(Note that Donagan takes his fundamental principle to be equivalent to Kant's second formulation of the categorical imperative: "Act in such a way that you always treat humanity, whether in your own person or the person of any other, never simply as a means,

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[298] But, cf. The Theory of Morality, pp. 86-87 where Donagan claims that only the minimum force necessary is allowed. He does not give reasons for this qualification and I do not believe he can.

[299] The Theory of Morality, p. 155.

[300] The Theory of Morality, p. 66.

[301] Cf. The Theory of Morality, p. 64, and "Consistency in Rationalist Moral Systems", p. 294.

[302] "Consistency in Rationalist Moral Systems", p. 294.

but always at the same time as an end."[303])

Obviously, lying to the Nazis to protect the Jews one is hiding is treating the Nazis as a means to an end: the Jews' safety. Similarly, killing in self-defence treats the one who is attacking as a means to one's own safety. The question is: are these violent agents being treated as mere means, or also as ends in themselves? What constitutes treatment as means is clear, but what constitutes treatment as mere means or treatment as an end in himself or herself is not clear.[304] Since this concept is used by the fundamental principle to derive the system of first-order precepts, treating someone as an end in herself cannot come to only an internal attitude of respect.

Two interpretations of what "treating someone as an end in himself" means are available. One interpretation says that we must treat agents as capable of setting their own ends, as free and autonomous.[305] A second interpretation is that to "treat others as ends in themselves is always to address and deal with them as rational beings". "To treat another with respect is to treat him as if he were using his reason and as far as possible as if he were using it well."[306]

Perhaps these interpretations differ mainly in emphasis. Taylor points out that only "rational creatures conform to laws that they themselves formulate" while "everything else in nature conforms to law blindly".[307] "We are good when reason is sovereign, and hence when we as rational beings are free."[308] Korsgaard claims that dealing with others as a rational beings means every "rational being gets to reason out, for herself, what she is to think, choose, or do".[309]

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[303] Groundwork of the Metaphysic of Morals, p. 96 (Academy, 429). Cf. The Theory of Morality, p. 65.
[304] Fred Feldman makes this point in "Kant's Ethical Theory: Exposition and Critique" in Right and Wrong: Basic Readings in Ethics (New York: Harcourt Brace Jovanovich, 1986), Ed. Christina Hoff Sommers, pp. 41-42.
[305] See for example Charles Taylor, "Kant's Theory of Freedom" in Philosophy and the Human Sciences: Philosophical Papers 2 (Cambridge: Cambridge University Press, 1985), p. 332.
[306] Christine Korsgaard, "The Right to Lie: Kant on Dealing with Evil", Philosophy and Public Affairs 15, No. 4 (Fall, 1986), p. 335.
[307] "Kant's Theory of Freedom", p. 323.
[308] "Kant's Theory of Freedom", p. 325.
[309] "The right to Lie: Kant on Dealing with Evil", p. 335.

Does killing one's attacker in self-defence or lying to Nazis treat them as capable of setting their own ends, as autonomous? If one answers yes on the grounds that it is only because one fears what they might freely set their end to be that one kills or lies, then no killing or lying would be ruled out. The principle must somehow justify an exception to its usual ruling. Kant put the point in terms of whether this person could possibly assent to being treated in the way you wish to treat her.[310] Korsgaard argues that in cases of coercion and deception the other's assent to the action is impossible.[311] In these cases the agent is given no chance to assent, and this remains true whether or not the other agent has initiated violence or deception.

At the very least one ought to give the attacker a warning that one will kill in self-defence. But one does not always have time to issue warnings, and if one cannot warn from a strategic advantage, the warning may actually leave one more vulnerable. Now if the attack continues, then maybe the attacker will yet change her mind — she is free to do so. — So would not a second warning be in order, etcetera? In the last moment when the attacker is killed or the Nazis are deceived, no assent on their part is possible. The possibility of their freely adopting the end of your action is removed.

Something similar can be said about treating the attacker as if she were using her reason. Before one can respond to violence with violence, then, one must first appeal to the attacker's reason. Further appeals are always in order, so long as one is to treat this person as rational. But if it can be decided that this is not a rational creature, then perhaps no respect at all will be in order. Again, Donagan's position does not seem to allow the proper restrictions on how far we go in restraining someone once restraint is called for.

I suppose that a rationalist might argue that in preventing a violation against reason one was promoting the rationality of the attacker. (The "promotion of rationality" rather than the mere "prevention of irrationality" is required in order to treat a person as an end in himself, because the simplest means of preventing the greatest amount of irrationality might

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[310] Groundwork of the Metaphysic of Morals (New York: Harper and Row, 1948, 1964), Tran. H.J. Paton, p. 97 (Academy 429-430).
[311] "The Right to Lie: Kant on Dealing with Evil", p. 332.

be the quick destruction of the entire race, which treats agents as mere means to the end: the elimination of irrationality. The agent's rationality seems likely to be a positive good for the agent in a way in which the prevention of his irrationality need not be.) Thus, since one has the end of promoting the agent's rationality also in mind, the attacker is being treated as an end in himself or herself, in other words is being respected as rational.

This view too is problematic. Can we not distinguish between 1.) the agent, 2.) the agent's good, and 3.) the agent's rationality? Rationalists apparently can distinguish between 1.) and 2.), and perhaps between 2.) and 3.), but not between 1.) and 3.). For it is the rationality of the agent which is treated as end in itself. Certainly the good of the agent is not the end if the principle is to be used to justify hurting or killing him in self-defence. More seriously, the implication that the attacker would be more rational dead than alive is hard to believe. Indeed, I would question whether anyone can really promote someone else's rationality. Preventing violations of reason does not necessarily amount to the promotion of rationality.

If the promotion of rationality is possible, certainly it would involve maintaining existing or creating new opportunities for the agent to exercise her powers of reason. Donagan comes close to holding such a position when he shows how the prohibition against lying can be derived from the fundamental principle. Lying is a violation of the respect due a rational being because in "duping another . . . you deprive him of the opportunity of exercising his judgement on the best evidence available to him."[312] But when one lies to the Nazis or kills in self-defence one does not really promote their rationality, even though one prevents a violation of reason, and protects another rational agent. Indeed, one curtails their possible exercise of rationality by treating them differently from other rational agents. And killing an attacker permanently removes all opportunities of her ever exercising rationality again.

Of course, if the attacker succeeds, the same permanent end to rationality will result for the victim. But, I see no reason to believe that the attacker's position is thereby any different as to what would count as respect for him or her as a rational creature. I simply

[312] The Theory of Morality, p. 89.

cannot find any independent reason, apart from a prejudice against moral dilemmas, for the rationalist to say that in the cases of self-defence and lying to the Nazis, killing or lying would not be ruled wrong by the fundamental principle. Furthermore, it does not follow even from this result that the fundamental principle would find telling the Nazis the truth, or non-resistance to a murderer, not to be violations of the respect due to the rational agents who are the victims especially if one promised to help.

If Donagan would spend as much effort at working out the implications of the fundamental principle he favours, which at bottom is Kant's second formulation of the categorical imperative, as is spent on finding excuses for not agreeing with its rulings, he could not help but accept genuine moral dilemmas simpliciter among first-order precepts. The most direct implications from this fundamental principle are that every option available to those who have to lie to save lives, or kill in self-defence, is wrong; i.e. these agents are in moral dilemmas. But another candidate for a fundamental principle exists in Kant's first formulation of the categorical imperative. For the sake of completeness we ought to investigate whether Donagan might have done better to base his rejection of first-order dilemmas simpliciter on the principle that one must act "only on that maxim through which [one] can at the same time will that it should become a universal law".

F. On Mutually Opposing Necessary Rules

I now turn to consider another set of arguments against moral dilemmas by ethical rationalists. These are perhaps best approached by way of the passage where Kant rejects conflicts of obligations and conflicts of duties. Here is a quote of that passage as translated by Alan Donagan:

> Because, however, duty and obligation are in general concepts that express the objective practical necessity of certain actions and because two mutually opposing rules cannot be necessary at the same time, then, if it is a duty to act according to one of them, it is not only not a duty but contrary to duty to act according to the other. It follows, therefore, that a collision of duties and obligations is inconceivable (obligationes non colliduntur). It may, however, happen that two grounds of obligation, one or the other of which is inadequate to bind as a duty (rationes obligandi non obligantes), are conjoined in a subject and in the rule that he prescribes to himself, and then one of the grounds is not a duty. When two such

> grounds are in conflict, practical philosophy does not say that the stronger obligation holds the upper hand (fortior obligatio vincit), but that the stronger ground binding to a duty holds the field (fortior obligandi ratio vincit).[313]

Why cannot "two mutually opposing rules . . . be necessary at the same time"? Kant claims that "what is rendered morally necessary by one [obligation] cannot be made otherwise by another. . . . the one implies necessitation, the other does not."[314] I can see that this would be so if the necessity were logical necessity, but Kant is here discussing practical necessity. Moreover, the analogy between logical and practical necessity breaks down in any case. If something is logically necessary, then it follows that it exists if it is a thing, and that it occurs if it is an event. But in the case of moral necessity (perfect, unconditional duties), from the fact that an action is morally required (i.e. it must be done), everyone admits that it does not follow that it will be done, because immorality is usually possible.

Chrisopher Gowans, while admitting that significant disanalogies exist, argues that the analogy is still plausible. He finds the basis for the analogy

> in the thought that moral prescriptions lay down necessary requirements for action. Even as a necessary proposition must be true no matter what, so it is thought that a moral prescription must be obeyed no matter what.[315]

Neither Kant nor Gowans realize that someone arguing for the possibility of genuine dilemmas need not deny the claims they make (i.e. Kant's claim that "what is rendered morally necessary by one [obligation] cannot be made otherwise by another" and Gowans's claim that a necessary "moral prescription must be obeyed no matter what"). In a dilemma, it is precisely not the case that either moral obligation is rendered no longer necessary by the other. The claim is that both hold, both "must" be obeyed no matter what. Indeed, that impossibility will not excuse follows from the "no matter what" clause.

In Gowans's case, the issue just is the question of how we are to interpret the "must". That moral prescriptions must be obeyed might simply refer to fact that they cannot be overridden by the requirements of self-interest, whims, requirements of politeness,

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[313] Kant, Metaphysic of Morals (Academy p. 224), in "Consistency in Rationalist Moral Systems" p. 294.
[314] Lectures on Ethics (New York: Harper and Row, 1963), Tran. L. Infield, pp. 20-21.
[315] Cf. Gowans, Moral Dilemmas, p. 24.

requirements of imperfect duties, supererogatory requirements, etcetera.[316] Gewirth agrees, "for a moral principle or rule to be categorical its requirements may not be normatively overridden by any nonmoral considerations, including the agent's variable self-interested desires or social institutions that may lack moral justification."[317] One cannot escape blameworthiness for non-fulfillment of the moral requirement by citing a conflict with any of these other reasons for action. Someone who accepts the possibility of genuine moral dilemmas simply extends this list of "non-excusing reasons for action" to include other perfect duties. Sometimes one cannot escape blameworthiness by citing a conflicting perfect duty.

I glean support for my position from our understanding of the situation when someone is immoral or weak-willed and so a prescription which "must be obeyed no matter what" is not obeyed. To continue to say that the agent failed to fulfill the necessary requirement for action does not imply that it was not necessary. Rather, the implication is that the agent is now blameworthy. If the sense of necessitation in the moral "must obey" can be satisfied by blameworthiness in such a case, then, I propose, it can also be satisfied by blameworthiness in the cases of genuine dilemmas and impossible to fulfill obligations. The sense of saying that the agent "must obey no matter what" can be adequately captured by asserting that she will be held blameworthy for non-obedience no matter what. Simply referring to how "must" is used in the context of logical necessity cannot settle the question of how it is to be used in morality.

One possible underlying reason for Kant's position that two mutually opposing rules cannot be necessary at the same time is the categorical imperative's insistence (in Kant's first formulation of it) on universalizing: "Act only on that maxim through which you can at the same time will that it should become a universal law".[318] A maxim is the guiding rule or principle — propounding a particular sort of action for a certain type of situation — one acts upon. The point is that one should be able to will that everyone act from the same rule on

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[316] Cf. Gowans, Moral Dilemmas, p. 24.
[317] Gewirth, Reason and Morality, p. 339.
[318] Cf. Groundwork of the Metaphysic of Morals, p. 88 (Academy p. 421).

which one is oneself proposing to act.

We have already investigated the ability of the second formulation of the categorical imperative to deal with conflicting precepts; the requirement never to treat rational agents as mere means, but always also as an end, says nothing about whether treating another as an end might not sometimes necessitate treating someone else as mere means. The third formulation of the categorical imperative seems likely to provide arguments against opposing rules being necessary at the same time only in so far as it too demands universalization. The third formulation states: "All maxims as proceeding from our own making of law ought to harmonize with a possible kingdom of ends as a kingdom of nature",[319] Thus, we must now investigate the first formulation's relation to conflicting rules.

A clear example of how the first formulation of the categorical imperative rules out conflicting-but-necessary rules is the two person case, where the first person's obligation conflicts with the second's. Supposedly one cannot actually will that everyone in the first agent's position do X, AND that everyone in the other agent's position do Y, when doing X makes doing Y impossible and vice versa. In willing that someone do X (i.e. that she be successful at it) seemingly one must in consistency will that others not prevent the doing of X. Thus, "it is not only not a duty but contrary to duty to act according to the other."[320]

One can will that everyone in the position of one agent do X. One can will that everyone in the position of another agent prevent the doing of X. The Kantian wants to claim that one cannot consistently will both together. Presumably the argument is that the reference to 'everyone' includes both those doing and those preventing, so one is willing that those in these special positions both do and prevent (i.e. including not do) the action. This one cannot will consistently. The argument does not succeed, however, because if a reference to the

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[319] Groundwork of the Metaphysics of Morals, p. 104 (Academy 436). Cf. pp. 100-101. The test here is: Could any member of a kingdom where everyone is treated as an end will that this maxim also be a law therein?

[320] I am unsure whether Donagan can actually appeal to this line of reasoning since he rejects Kant's claim that the two formulations are at bottom the same principle (Cf. The Theory of Morality, p. 65.) Donagan accepts a version of the second formulation as his own fundamental principle. (Cf. pp. 65-66) But he rejects the first formulation. (Cf. pp. 58-59.)

agent's position is included, the inconsistency need not arise. For one can consistently will that if the one agent were in the other's position she should act differently than if she remain in her own position, and vice versa.

Later in the passage Kant speaks of the conflict as occurring within the rule a single subject prescribes to himself. Is the "single subject" case stronger than the sort I have been considering? The Kantian might rightly point out that in the case of dilemmas, since one agent is in one position, we cannot avoid the inconsistency by noting a difference of position.

The single subject, perhaps, could not universalize both maxims when they are conjoined. But she could still universalize each separately. Since more than one description of an action is possible, more than one rule or maxim can apply to the action.[321] Perhaps we should not be limited to bringing all these maxims together into a single rule which we then test for universalizability.

Does the categorical imperative really require that not only individual maxims be universalizable, but also conjunctions of maxims? Why do the maxims have to be universalizable together (if in fact they do)? The Kantian can reply that in a dilemma both of the conflicting precepts must be universalizable together, because if they allowed that precepts need only be universalizable separately, any inconsistency whatsoever would be allowed. The categorical imperative could rule out no actions at all, if any inconsistency might be allowed by simply pointing out that part of what is willed, when taken by itself, can be universalized.

Even so, perhaps exceptions will need to be made in the case of two conflicting precepts, the negation of neither of which can be universalized on its own. In this type of case, the genuine dilemma case, making an exception to the rule that maxim's must be universalizable together is (at least sometimes) as attractive as making an exception to the categorical imperative's rejection of the inconsistency of negating one of the precepts.

Now, one can desire (or hope, etcetera), for example, that each side in a chess match win. One might desire the one's victory because she is one's sister, and the other's because he is one's brother. It is a major element in Bernard Williams's argument favouring moral

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[321] Cf. Donagan, The Theory of Morality, pp. 118-121.

dilemmas that moral requirements are much more like desires than beliefs in being able to conflict.[322] Moreover, presumably one could still will that this chess match take place even though one is in a conflict of desires about the outcome. Finally, in willing that everyone act on some maxim one need not really will that they be successful at it; on a rationalist account, one need only will that they genuinely try to succeed.

One can will, for example, that both opponents in this chess match try their best. Willing is not all that different from desiring. Is it, therefore, really true that one cannot will that everyone adopt and try their best to keep conflicting maxims like "Do not lie" and "Keep your promise to hide these innocents from the Nazis", even in cases where one must lie in order to keep the promise?

This question perhaps raises problems for the first formulation of the categorical imperative in general. The Kantian may once again wish to object that unless the categorical imperative is properly understood it cannot rule out any actions at all. Just as the Kantian earlier objected that, for the categorical imperative to work, it had to be understood as requiring both conflicting maxims to be universalizable together, he might now object that a proper concept of willing is required for the categorical imperative to work. In particular, "willing" must be understood so "that a person wills inconsistently if he wills that p be the case and he wills that q be the case and it is impossible for p and q to be the case together."[323]

In response to this objection I wish to again claim that willing that everyone adopt and genuinely try to keep precepts which they could not consistently will to be broken (for example, the precepts against lying and breaking promises) is, in the case of conflicting precepts, going to result in "inconsistent willing" one way or another. Moreover, there is some difference between 1.) willing that everyone keep their promises and not lie, even when these conflict (for example, when one has promised Jews protection from Nazis), and 2.) willing that everyone make lying promises. Finally, perhaps the first formula of the categorical imperative with its obvious emphasis on the more logical matter of consistency is simply

[322] "Ethical Consistency" in Problems of the Self, p. 166-179.
[323] Fred Feldman, "Kant's Ethical Theory: Exposition and Critique", p. 25.

inappropriate for use as the final test of the morality of actions.

Consider also the cases where the duty of a soldier on one side of an international dispute conflicts with the duty of a soldier on the other side of the dispute. These cases differ from the chess case considered earlier, in that the categorical imperative may rule that one side is in the wrong (i.e. it is inconsistent to will that everyone act as the one side of the dispute does). Moreover, it is very difficult (if not quite inconsistent) to will that the dispute (i.e. war) take place in and of itself, the way one might will that certain players take part in a match.

True, we have seen that the categorical imperative does not necessarily rule that the duties of the two opposing soldiers cannot be universalized together, as a reference to the differing positions may solve the inconsistency. But if one side is in the wrong, clearly the rationalist cannot really hold that the dispute is best settled by violence rather than reason. Kant writes: "Nonetheless, from the throne of its moral legislative power, reason absolutely condemns war as a means of determining the right and makes seeking the state of peace a matter of unmitigated duty."[324]

Surely, a rationalist cannot will that soldiers on the wrong sides of international disputes always do their duties (or even strive their hardest to do so), since this is to will that the wrong side win on occasion and that these disputes be decided by violence rather than reason. The defence used by many at Nuremberg does not really excuse on this view, or at least following the orders would remain wrong (first-order) even if inculpable (second-order).

Furthermore, whether Kant would have allowed that references to differing positions could show that a putative inconsistency was not one is questionable. The third formulation, in any case, requires that "we abstract from the personal differences between rational beings, and also from all the content of their private ends".[325] Kant's argument for obedience to the sovereign is in part that the maxims resulting from numerous individual consciences would

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[324] Cf. "To Perpetual Peace A Philosophical Sketch", in Perpetual Peace and Other Essays on Politics, History and Morals (Indianapolis: Hackett, 1983), Trans. T. Humphrey, p. 116. See also p. 117 and 127.
[325] Cf. Groundwork of the Metaphysic of Morals, p. 101 (Academy, 433).

inevitably conflict and would not be together universalizable.[326] A single will's dictates, on the other hand, would be universalizable. But sovereign's wills can conflict amongst themselves — here lies some motivation for Kant's push for "perpetual peace", a situation where everyone would have a common singular allegiance.[327] I would rather put up with moral conflicts than support this sort of political monism.

Another set of problems revolve around what Kant means by "grounds of obligation". Recall that he allows that grounds of obligations can conflict. Ultimately the ground of any obligation would be the categorical imperative, but that would not conflict with itself, so Kant must have other grounds in mind. The only possible candidates are maxims and motives. Kant

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[326] Cf. "Idea for a Universal History with a Cosmopolitan Intent", in Perpetual Peace and Other Essays, p. 33, "[A]lthough as a rational creature [man] desires a law that establishes boundaries for everyone's freedom, his selfish animal propensities induce him to except himself from them whenever he can. He thus requires a master who will break his self-will and force him to obey a universally valid will, whereby everyone can be free." Also, "On the Proverb: That May be True in Theory, But is of No Practical Use", in Perpetual Peace and Other Essays, pp. 72 and 73, "As regards happiness, men do have different thoughts about it . . . and hence their wills cannot be brought under any common principle, nor, consequently, under any external law compatible with the freedom of everyone." "Every member of the commonwealth has coercive rights in relation to every other member, excepting only its ruler, who has the authority to coerce without himself being subject to any coercive law (for he is not a member of the commonwealth, but its creator or preserver). . . . [O]nly one individual . . . is excepted. For if he could be coerced, he would not be the nations ruler, and the sequence of subordination would ascend infinitely upward. If, however, there were two . . . neither of them would be subject to coercive laws, and neither could treat the other unjustly; and that is impossible." And p. 79, "[T]he people no longer have the right to judge and to determine how the constitution should be administered. For suppose they had . . . and . . . they opposed the nation's leader, then who would determine on which side the right lies? Neither of them can serve as judge in his own case. Thus, there would have to be still another head above the head to decide between the latter and the people—and that is contradictory."

[327] Cf. "Idea for a Universal History with a Cosmopolitan Intent", in Perpetual Peace, p. 34, "the same unsociability that forces men to do so in turn causes every commonwealth to adopt for itself . . . an unrestricted freedom . . . . [Nations] are driven to take the step that reason could have suggested, even without so much sad experience, namely, to leave the lawless state of savagery and enter into a federation of peoples." In fairness I must point out that Kant stops short of advocating that we ultimately meld into a single nation. Cf. "Perpetual Peace" in Perpetual Peace, pp. 115 and 125. But it is far from clear that his reasoning is consistent with this stopping point. (He believes that a single nation would be so large as to be unwieldy.) He does in any case argue for a federation with real powers. Moreover, he thinks that all constitutions should be of a similar form, cf. p. 112.

suggests examples. In a note in "On the Proverb: That May be True in Theory, But is of No Practical Use", Kant, refers to situations "where duties, to wit, absolute duties and . . . conditional duties, conflict with one another." He continues with an example:

> to prevent some misfortune from befalling the nation, one person might have to betray another to whom he was related, perhaps a father and son. This prevention of evil to the nation is an absolute duty, while preventing the latter from succumbing to misfortune is only a conditional duty (specifically it is conditional upon his not having committed a crime against the nation).[328]

One maxim would be: whenever I must betray my father to prevent evil from befalling my nation I will. The other maxim would be: whenever I must allow evil to befall my nation in order not to betray my father I will. Obviously these maxims express differing motives for acting (i.e. respect for duty or love of nation versus loyalty to family), and obviously they conflict. But no actually existing duties conflict, contrary to the slip in Kant's expression. Elsewhere though Kant writes as though the motives themselves were the conditional and unconditional duties. "Both the love of man and the respect for the rights of man are our duty; the former is only conditional, while the latter is a [sic] unconditional, absolutely imperative duty, a duty that one must be completely certain of not having transgressed."[329]

In his Lectures On Ethics he gives the example of "our duty to pay our creditors" versus "our duty to be grateful to our parents."[330] He claims that the obligation to our parents is only conditional, but to our creditors it is categorical. And he specifically states: "When speaking of conflict, we mean a clash of Motive, but not of duty."

Maxims or motives that do not "bind to a duty" are not really "grounds of obligation" are they? They are really putative grounds of obligation, or "for the most part" grounds of obligation. At points Kant's expression suggests that the grounds might also themselves be or not be duties (eg. "and then one of the grounds is not a duty").

What we would like Kant to provide, however, is some argument as to why we can always expect that in a clash of duties one duty will always be of the conditional variety, and

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[328] In Perpetual Peace, pp. 79-80.
[329] "Perpetual Peace", in Perpetual Peace, pp. 138-139.
[330] Lectures on Ethics, pp. 20-21.

moreover that the condition will not be met (i.e. it is not a duty on the occasion in question). For as this is precisely the point at issue we require some independent reason for deciding the matter in favour of the rationalists (i.e. apart from their claiming as much). The onus is on ethical rationalists to support the claims they make.

Notice now, a few questions about Donagan's interpretation of Kant's denial of the possibility of two necessary rules conflicting. Donagan writes:

> Kant considered it obviously impossible that perfect duties or their grounds could ever be in collision. And he also held it to be impossible that imperfect duties could be in collision either with one another or with perfect duties: not obviously, but because of a condition on rational policies of self-culture or beneficence, namely that such policies must themselves be consistent and must not entail violating other duties, whether perfect or imperfect. In themselves, apart from this condition on rational policies, grounds of self-culture and beneficence can of course be in conflict with themselves, with one another, and with perfect duties; but so taken, they are for that very reason . . . inadequate to bind as duties.[331]

No new argument is offered here. We should like an argument for the claim which Donagan says is obvious. Indeed Donagan adds to what we have seen in Kant the claim that not even the grounds of perfect duties can conflict. Insofar as the ground of a categorical duty is the categorical imperative or respect for one's duty, clearly the grounds are really just one and so conflict is impossible. But insofar as the grounds of duties may include rules such as "whenever a debt comes due one must repay one's creditors" and "whenever one can prevent evil from befalling the nation, one must do so", clearly, not only the grounds could conflict, but the duties themselves: you could happen to know that your creditor will use the repayment to finance terrorism. Remember that Kant has claimed that these opposing duties, in such an eventuality, are each categorical, absolute, and unconditional. Nor is there a clear previous wrong in such a case; when one borrowed the money one may not have known that the lender would be interested in financing terrorism at the time the loan was to come due.

In this chapter then we have seen that Donagan's rationalist system of morality divides into two levels: the first-order precepts and the second-order precepts. A dilemma among second-order precepts is such that no matter what one chooses one will be blameworthy. I argued that given the rationalist move to the internal, such dilemmas are

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[331] "Consistency in Rationalist Moral Systems", p. 295.

possible, and I gave an example based on Donagan's own precepts. A dilemma among first-order precepts is such that no matter what one chooses one does some wrong. All precepts in a rationalist system must be derivable from a fundamental principle. In order for Donagan to avoid first-order dilemmas among the precepts he advocates, there must be exceptions to their usual rulings. Moreover, these exceptions must be based on the fundamental principle or they will be ad hoc. Therefore we investigated some interpretations of the two main candidates for the fundamental principle: Kant's first two formulations of the categorical imperative.

None of the traditional moves made by ethical rationalists in the attempt to eliminate the possibility of dilemmas being derived from either of these principles were found to be convincing. Even so, Donagan provides some new innovative moves in dealing specifically with the possibility of dilemmas arising from conflicting promises. These moves are quite attractive and fit well with the rationalist system. Thus we shall look at Donagan's innovations in detail in the next chapter.

Chapter V

DONAGAN, PROMISES AND MORAL DILEMMAS

As the obligation of promises is an invention for the interest of society, it is warped into as many different forms as that interest requires, and even runs into direct contradictions, rather than lose sight of its object. — David Hume "Of the Obligation of Promises" Treatise of Human Nature, Book III, Part II[332]

A. Introduction

Alan Donagan's views on promising are of interest because they are a recent attempt to show how in the case of conflicting promises any genuine dilemma will be the agent's own fault.[333] The rule requiring that promises be kept obviously might generate moral dilemmas by itself. Thus the rationalist claims considered in the previous chapter that two opposing rules cannot be necessary at the same time, or that only one of the conflicting rules generates a perfect duty, will not be available for undermining dilemmas resulting from conflicting promises. Moreover, there need be no improper extending of the concept of promising, or forfeiture of the right to respect on the part of a promisee, in a case of conflicting promises. So the rationalist appears to require further means, beyond these which were investigated in the last chapter, for defusing the dilemmas of conflicting promises.

Furthermore, promising is really just a particular case of voluntarily placing oneself under an obligation. Donagan's strategy for dealing with conflicting promises is appropriate to other forms of moral commitment as well. We find in Donagan an innovative and persuasive development of the claim that conflicting promises will not result in unavoidable blame. I propose to show, however, that his account is unsuccessful.

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[332] Hume had particular contradictions in mind, and these were not the moral dilemmas of interest to us. Even so, surely if direct contradictions are to be tolerated, so should mere moral conflict be acceptable.

[333] "Consistency in Rationalist Moral Systems", Journal of Philosophy LXXXI, No. 6 (June, 1984), pp. 291-309. Also in Moral Dilemmas, ed. C.W. Gowans (Oxford: Oxford University Press, 1987).

In this discussion of Donagan's views on promising and moral dilemmas I first provide a general discussion of the reasons Donagan has for denying the genuineness of moral dilemmas and for his view of promising. I include some criticisms of his position on this general level, the details of which are further developed later. A surface explanation of what I take Donagan's position to be follows. As I move to look more closely at his views, I raise questions about what "having acceptable reason to think that one can and may keep a promise" means.

I go on to argue that, although he tries to provide promisees protection against unscrupulous promisers, the protection is inadequate for certain cases. In particular, one should not be permitted to take advantage of the very gullible in promise making. Moreover, the position requires too much of promisers, in that they must have far too many beliefs about what the promisee will find acceptable, in order to avoid immorally making a promise. Lastly, I look at the question of promises broken because of third-party evil doers.

B. Can Promises Result in Moral Dilemmas?

Philippa Foot has claimed that obligations to do two things that cannot both be done are possible.[334] She uses the institution of promising in a quick example to show this. We are to suppose that she has promised to be the "best man" at A's wedding and also at B's. "By bad luck A and B fix their weddings for the same day and [she] cannot attend both." So far this is not much of a fix. Most of us would believe we could find some feature of the case that determines which promise to keep.

Some would keep the promise made first, others would keep the promise to the person they were obviously closest to. These possibilities do not deter Foot. She continues:

> suppose that for some reason my promise to A has clear precedence over my promise to B. Nevertheless I promised B, and nothing has happened to release me from this promise. . . . In one form or another the obligation stands, unless B releases me from it before the time for fulfillment is past.

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[334] Cf. "Moral Realism and Moral Dilemma", Journal of Philosophy, vol. LXXX, No.7 (July, 1983), pp. 379-398, especially pp. 382-83.

The picture of promising seemingly espoused here is straightforward. Promises create obligations which remain in force unless they have been fulfilled or the promisee explicitly releases the promiser. Breaking a promise, even when morally for the best, is failure to live up to a moral obligation.

Rationalists have claimed that genuine moral dilemmas are impossible in an acceptable ethical system. Donagan aims at defending rationalist ethics from charges that it is itself unable to formulate a moral system that excludes the possibility of genuine moral dilemmas.[335] We might say that Donagan is trying to explain away certain putative moral dilemmas, in particular, dilemmas which can result from promises. He adopts the position that an agent can only get into a genuine moral dilemma by breaking some moral rule, and that thus it is not the moral system that is faulty in these cases. Moreover, since the agent can be held accountable for breaking the rule, she can be held accountable for whatever further wrongs become unavoidable as a result.

In his attempt to explain how promises can result in dilemmas only where the agent is to blame, Donagan must attempt to be true to the conventional nature of promising,[336] while at the same time formulating the principles which determine the limits and ties of accountability. These principles aim at insuring respect for each agent's autonomy. Promisers are not to be held accountable for more wrongs than they had freedom to avoid. Nor should promisees be held accountable for more wrongs than they could avoid; the autonomy of promisees must also be protected. One might even hold that a moral system which does not assign proper blame to the agent in all instances of culpable responsibility also fails to properly respect these agents' autonomy. Their own reason would have the party at fault recognized for the full free agent she is. Not assigning accountability where it is due also curtails the wronged agent's freedom to appeal to her moral community for help to gain redress. Promisers should not be morally allowed to secure the cooperation of promisees by promises which violate the promisee's freedom to choose for herself, as can happen when, for

[335] Donagan, "Consistency in Rationalist Moral Systems", p. 302.
[336] He must attempt to be true to the conventional nature of promising or we will fail to recognize his analysis as applying to our promises actually made in everyday life.

example, the promise is misleading.

Donagan attempts to convince us that promisers themselves are to blame for any dilemmas resulting from giving their word by arguing that there are three conditions on promising. The first is that "it is morally wrong to make a promise unless you can keep it and it is morally permissible for you to keep it."[337] The second condition requires "that the promiser has acceptable reason to believe that he can and may do what he promises, and that if nevertheless it turns out that he either cannot or may not, the promisee will not be entitled to performance." And his third condition is that "it is wrong for a promiser to make a promise on any condition on which he does not believe the promisee to understand him to make it."

As a rationalist Donagan wishes his principles to apply uniformly to all promises.[338] Yet he also wants to acknowledge that these principles are understood rather than explicitly stated.

In formulating a view of promising which will not see promises as possible sources of dilemmas except when the promiser is at fault, Donagan appeals to an epistemic idea: acceptable reason. This appeal is perhaps not surprising, given rationalists' preoccupation with the value of reason. I shall argue that rationalists are overconfident about the value of epistemic concepts as tools for mapping out responsibility between promisers and promisees.

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[337] Donagan, "Consistency in Rationalist Moral Systems", p. 303.

[338] Cf. "Consistency in Rationalist Moral Systems", p. 293, "The chief formal characteristics of [rationalist moral] theories are five: (1) they rest on a few fundamental principles, sometimes one, which are advanced as true without exception; (2) each of those principles lays down some condition upon all human action as being required by practical reason . . . ." I do not mean to suggest that Donagan's conditions or principles on promising are to be taken to be the fundamental principles of his moral theory. Donagan maintains this "exceptionless", "applies-to-all-human-action" stance when dealing with further conditions derived from the fundamental principles. "(4) the remaining moral precepts are deduced from the fundamental principles by way of additional premises specifying further the conditions those principles lay down as required of all human action . . . ."

C. Rationalism, Convention and Epistemology

I believe that there are at least two tensions in Donagan's vision of the nature of promising. One tension is between his moral theoretical aim of respect for agents' autonomy in keeping all blameworthiness tied to earlier free, but wrong, choice and his use of an epistemological concept as a means to this end. The second tension is between his rather rigid, no exceptions view of morality and the conventional collaborative nature of promising with its typically unexpressed conditions. Of the four elements in these two tensions, I would promote only one. My rejection of some versions of "'ought' implies 'can'" commits me to less than what rationalists could deem complete respect for agents' autonomy. Epistemological concepts do not seem likely to be of more use to moral thought than an understanding of social conventions, and I believe that morality should leave room for exceptions, should respect pluralism in values held, at least to some extent.

Donagan writes, "Promising survives as an important institution, and not merely as an amiable ritual, because promiser and promisee can often be confident, whether from shared culture or from personal intimacy, that they would agree about the acceptability or unacceptability of any reason that might be put to them for believing that a particular promise could be kept."[339] The suggestion seems to be that sometimes our shared culture (we might say, the conventions surrounding promising in our group) plays a role in providing for the acceptability of reasons. This role is surely required if the reasons are ever to be both non-explicit and acceptable.

While shared culture and conventions can create some agreement about what is acceptable and thus can play a role in providing for the acceptability of reasons, the agreement is not exceptionless as Donagan would have it. What about promises to those who are not full fledged members of our social group? Surely Donagan will not want to say that all promises to those not fully party to our conventions are immoral. Can we not make promises to children? Donagan's third condition seems to imply that we cannot. As adults we often simply assume the acceptability of many conditions on our promises to children without

[339] Donagan, "Consistency in Rationalist Moral Systems", p. 304.

bothering to have beliefs one way or the other about whether they understand all of these to be conditions on the promise. Worse, even when we know that children do not understand all the conditions on our promises to them, we continue to make promises to them. How else could we teach them about how promising works, if not by involving them?

Suppose that Donagan is willing to stick to his third condition as it stands, and accept that most promises to children are not morally acceptable. What then will he say about the promises children make to each other? They seem to share common ways of doing things, but this does not ensure that they will always be aware of each other's conditions. Or consider a different case: can the poor mechanic make promises to the rich eccentric about what time the auto will be fixed? What fixed exceptionless principle applies to all these various mixes of conventions, experience, and levels of knowledge?

Donagan does not address all of these questions, but he does say that "you show that giving your word is a serious matter by your scrupulousness in ensuring that those to whom you give it understand the conditions on which you do so . . . ."[340] How can conventions and shared culture be useful in allowing promises to be made on unstated understandings when the promiser is to be held accountable for checking to make sure there exists a common understanding? Donagan is shying away from his immediately preceding appeal to shared culture: perhaps he senses that our various common ways of doing things will not necessarily map out responsibility the way he wishes.

To be fair, I must admit that Donagan does not make "scrupulousness in ensuring that promisees understand the conditions under which you promise" into a fourth condition, nor does he incorporate it in his three conditions. Perhaps "showing that giving your word is a serious matter" is not morally required, and promisers are not to be held accountable for checking. Is the promisee to be held accountable for checking in cases where disagreement might exist? Will not the existence of powerful reasons to suspect a disagreement convey some responsibility to check onto whoever, promiser or promisee, is confronted with such evidence? I would have thought that an accurate mapping of responsibility would require such a proviso,

[340] Donagan, "Consistency in Rationalist Moral Systems", p. 304.

but Donagan does not deal with the question.

The two tensions I speak of in Donagan's vision of how promising works are related or at least intertwined. The epistemological concept of acceptable reason, when objective and uninfluenced by convention, is analysis of probability and risk. When these analyses are applied in an exceptionless manner, to map responsibility between promisers and promisees, promising as conventionally understood becomes impossible. Indeed, I would argue that mere human reasoners cannot make morally acceptable promises under such strictures.[341] The "acceptable reasons" must be available for the great number of ways in which the promise might become impossible or immoral to keep, and humans just do not typically know at the moment of promising all the probabilities involved. Furthermore, the third condition requires the promiser to have beliefs about the promisee's understanding of the conditions. If a promiser wishes to meet this condition, she will have to check a great number of her beliefs before making the promise, too many for promising to be practical in many circumstances. Perhaps omniscient gods could make promises that comply with Donagan's three conditions.

Another problem which can occur here is the question of when (if ever) the promiser has a duty to know whether his reasons are acceptable to not only the promisee and herself, but also those with greater expertise. Donagan's second condition requires that the promiser have acceptable reason to think that she can and may keep the promise, but acceptable to whom? When the promiser does not know a lot about the probability of certain problems which could frustrate the keeping of the promise, must she consult experts on the probabilities of these? Sometimes scrupulousness in making sure the reasons would be acceptable to experts would seem to be supererogatory, and other times not. For example, checking with a psychologist about whether someone of your personality type is likely to remain faithful before making a marriage promise would be inordinately scrupulous, and indeed strikes me as incongruous with the point of the promise (which is commitment, not opinion). On the other hand, when the amusement park promises that their roller-coaster ride is safe, we expect that they have checked with experts about the probabilities of various possible mechanical failures.

[341] Cf. "The Second Condition on Promising" and "Are Moral Promises Possible?" below.

Similarly, sometimes explicitly checking with the promisee to make sure she understands your conditions for promising seems supererogatory and other times not. Donagan's work does not even recognize these distinctions.

If the epistemological concept of "acceptable reason" is a possible tool for dividing up accountability between promisers and promisees, then so is the concept of shared cultures. One thinker who is more willing than Donagan to appeal to conventions when discussing the conditions on promises is Philippa Foot. She seems to simply look directly at the way we happen to use moral language when she discusses promises and the possibility of moral dilemmas.[342] The way we happen to use moral language is of course a matter of convention, the result of our shared culture.

I argue that Donagan needs at least both of these tools. If we are ever to comply with his three conditions on promising, we must be able to have acceptable reasons which are not made explicit — otherwise we could go on forever 1.) thinking up ways by which the promise might be thwarted, 2.) finding reasons for thinking these will nevertheless not thwart the promise, and 3.) checking with the promisee as to whether he finds the reasons acceptable — or at least checking to make sure that one has the belief that the promisee finds the reason acceptable for each reason. And the acceptability of non-explicit reasons can only be determined by conventions or personal intimacy. Personal intimacy, however, is limited in the number of promises it applies to and is not always accurate or conflict free; we often think that we know those around us better than we really do. When Donagan mentions "shared culture" (in the quotation above) he is only explicitly using it to explain why "promising survives as an important institution, and not merely as an amiable ritual". He does not mention, and perhaps does not see, that he needs "shared culture" to explain how promises can exist at all, given his three conditions; without shared culture promises are not part of "amiable rituals", by his conditions they are <u>immoral</u>.

Unfortunately, Donagan's rationalism does not sit well with an appeal to "shared culture" and convention. I have already mentioned that conventions are not universal and do

[342] Cf. "Moral Realism and Moral Dilemma", especially p. 383.

not provide universal agreement, so it cannot resolve every conflict in dividing up responsibility between promisers and promisees. There is no reason to think that when cultures and conventions form, anything so rational occurs as consideration of every possible future conflict in an attempt to provide mechanisms to avoid them. The possible clashes of conventions and shared cultures is a possible source of genuine dilemmas;[343] perhaps both moral conventions in the clash are owed respect. Donagan's desire for universality in the application of moral principles to human actions is jeopardized. But even if exceptionless agreement did exist on some points, a rationalist still must show that the endorsement of reason is thereby gained. Donagan wants a morality governed by reason, not merely by the way we happen to do things.

Donagan vigorously rejects van Fraassen's semantical interpretation of moral dilemmas.[344] Donagan writes: "Unless there is an alternative that is unknown to me, the only ethically plausible interpretation of moral systems that exclude agglomeration is van Fraassen's—that they are systems of commands by appropriate authorities." Donagan says that these sorts of systems (divine command systems being most common among them) are all rejected by rationalists. Clearly, a system like the one developed by Stuart Hampshire in "Morality and Pessimism" recognizes that different societies have differing conventions and conflicting moral prohibitions.[345] Here, the "shared culture" fulfills the role of the "appropriate authorities" and its conventions are its system of "commands" (although, 'authority' and 'command' are foreign to Hampshire's presentation).

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[343] It may be that one could use an appeal to shared culture and convention to explain away all dilemmas from promising as Donagan is trying to do, yet thereby open the door to genuine dilemmas in others areas of morality. I have not, however, either in my reading or in my reflections, found a successful use of convention that makes the promiser always either accountable for the dilemma or not accountable for keeping the promise. For I cannot accept that the promiser should be let off in every case where the conventions of his limited group might let him off. Nor do I believe that what conventionally passes for acceptable reason will suffice when we are dealing with experts in the matter where acceptable reason is required.

[344] Cf. Donagan, "Consistency in Rationalist Moral Systems", pp. 297-300. See also B.C. van Fraassen, "Values and the Heart's Command", Journal of Philosophy LXX, No.1 (January, 1973), pp. 5-19.

[345] In Public and Private Morality, ed. S. Hampshire (Cambridge: Cambridge University Press, 1978), pp. 1-22 especially 14-15.

Agglomeration is excluded here because nothing ensures that the requirements of the ideal way of life envisioned by those of the shared culture can every one of them be kept in conjunction with all the others in every circumstance, even though each can always be kept on its own. Moreover, agglomeration is obviously excluded among the "commands" of all cultures, because different cultures sometimes actually require opposing behaviors in similar situations. Thus, while it may happen to be possible to obey each requirement of the moral conventions of some particular culture, it will not be possible to obey all of its "commands" conjoined to those of all other cultures.

Clearly then, Donagan is not open to an appeal to the way we conventionally practice morality. A moral system which makes such appeals does not have the approval of reason, for they do not ensure that their requirements can be met when agglomerated or that mechanisms will be present for deciding blame or releasing the promiser in every dilemma. Now the conventions about what counts for acceptable reasons are, like moral conventions, still just conventions, the way we happen to do things. If a system of morality appeals to these conventions, then it certainly cannot ensure that the application of its rules will be exceptionless. Nor is there a clear and obvious mechanism that makes it possible for any promiser to meet all the requirements of having acceptable reason as determined by agglomerating the standards of acceptable reason from the various social groups.

I suspect that an appeal to shared culture, even in the matter of acceptability of reasons, will reopen the possibility of genuine moral dilemmas in those cases where the culture is not fully shared. For example, within some culture obtaining the blessing of the "medicine-man" might be acceptable reason to expect that one could fulfill the new undertaking together with one's previous commitments. But when the new undertaking involves a promise to someone outside this culture who was unaware of this standard of acceptability, the promisee may be unwilling to release the promiser from the obligation even though it can only be fulfilled through the promiser's reneging on some other obligation. The promisee might be especially unwilling to release the promiser if the promiser had some reason to suspect that except for the blessing the promise would not likely be fulfilled.

Donagan would resolve this dilemma by his third condition, claiming that so long as the promiser believed (perhaps wrongly) that the promisee understood that the promise was given on the condition that the blessing was an acceptable reason, then the promise would not be binding. Or, if the promiser did not believe that the promisee understood, then the promiser did something wrong and so is accountable for his dilemma. But how is the promisee to tell what the promiser believed at the time of the promise? The promisee does not know whether the claim to the promise can be legitimately pushed or not. In any case, since this was a cross cultural promise, the promisee could think that the promiser might have suspected possible misunderstandings.

Many examples of cross cultural promises could be given. We might think of the promises given to North American Indians granting hunting and fishing rights in exchange for land and peace. These promised rights have since come into conflict with our obligations to protect certain species from extinction — though the threat of extinction is typically not the natives' fault.

I should also point out that if one thinks that the competing obligation would be annulled if the cross cultural promise stands, then consider that it may involve a very similar situation. Now also consider what we should say when we hear that some promiser is in this type of bind. The promiser has made a commitment to you which she thought she could keep. Suppose that upon investigation you are convinced that the promise should still be kept. In other words, you believe that this promiser can still be held accountable for her commitment. You find the excuse unacceptable. Must you therefore condemn the culture which finds such reasons acceptable? I should hope not. Why, apart from a theoretical interest in avoiding genuine dilemmas, would you insist that the promiser has been immoral for making the promise? This is behavior which she would have naturally assumed to be acceptable. To condemn the normal behavior of a member of another culture suggests the attitude of cultural superiority.

Some might object that insisting on the promise being kept is also an expression of an attitude of cultural superiority. But the parallel does not really hold, for when making the

promise the promiser may have been acting as a member of her culture unaware of the difference. When she breaks the promise she is aware of having let down the expectations of another in a way that she would not normally be willing to do.[346] Though the promiser might not understand your attitude towards her acceptable reason, she can identify with the attitude one has towards a broken promise. The attitude towards having a promise broken is not directed towards her culture in particular.

Moreover, if part of the point of the promise was to create cross-cultural interaction, then insisting that the promiser had acceptable reason in that culture, and so is not bound by the promise, would run against this purpose, even if both cultures recognized Donagan's three conditions. In cases of misunderstandings about which conditions apply, the promisees may sometimes rightly feel that they at no point released the promiser from his promise, so why should the obligation have "evaporated"?

D. Shifting the Blame For Moral Dilemmas

Donagan has a much more complex view of the institution of promising than the straightforward view of Foot looked at earlier. Donagan offers his picture precisely as an answer to those who like Foot hold that the duty of keeping promises can generate moral conflicts.[347] Before we turn to consider Donagan's first condition in more detail, we should be clear about how he wishes to shift the blame for any moral dilemmas an agent may find herself in onto the agent herself.

One way to eliminate some potential conflicts is to weaken the moral status of some promises by maintaining that it is wrong to make them. For example, if I promise my boss to murder his wife, Donagan would hold that making this promise is immoral. Again, if I promise my wife to give her the "Mona Lisa" for her next birthday, Donagan would equally

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[346] "Tragedy also, however, shows something more deeply disturbing: it shows good people doing bad things, things otherwise repugnant to their ethical character and commitments, because of circumstances whose origin does not lie with them." Martha C. Nussbaum, The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (Cambridge: Cambridge University Press, 1986), p. 25.

[347] "Consistency in Rationalist Moral Systems", pp. 302-303.

maintain that I am doing wrong (even if it were available for purchase, the price would far exceed my humble credit limit).

The first of Donagan's three conditions on promising states that "it is morally wrong to make a promise unless you can keep it and it is morally permissible for you to keep it."[348] Let us call these promises which are morally wrong to make "immoral promises".

One might be tempted to think that Donagan's point in placing his first condition on promising is to suggest that immoral promises do not create obligations. Thus, if a surrogate mother's promise to bear a child to be given away for money is an immoral promise, she would have no obligation after the birth to do so. After all, if immoral promises do create obligations, then they may still create moral conflicts (which Donagan does not want). Even so, some hold "it does not follow, because you did wrong to give [your word], that you do not also do wrong in breaking it."[349] But Donagan is not (at this point) trying to deny the existence of these moral conflicts outright. He rather is shifting the blame for their existence away from moral systems and circumstances, and onto the agent in the dilemma. Donagan claims to be following Aquinas in holding that an acceptable moral system will allow that an agent can be in a genuine dilemma only "as a result of violating one or more of its precepts". I disagree with this Donagan/Aquinas position limiting cases of moral dilemmas to cases where agents bring them on themselves by previous wrongdoing. Even if this position were expanded to include cases where agents bring dilemmas upon themselves by choice (never mind trying to specify that all these choices violate some specific precept or other), I would argue against the view.

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[348] Donagan, "Consistency in Rationalist Moral Systems", p. 303. The second condition requires "that the promiser has acceptable reason to believe that he can and may do what he promises, and that if nevertheless it turns out that he either cannot or may not, the promisee will not be entitled to performance." And his third condition is that "it is wrong for a promiser to make a promise on any condition on which he does not believe the promisee to understand him to make it."

[349] Donagan, "Consistency in Rationalist Moral Systems", p. 305. Cf. G.H. von Wright, "On Promises", in Practical Reason (Oxford: Basil Blackwell, 1983), "The cheat, however, does not consist in the promisor's breaking his word, but in his making the promisee believe that something has been promised." (p. 87); von Wright allows that others may have slightly different concepts of promising.

Making an analogy to games may be useful here in explaining Donagan's position. Consider the rules of checkers as analogous to a system of moral rules. Suppose that two players of checkers decide to leave open the end two rows, behind their players, instead of the middle two rows between them when they set up their starting position on the board. If they then complained that they could not move without breaking a rule of checkers, we would not blame the rules of checkers for this result; the players themselves are to blame for their quandary. Had they followed the rules in the first place they would not be in the predicament.

If the rules of a game as a system were prone to such predicaments as that faced by our muddled checkers players, without the prior breaking of any of its rules, then the rationalist would reject the system as inconsistent.[350] In a game, inconsistency might be tolerable, as in chess when a draw occurs, one player cannot move without breaking some rule of the game. This is a "no-win" situation — yet the rules specify the object of the game to be the capture of the other player's king, which is now impossible.

Of course in the moral "no-win" situations of interest to us here, moral dilemmas, the result is not neutral as in the chess draw. In a draw we do not say that both players have lost; surely neither has been beaten. But in a moral dilemma not doing what is required of one is not a neutral matter to morality. I should also point out that the rules of chess are likely more complex than I have suggested. The object of the game is winning, or should winning not be possible drawing, or should even drawing not be possible then one tries to avoid losing too badly. But Donagan does not wish to admit that in ethics the object ever becomes so humble as "trying not to lose too badly", for this goal is only significant in "no-win" situations.

In a game, but not in one's moral life, one can quit at such a point. (Indeed, the rules of chess specify that the game is over, resolving the predicament.) Suicide does let one quit life, but, a rationalist might claim, this is not the same as quitting one's moral life. The quitting of life may itself be prohibited by morality in a way that games do not prohibit

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[350] "For reasons already given, Aquinas held that any moral system that allows perplexity simpliciter [i.e. conflicts of requirements without the prior breaking of a rule] must be inconsistent." Donagan, "Consistency in Rationalist Moral Systems", p. 306.

quitting, i.e. should all concerned parties agree to quit, no one is said to be violating the rules of the game.

The rationalist might argue that suicide does not really help someone avoid her obligations. Except for an obligation to commit suicide (if this is a possible obligation), no obligations are fulfilled by the act of suicide. On the other hand, none of the requirements of the game are fulfilled by quitting it either. Moreover, if 'ought' implies 'can', then since the obligations can no longer be fulfilled, they cease to exist. As I understand Donagan's rationalist position, obligations cease to exist at least, in the sense of bringing blame for nonfulfillment, in all cases where they become impossible to fulfill through no fault of the agent.

The rationalist may or may not wish to be able to enumerate a general class of unfulfilled obligations that includes both those culpably unfulfilled and those not culpably unfulfilled. Thus, when a woman dies a natural death, we might wish to be able to list the obligations which she never had a chance to fulfill. These obligations would seem to belong to the class of unfulfilled obligations, even in cases where the woman is not culpable for their nonfulfillment.

The rationalist of course wants morality and games to be disanalogous on the point of tolerating inconsistency. I have merely been suggesting a possible rationalist explanation for this disanalogy in terms of a difference between quitting a game and "quitting" one's moral obligations. Presumably, the rationalist will want the latter to be blamable according to an acceptable moral system. Except when one can legitimately quit one's obligations as, for example, when one can legitimately resign from some position for reasons previously agreed upon. In the case of quitting by way of suicide, the obligations become impossible to fulfill. Since an agent cannot fulfill them, the blame for not fulfilling them must stem from the earlier breaking of some rule of the moral system (or else they are not culpably unfulfilled, and morality is not different from games on the question of being able to quit after all — leaving rationalists to find their explanation of their desired disanalogy elsewhere.)

A straightforward candidate for the earlier broken rule would be a rule against suicide. A more complex candidate might be a rule against any suicides committed primarily for the purpose of avoiding fulfilling one's obligations. This more complex rule seems to be an instance of the more general rule against deliberately making one's obligations impossible to fulfill. This general rule will be discussed later.

For rationalists (or at least for Kantians) the rules of morality have a status of objective practical necessity, which I would not expect rationalists would also confer on the rules of any game. (The rules of games are mere hypothetical imperatives. The difference between categorical imperatives, which have objective practical necessity and hypothetical imperatives is partly explained by analogy to conscripts and volunteers. The rules of a game typically can command only because one is willingly agreeing to play. They are hypothetically imperative in that one must follow them only to achieve some further end — for example to be entertained.

The rules of morality, on the other hand, bind categorically or independently of one's private ends. They have objective practical necessity in that, being a conscript, one is unable to avoid them by choosing to pursue other ends, or as in our case by choosing not to pursue ends at all. These categorical imperatives make demands on the will "on grounds valid for every rational being as such" rather than on grounds accepted by this or that particular being given a particular purpose.[351] Thus, rationalists will not see any significance to our analogy beyond its use as an illustration of how their restrictions on morality, i.e. that all dilemmas are dependent on the earlier breaking of a moral rule, interact in a system of rules.

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[351] On the difference between categorical and hypothetical imperatives see Kant, Groundwork of the Metaphysic of Morals, Chapter II, (New York: Harper and Row, 1964), pp. 82-88 and 91-92 (Academy, 415-420 and 424-425). Objective necessity is "that which reason independently of inclination recognizes to be practically necessary", p. 80 (Academy, 412).

E. The First Condition On Promising

I shall now try to show that Donagan's three conditions on promising are problematic. Donagan himself sees that the first condition, that it is wrong to make a promise unless you can keep it and it is morally permissible to do so, by itself creates a problem. The problem is that if an agent is required to know that these conditions can be met, and will be met, when making the promise, then promising will almost always be wrong. Too many contingencies can affect most promises, resulting in their becoming impossible to keep or possible to keep only through the breaking of some other moral requirement.

For example, suppose that I were considering promising to be home in time to meet my son from the school bus. This could become impossible through many possible events: a sudden health problem (for instance, a sudden attack of appendicitis), a road accident, or a police arrest could all make the promise impossible to keep. Moreover, fulfillment of the promise could require doing something immoral. For instance, if the bus I am riding home on breaks down, and it is not possible to call a taxi, the only way to meet the deadline might be to steal the nearby unattended delivery van left running.[352]

F. The Second Condition On Promising

Donagan adds his second condition on promising to deal with the problem of the promiser (and promisee) not knowing future contingencies. The second condition requires "that the promiser has acceptable reason to believe that he can and may do what he promises, and that if nevertheless it turns out that he either cannot or may not, the promisee will not be entitled to performance." Notice that while Donagan stopped short of claiming that immoral promises do not create obligations, he now is holding that the obligations created by some promises may evaporate. So with this second condition on promising Donagan is trying to reduce the number of conflicts by reducing the number of obligations.

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[352] Remember that Donagan's interest here is in promises that seem as though they can be met without violating any other moral rules when made, but later this turns out to be impossible. Thus, promising to do something which directly conflicts with other moral rules would not make a good example here. I do not mean to suggest that anyone should actually entertain stealing in the example given.

We should also notice that Donagan's position has now acquired the either/or character I have attributed to rationalist positions on moral dilemmas. Either 1.) the promiser does not have an acceptable reason to believe that she can and may keep the promise, in which case, by the first condition on promises, should a dilemma occur, the agent has done something wrong and is blamable for the dilemma; or 2.) the agent does have an acceptable reason for believing that she can and may keep the promise, in which case no dilemma can occur, because if the promise should become impossible or require doing something immoral to keep it, then it simply ceases to bear a moral obligation.

Furthermore, I suspect that Donagan is using the notion of "acceptable reason" rather loosely. If he is not, then no one could morally promise something without first bringing some explicit reason before his or her own mind. Either one might have some specific rule about the acceptability of the reasons in question (i.e. a rule about the likelihood of some event occurring or not) obtained from others whom one has found trustworthy, or one must calculate for herself the probabilities of the promise becoming impossible or immoral to keep. I would suppose that I do not have an acceptable reason (in a more strict sense) to believe that I can and may keep a promise, unless I know that there is more than half a chance that I can and may keep it. But I make promises all the time without ever researching the relevant probabilities or explicitly calling to mind rules about the likelihood of various events occurring and not occurring. I very much doubt that I am guilty of greater negligence in this regard than anyone else.

Donagan does not wish to rule out the majority of our promises as immoral. He wishes to be able to account for promising being commonly used as a moral institution. Part of the problem with his first unqualified condition on promising by itself was that it made for too many promises turning out to be immoral. He speaks of his conditions on promising as being popularly "understood" rather than something that must be explicitly stated in the making of each promise.[353] Given these aims, Donagan should use "acceptable reason" loosely, to mean roughly that the promiser is not aware of any special features of the

[353] Cf. Donagan, "Consistency in Rationalist Moral Systems", p. 303.

situation which would alter his typical expectations of what he can and may do. In order to avoid having too many promises turn out to be immoral, Donagan apparently needs to allow the reasons one might have for thinking that one can and may keep the promise to be tacit reasons (i.e. one need not be directly conscious of specific reasons).

Even so, Donagan seems to think that promisers do have specific, though unstated, reasons for thinking that they can keep each particular promise that they make. For he worries that if the promisee knew the promiser's reason the promisee might not find it acceptable. Later I shall argue that Donagan's position commits him to holding that these reasons are not tacit or dispositional. Moreover, he has good reason to worry since it is precisely positions like his, positions that let the promiser off in certain cases, that will require some mechanism to protect the promisee from certain promises. I ultimately am arguing that Donagan has not found the right balance between letting promiser's off so as to prevent moral dilemmas and protecting promisees. I am sceptical that such a balance can be found.

Recall my promise to meet my son from the school bus. What specific reason might I have for thinking that I will be able and morally permitted to keep this promise? Might it be the knowledge that I have been healthy lately? Maybe the knowledge that this society has numerous vehicles which will be available for travelling from any location I might go to during the day could be the specific reason for thinking that I can and may keep my promise? Or perhaps my knowledge that I have made no other commitments for that time of the day could be the reason?

My knowledge of my current healthy state and past health history tells me nothing about the probability of someone my age and sex suddenly becoming hospitalized with, for example, appendicitis. I expect that I am typical in this regard, but there are obvious exceptions. Persons knowledgeable in the field of medicine, and persons at certain ages may be aware of being particularly at risk even though they seem to be healthy (for example, persons over the age of eighty-five). My knowledge of the availability of vehicles tells me nothing of their reliability for getting to my destination in a certain amount of time, nor of the incidence

of serious traffic accidents on the available roads, nor of the chances of weather severe enough to bring traffic in some areas to a stand-still. My knowledge of having no commitments explicitly requiring that I be elsewhere at just the time-period when the bus will arrive tells me nothing about the probability of earlier commitments nevertheless coming to require my presence at just that time. For example, our second child, who at the time of day in question would be at day-care, could become ill to the point of requiring that I fetch him from the day-care to take him to the hospital.

There are just far too many factors which could block the execution of any promise that I might make, for me to have an explicitly conscious reason to think that I could keep any of these (even calculating all the probabilities of everything I can think of that might go wrong would take too long, and how does one check to make sure that one is only using trustworthy rules? Reviewing the rule's history just produces the problem of induction). Of course, common sense would tell me that all these things that could go wrong to interfere with my being home at a certain time are unlikely. The chance of any one of them is small, and even if we consider that there are many possible problems and at least eight to ten hours in which they could interfere, we still feel that more likely than not I would be able to keep the promise. The point is, however, that these suspicions and feelings about what is likely do not amount to a conscious positive reason for believing that I can keep the promise.

Of course the problem only gets worse, the more time that must pass between making the promise and keeping it. Indeed, common sense would tell one that the longer the time span involved before the promise can be fulfilled, the less likely that one will be able to fulfill it. One naturally has less reason to believe that long-term commitments can be met because there is so much greater a chance that something unexpected will occur. The moral of Donagan's position would seem to be that the longer the term of the commitment, the more we should avoid making it because it is wrong to make commitments without sufficient reason for believing one can keep it. Marriage promises, for example, would not look like a good bet for being morally acceptable.

At most I might have a specific reason to think that a particular problem will not arise. Suppose that the president of my condominium board asks if I can be at an important board meeting on the sixth of next month. I have not yet looked at the calendar for next month, but have read in the local newspaper of a trial upcoming on Wednesday the sixth. Thus, my reason for believing that the board meeting on the sixth will not interfere with my responsibilities at a computer user's group meeting on the first Tuesday of each month is based on information gleaned from daily print. As fate would have it local daily print is full of misinformation, and the sixth is really the first Tuesday of the next month. So I promise to attend the board meeting. Now Donagan worries that the president of the board might not find my reason for thinking I can keep the promise acceptable. Perhaps the outrageous number of errors in the local paper has recently come to his attention. Had he known that I had not looked at the next month's calendar he would not have accepted my promise.

G. The Third Condition On Promising

To deal with this problem of promiser's reasons not always being acceptable to promisees, Donagan introduces a third condition on promising. His third condition is that "it is wrong for a promiser to make a promise on any condition on which he does not believe the promisee to understand him to make it." So my promise to the president of the condominium board is immoral. I do not have any beliefs about his understanding of the conditions under which I am making the promise, namely, that the promise was made on the condition that the local newspaper has correctly reported which day of the week will be the sixth. But unless I have some reason for thinking that the promisee regards my source of information unreliable (for instance, recent comments on how the paper gets the facts wrong), since I regard the information reliable, I am not likely to notice when making the promise that he might find my reasons unacceptable.

H. Do Donagan's Conditions Protect the Gullible?

From a certain point of view, these conditions are not strong enough. What about the cases where I believe that the promisee understands and finds acceptable my reasons for thinking that I can keep my promise because I know that the promisee is naive about these reasons? The neighbour's four-year-old girl has asked me to marry her. I have explained that one is not allowed to marry more than one person at a time and that since I am married I cannot marry her. I might have promised (if I were more nasty then I actually am) to marry her in a couple of years on the understanding that it is acceptable to have a second wife so long as one has had the first one for at least ten years prior to the second marriage. The little girl was obviously naive enough to have thought this an acceptable reason for me to think that I could keep such a promise.

Donagan would probably respond to this sort of case by pointing out that his position is that reasons for thinking that a promise can be kept must be acceptable to both the promiser and the promisee if the promise is to be morally acceptable. One might wonder here whether a promiser might not have a variety of standards of acceptability for herself. Thus, a strong standard would require very carefully scrutiny of the supporting reasons and would reject a majority of reasons as insufficient for belief; one tends to do this when doing philosophy. On other occasions, the standard is more lax, as when watching a movie, and one finds reasons to be acceptable for belief much more easily. Donagan gives no reason which would prevent a promiser from deliberately adopting a lax standard when considering whether she has reason to believe she will be able to, and will be morally permitted to, keep the promise she is considering making.

Obviously Donagan could not require that the reasons must succeed in establishing the truth rather than being merely acceptable. Almost no promises would meet this standard if the promiser must first know that he has true reasons for thinking he can keep the promise. On the other hand, if it is allowed that one can have true reasons without being aware of what the reasons are, then promisers will for the most part not be able to tell when making a promise if it is immoral to make or not; for among the reasons they are unaware of, they

cannot know if any succeed in establishing truth. And since conscious knowledge of the reason would not be required and the lack of knowledge often unavoidable, promisers would not be culpable for making these impermissible promises on the rationalist account. But as was noted in the previous chapter, culpability or blameworthiness would be required for the claim that any dilemma was the agent's own fault.

If we grant that Donagan's view obviously holds that the reason must be acceptable to the promiser herself, a more complex problem will still plague his position. What about the case where one knows oneself to often be gullible, and knows that the promisee is even more gullible when accepting reasons for thinking that something can be done? Then one might think one has acceptable reason, know that this should really be checked by someone more knowledgeable, but also know that in any case, this promisee would accept the reason. Donagan's view does not require that one seek expert opinion in determining which reasons are acceptable — that would make promising too complicated for ordinary folk to engage in. But clearly some further constraint is needed to prevent promisers from taking advantage of naive promisees.

Here is an example of a real-life situation where this problem of gullibility arises. Consider the young tough who promises the younger girl, Lavinia, that he will marry her and provide a stable home if she gets pregnant. And he also assures her that she will not, because he has a "sure" method of birth-control. Now he also promises another younger girl, Lolita, that if she gets pregnant by him — which again, "she will not" — he will marry her etc. But as fate would have it they both get pregnant by this young tough. Donagan would have this young man perform the following course of reasoning:

> When I find myself in the fix that if I do something I will break my word to Lavinia and that if I do not I will break my word to Lolita, then according to the first of [the conditions on promising], there is some reason to presume that, in view of my promise to Lolita, it was wrong to make to Lavinia the promise I did. But what if I had reason to believe that I could keep my promise to both?[354]

Our young friend did, from his limited point of view, have reason to believe that he could keep his promise to both. None of his friends' girl friends had yet become pregnant, and he

[354] Cf. "Consistency in Rationalist Moral Systems", p. 304.

and his friends were all advised about birth-control by the same older and more experienced guys, whom they had no particular reason to distrust. These advice givers were all unmarried. Donagan would have the reasoning continue:

> Then according to the third principle, I must ask whether I believed that Lavinia, had she known of my promise to Lolita, would have thought my reason for believing that I could also keep my word to her to have been acceptable.

Again, our young friend may be assumed to have believed this. While he did not likely tell Lavinia about Lolita, he may have told her about how he found out about this birth-control method. In any case since she went along with the scheme though not wishing to become pregnant (he had to give promises and assurances, after all), she seems to have accepted his reason to believe that she would not get pregnant, though she had less reason than he had since she was necessarily further removed from the source of this information than he was.[355] At the very least we are assuming that he senses that she is more naive and trusting than him, and indeed she is. His reasoning would then continue:

> If I did not, then I wrongly made Lavinia a promise on a condition on which I did not believe she understood me to have made it. On the other hand, if I did, then by the second principle, since there was a condition on my giving my word to Lavinia that has not been fulfilled, I am not bound to do what I promised her . . . .

Will Donagan now argue that my example fails because, since fornication is wrong, promises for the purpose of fornication are immoral? The purpose of fornication is not essential to the point of the example. One might be ignorant in ways acceptable to the promisee on occasions when the promise has more noble intent, and yet be taking advantage of the promisee. An example might be promising a hostage-taker safe passage out of the country for the release of his hostages even though you are not sure you can actually keep this promise.

I should have expected that the young pregnant girl is just the sort of promisee that Donagan would wish to protect from the effects of Donagan's second condition on promising (i.e. that sometimes promises come unhinged from the obligations they would normally carry).

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[355] While this line of reasoning is not without loopholes (it is not really clear that she thought she would not get pregnant or just that she would have a husband if she did), an unsophisticated young tough might have convinced himself with it.

I. Are Moral Promises Possible?

Another concern is whether Donagan's third condition is rather too strong because it requires that the promiser have a belief that the promisee understands the promiser's unstated conditions. Now obviously Donagan's position cannot be both too strong and too weak at the same time. The point is that if he could answer the objection that his view is too strong, then he must still deal with the objection that it is too weak and vice versa. Furthermore, if he might modify his conditions to make them less strong in appropriate ways, then he exacerbates the charge that they are too weak and vice versa.

We might grant that making a promise on a condition which one believed that the promisee did not understand to be used would be wrong, as when I promise to attend the meeting on the sixth knowing that my neighbour does not trust the newspapers, and would not likely accept my reasons if he knew them.[356] Donagan's condition goes beyond this and states that if I do not have a certain belief (regardless of why I do not) about the promisee's understanding I do wrong. So if I do not consider the promisee's understanding of the conditions of my promise because being naive I do not think there could be an issue over the accurateness of the news report (we are talking about something the promiser considers a reason after all), I will not have the explicit belief that the promisee would find this reason for thinking I can keep the promise acceptable, and hence by the third of Donagan's conditions on promising the promise is immoral.[357] I will lack beliefs about his understanding and so be immoral in making the promise.

Donagan's third condition then requires that I avoid a sin of omission in making promises. I must not omit to have beliefs about the promisee's understanding of my reasons for thinking that I can keep the promise. Moreover, these beliefs must be that the promisee

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[356] I am not sure that even this condition is true. Consider the case of a superstitious gambler who explains to you that the horse with the longest name will win the race. Your reason for promising to bet her money on this horse might be that you know the other horses are ailing, not properly trained, unsuited to the track conditions etcetera. If you also know that she would never accept any of these reasons, Donagan's position would imply that the promise is immoral.

[357] Or at least, the promise turns out to have been immoral should things go badly and I am unable to keep it.

would find the reasons acceptable if they were made explicit. So if we consider that I must have a specific reason for thinking that I can keep the promise for each of the innumerable problems which could thwart the keeping of the promise, we see that I must have correspondingly innumerable beliefs about the acceptability of these reasons to the promisee. If I need to be conscious of each one of these before making the promise — so as to avoid missing one of these beliefs — then I do not know that I have ever made a morally acceptable promise. Yet if the beliefs may be merely dispositional, as the example Donagan uses suggests,[358] how can one tell when making the promise that none of the requisite beliefs has been omitted?

Surely one ought to avoid sins of omission. If one ought to avoid sins of omission, then we may presume that on Donagan's view, one can avoid them. How can one avoid omissions? By being able to check that all the requirements are present. If the beliefs to be checked are allowed to remain dispositional rather than being required to be conscious, then one is not able to check for their presence (except by becoming explicitly conscious of each of them). So either we need not worry about omitting to have the right beliefs here or these beliefs will all have to be made explicit before a morally acceptable promise can be made.

Again, we certainly ought to avoid making immoral promises. Thus, it must be on Donagan's view that we can avoid making immoral promises. Obviously, we could avoid doing so by never making promises. Unfortunately, never making promises does not seem the best solution as on occasion we ought to make promises. — Well, not everyone will agree that situations will occur where one ought to make a promise; perhaps other means of achieving the same moral values will always be available. But why would Donagan be so careful to try to elaborate a workable view of promising that is not prone to dilemmas, if he thought one might simply say that promising is best done without altogether? If promising is prone to moral dilemmas, then one should develop a moral system that does not include promising as an acceptable moral practice.

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[358] Donagan, "Consistency in Rationalist Moral Systems", p. 304.

If we are to avoid making immoral promises, yet to continue to make moral promises, then we must be able to distinguish between the immoral and moral ones, so that getting into dilemmas remains our own fault — rather than the fault of say having been placed in a world where intellects of our level are not always in possession of sufficient evidence to know which reasons are acceptable to whom, or which promises are, and will remain as having been, moral to give.

Thus, Donagan's position on promising seems to require that we have an overbearing number of beliefs (since they must each be explicitly conscious beliefs) about what reasons the promisee will find acceptable each time we make a promise. And even if he could avoid this strange result, he does not clearly give enough protection to very gullible promisees from somewhat gullible promisers.

J. Promises Broken Because of Third-Party Evil-Doers

We must also consider the possibility of some agent other than the promiser and promisee bringing about the impossibility of keeping a promise. Suppose that Janice makes a promise to Joe which she she has reason to believe that she can keep because Susan has promised to do something for her. But Susan finds out that the promise to Joe depends on her keeping her promise and, not wishing things to be well between Janice and Joe, deliberately and maliciously breaks her promise to Susan.

Apparently, Donagan's position can handle such a case easily. First we must ask whether Janice had reason to believe that Susan would keep her promise, thus making it possible for Janice to keep hers. If she did not have reason to believe in Susan's promise then she did wrong to make the promise to Joe. But if Susan's breaking a promise out of spite in this case is entirely out of character, then she may have had reason to believe that she could keep her own promise.

At this point, Donagan would have us ask whether Janice believed that Joe, had he known the role Susan's promise would play in the ability of Janice to keep hers, would find her reason for thinking that she (Janice) could keep her promise acceptable. So basically, if

Janice saw that Joe accepted promises from Susan and did not warn others to not accept Susan's word, Janice would have thought that he would find her reasons for thinking that she could keep the promise acceptable. Thus, Janice has made the promise innocently and it simply ceases to bind her to action, given Susan's out-of-character behaviour. In many cases, Donagan's position here will seem acceptable.

Even so, the result is a bit odd in the treatment of Joe's claims. He cannot claim anything against Susan, since she never promises him to keep her word to Janice. He has no claim against Janice, since she cannot keep her word to him. The chain of obligation has broken, in such a way that Joe cannot make any claim against the wrongdoer. Suppose that Susan had promised to sell a rare work of art to Janice. And Janice promised in turn to sell it to Joe at cost, or give it to Joe. Since she has lost nothing by Susan's breaking the promise to her, perhaps she would not bother to press her claim against Susan to keep the promise. And if Joe really had his heart set on just this piece of art, nothing could really be given him by Janice to compensate for the promise's failure to obligate.

If Janice's promise was to pay the mortgage on her home to Joe the mortgagor, a promise made on the basis of her employer's, Susan's, promise to her to pay her for the work that she has done, then, typically, Janice would suffer for any broken promise to her. She could lose her home, giving her a large interest in Susan's keeping her promise.

The case can become more complex if Joe and Janice are both experts in the area of psychology, and hold competing views about the likelihood of someone like Susan suddenly acting irresponsibly given that she is normally very responsible. In this variation, either Janice knows of the disagreement or she does not. If she does not know of the disagreement, the case is very similar to our earlier description of it, for she will believe that Joe will find her reasons acceptable.[359] But if she knows of the disagreement, then a professional disagreement will prevent her from morally making a promise to her colleague.

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[359] Although we might wonder whether she should check on Joe's views given that she knows (if she does) he is an expert in a field where experts hold a variety of competing theories.

She might even be party to some new information or arguments which she might believe would convince Joe, if Joe had time to listen, or time to read the new material. Thus, even an expert on the acceptability of the reasons for thinking the promise can be kept might not be morally permitted to make a promise on Donagan's view. And of course, no expert could ever make a promise to a known sceptic, since known sceptics are believed to also be sceptical about the acceptability of most reasons for anything.

Chapter VI

FIRST-TIME ACCOUNTABILITY

Would it not be grotesque to think of the development of the child as a progressive or patchy emergence from an area in which its behaviour is . . . determined into an area in which it isn't? — P.F. Strawson
"Freedom and Resentment"

That's Jack;
Lay a stick on his back!
What's he done? I cannot say.
We'll find out tomorrow,
And beat him today.
— Charles Henry Ross in
The Random House Book of Poetry for Children (p. 106)

A. Introduction

In this chapter I continue my attack on the rationalist position that 'ought' implies 'either can or culpably cannot'. The attack again focuses on the supposed link between what one can be held accountable for and what is contingent on one's choices. I argue that the rationalist account of how moral knowledge is gained and how we can be held accountable for it is inferior to a more pluralist, community-based explanation. Thus, if the rationalist's motivation for holding "'ought' implies 'can'" and not allowing genuine moral dilemmas is to preserve a vision of accountability, then I argue that a better vision of accountability is available. Moreover, rationalists cannot adopt this better position because the pluralist position is open to the possibility of genuine moral dilemmas.

I begin by discussing briefly some problems for the view that one is responsible for knowing what will be morally required of one. I hold that one can, at least on occasion, be held responsible for knowing moral requirements. I secondly turn to consider the problem of knowing how to apply moral rules to new situations. New possibilities of holding people accountable for matters beyond their control exist here. Thirdly, I present a vision of learning

to be accountable, arguing that it challenges the rationalists to explain the acquisition of moral accountability. In the fourth stage of my argument I argue that the expected rationalist responses would again involve a retreat from external experience (as distinguished from intentions, willing, foreseeing with acceptance and ratiocination about consistency), and a corresponding step towards irrelevance. Fifth, I present arguments for a more pluralist, community-based view. One's cultural group has more influence on the meanings of moral terms and on which practices constitute 'following (or applying) the moral rules' than rationalists would care to admit. Thus an agent is dependent on her social group for learning morality initially. The rationalist, however, would like to see each instance of holding an agent accountable as justifiable from some universal rational point of view.

I hope to show that, given the large role culture plays in moral understanding, the first occasion of holding an agent accountable would never be justifiable unless one denies the doctrine that 'ought' implies 'either can or culpably cannot'. Moreover, we should recognize that the very proposal of putting some cultural practices up for the scrutiny of reason may be very offensive (even for those with rationalist tendencies). In this connection I include a brief discussion of some of Hegel's views.

B. Accountability and Knowing Moral Requirements

That an agent cannot do what she ought may be her own fault. The drunk driver cannot always avoid a collision, but this inability is her own fault. It is often suggested that we can assign blame here only because there exists prior to the inability a time when the agent ought to have chosen to avoid that inability. For instance, Walter Sinnott-Armstrong writes:

> We do blame agents for failing to do what they could not do if it is their own fault that they could not do it. For example, we blame drunk drivers for not avoiding wrecks which they could not avoid because they got themselves drunk."[360]

Michael Zimmerman concurs:

The point is—and this has now become a commonplace in the literature—that 'can'

[360] Cf. W. Sinnott-Armstrong, "'Ought' Conversationally Implies 'Can'", Philosophical Review, XCIII, No. 2 (1984), pp. 250-251.

> requires two time-indices, one index specifying the time of 'can' and the other specifying the time of the action in question. For example, let us suppose that Peter takes the drug at [one point in time] and as a result runs wild at [a later time]. While it is true to say that Peter cannot at [the later time] do other than run wild at [that time], it is also true to say that Peter can at [the earlier time] do other than run wild at [the later time]. Indeed, [one may] insist that it is precisely because of this latter fact that Peter may be said to be morally responsible for running wild.[361]

Zimmerman makes a similar point in his "Luck and Moral Responsibility":

> Why blame the successful reckless driver for the pedestrian's death? Let us suppose that his recklessness is due to drunkenness. Then, we may suppose that he was free not to drink, and hence free not to drive drunkenly, and hence free not to run over the pedestrian. Surely this suffices, ceteris paribus, for blaming him for the death.[362]

It is claimed that at some prior time the requirements of "'ought' implies 'can'" were met. I wish to begin with two points.

First, the conditions given so far do not quite in themselves justify the assignment of blame. What about the case of someone unfamiliar with the effects of alcohol, someone new to our society who is taught to drive before learning when to expect drunkenness? If this sounds contrived, then recall that the white men conquering North America immorally introduced strong drink and fire-arms to the natives simultaneously with sometimes terrible consequences. Also note that this example is not merely of ignorance of fact leading to a broken precept, rather the ignorance of fact is the basis of an ignorance of the applicability of the relevant precept.

Suppose for the moment that the driver is not negligent in the lack of knowledge about when to expect drunkenness. If she ought to have avoided driving drunk, then presumably a time existed when she 'could' have chosen not to. Yet she might not have known the dangers. So even if 'ought' implies 'can', if she was unaware of the dangers and hence unaware of the 'ought', we might not automatically hold her accountable. Nevertheless,

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[361] M.J. Zimmerman, "Moral Responsibility, Freedom, and Alternate Possibilities", Pacific Philosophical Quarterly, 63, No. 4 (1982), pp. 245-246. Zimmerman cites K. Lehrer and R. Taylor, "Time, Truth, and Modalities", Mind, 74 (1965), pp. 390-398 as an early example.

[362] Ethics, 97 (1987), p. 382. Cf. also his "Remote Obligation", American Philosophical Quarterly, 24, No. 2 (1987), p. 199-200. Cf. A. Donagan, The Theory of Morality, p. 129 and "Consistency in Rationalist Moral Systems", Journal of Philosophy, LXXXI, No. 6 (1984), pp. 302-303 and 305.

she was still the cause of her inability; it was still "her own fault" in at least this causal sense. Now as we have seen, if we are not going to hold her accountable, then saying that she ought to have avoided driving seems to involve a weak sense of 'ought',[363]

My second point takes the opposite tack: we may wish to assign blame anyway, even if she could not have known the 'ought', and even if no specific prior act could be called blameworthy in and of itself.[364] The point is that we cannot always see the moral significance of our acts in advance, but on subsequently discovering this significance one might become convinced that she ought not to have acted as she did, and feel regret or feel blameworthy.

This statement encapsulates the main point of Williams' article, "Moral Luck".[365] While he bases this claim on our being unable to see the outcome of some acts, I wish in addition to claim that it may just as easily be due to an ignorance (sometimes not practically avoidable) of the requirements of morality. To be fair, I should point out that Williams does allow ignorance to play a role larger than merely being unable to predict consequences, for he also points out that decisions change us even to the point of influencing what we will or will not value. Changed values could alter moral assessments of our past acts.

We can be held accountable for knowing what is morally required of us. And certainly rationalists have generally held that we have some obligation to be informed about our duties. Aquinas wrote:

> But the answer turns on what we have already decided about ignorance, namely that it sometimes makes an action involuntary and sometimes not. Now because moral good and evil lie in an activity in so far as it is voluntary . . . clearly the sort of ignorance that causes an act to be involuntary takes away the character of moral good and evil; not so, however . . . the ignorance that in some manner is willed, whether directly or indirectly. We say that ignorance is . . . indirectly voluntary when from negligence a person does not will to know what he ought to know . . . .[366]

Aquinas goes on to give as an example of "ignorance of a law of God [one] ought to

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[363] See chapter III, B. "Ought and Blameworthiness" above.

[364] Acts might be blameworthy in a secondary sense, whereas agents are blameworthy in the primary sense. Which is to say, an act is blameworthy if performing it automatically brings blame on an agent. This does not mean that this blame making quality cannot be defeated or overridden. But the agent is sometimes considered guilty until proven innocent

[365] In his Moral Luck (Cambridge: Cambridge University Press, 1981).

[366] Summa Theologiae, I-II, 19, 6.

recognize", thinking one ought to have sex with another man's wife.[367]

Donagan admits that "anthropological knowledge of the varieties of human mores has made . . . incredible" the view that "ignorance of the law is always culpable".[368] But, he seems to believe that it is sometimes culpable.[369] Kant perhaps seems to disagree for he disposes of the idea that we have "a duty to recognize duties" on the ground that we cannot do otherwise.[370] He holds not only that 'ought' implies 'can', but that 'ought' implies 'can do otherwise', i.e. moral requirements do not include acts which are necessary in that one is unable to refrain from doing them. But he also writes, "He [the agent] is only obligated to inform his understanding of what is or is not a duty."

But I am far from sure that any individual can always fulfill this responsibility to know what is morally required. From our point of view, that life will become more complicated and complex as a society advances seems natural. Sometimes we will need more experience of the new situations that come with this increasing complexity in order to discover the moral principles which should govern our behaviour in them.

And certainly as one acquires experience, she learns that the simple answers do not always satisfy the way they did when younger. In any case, unless one believes that moral knowledge in its entirety is innate, we must acquire it in piecemeal fashion. Even if it is innate, children certainly do not seem consciously aware of the requirements nor do they follow a single order in gaining awareness of them. Without being able to know the future, i.e. being able to learn from the needed experiences before having them, knowing what will be morally required of us will sometimes be impossible. There is also a further difficulty brought on by our ignorance of what we have yet to experience: even if we know the principle required, we might not see how to apply it.

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[367] Cf. de Veritate, 17, 4, ad 5, "But if it is ignorance of a law [rather than ignorance of fact] . . . the ignorance itself is a sin." Cf. also Summa Theologiae, I-II, 76, 2.
[368] The Theory of Morality, p. 5.
[369] The Theory of Morality, p. 5, 130 and 134-135.
[370] The Metaphysics of Morals, Part II, pp. 59-60 (Academy 400-401).

Donagan holds that the rationalist, contrary to what one would expect, can appeal to culture to explain the acquisition of moral knowledge.[371] New cases due to the increasing complexity of society will be cases where the agent is ignorant, but not culpably (unless the agent would have done the wrong anyway, even without ignorance).[372]

Aquinas and Donagan hold that if an agent would do the act even if she had not been ignorant then the ignorance does not excuse.[373] More needs to be said about this position in relation to 'regret'. Often, when one does not understand all the moral implications of one's action, one will regret that action on gaining this understanding. Regrets are regularly enough of the form: if I had known then what I know now, I would never have done what I did. Without the ignorance the agent would not have done the wrong. (And often the knowledge/ignorance in question is experiential rather than intellectual.) But when this regret is more than a mere wish to have lived a different past, and includes some self-censure, then Donagan and Aquinas must hold that the regret is irrational if the lack of knowledge excuses.

Consider then the example of the first-time murderer. Let us suppose that beforehand she knows intellectually that murder is wrong (i.e. her intellect sees that it can be derived from some basic moral principle, or that this is how these words are used in English) and that the act she is considering is murder. But she decides that she wants this person dead all the same. Yet she might afterwards have regret. Even if she does not get caught, it might be true that if she had known before what she knows afterwards she would not have done it. Could this be a case where inculpable ignorance excuses? Surely not!

We might conclude either that only intellectual ignorance excuses or that ignorance cannot make actions involuntary after all. I would expect that Donagan and Aquinas would adopt the first of these options. Why? Obviously, no one has experiential knowledge of a particular wrongdoing before doing it. So an agent's first commission of any wrong would be excused. But if it is excused and feeling regret over it is irrational, then she does not experience it as a wrong. So the arguments which excused the first commission could equally

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[371] The Theory of Morality, pp. 6, 12, and 134-135.
[372] The Theory of Morality, pp. 134-138.
[373] Cf. Summa Theologiae, I-II, 6, 8, and I-II, 76, 1; The Theory of Morality, pp. 129-130.

excuse the second, and so on.

On the other hand, if experiential knowledge is not required for blaming (and experiential ignorance does not excuse), then how can any appeal be made to moral knowledge gained from participation in the community?[374] Knowledge gained from participation and initiation is experiential. Experiential knowledge is supposed to have no role to play in excusing or assigning blame.

Now even if Donagan and other rationalists are willing to excuse some for not knowing what one ought or ought not to do, they must not be willing always to excuse ignorance of moral requirements. Donagan holds that only inculpable ignorance excuses.[375] The easiest escape from the claims of morality would be to deliberately know nothing about them, if this ignorance will be excused. Man acts "according to principles of action he has chosen, and for which, allowing for the limits of his knowledge, he is responsible".[376] Where shall the line be drawn? The rationalist will want the line drawn in accordance with "'ought' implies 'can'". In other words, any precept which one ought to know must be one which one can know, which is within one's power of knowing. But if we are dependent on our society to teach us, then the knowledge or ignorance is not within the individual agent's powers at all. In which case, how are we to distinguish between culpable and inculpable ignorance?

Donagan might suggest that new cases like the first encounter with drunkenness are, and will be, rare in moral life. The central and important points of moral knowledge will be secure in the tradition of the community. We can count on any society whatsoever to provide knowledge of the most basic of moral principles.[377] My question then is, does not the manner in which a society provides this knowledge violate the "'ought' implies 'can'" principle? For each agent must be introduced to the "language game", the "way of life", the practice, of being held accountable and being answerable. This is an unavoidable first case. Without such an introduction, one cannot understand what is basic to any moral principle or precept, namely, that they express requirements, i.e. what one will be held accountable for. And

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[374] As in The Theory of Morality, pp. 6 and 12.
[375] The Theory of Morality, pp. 121-122 and 130-136.
[376] The Theory of Morality, p. 35.
[377] The Theory of Morality, pp. 134-135.

Donagan himself sees that one is not introduced by way of formal instruction, but by "initiation into the life of a . . . community", "by participation in a common life".[378]

I hope to show that learning about being held accountable by participation runs counter to the principle that 'ought' implies 'can'. One must learn about being blameworthy by participating in being held blameworthy. To be held blameworthy is, according to rationalists, to be held accountable for (among other things) knowing that one ought to have done otherwise, but this one cannot know before one is held blameworthy. That is to say, it follows from these elements of Donagan's view that one 'ought' to know what one 'cannot' know. This result is inconsistent with "'ought' implies 'can'," which he also holds.

Someone learning to be accountable faces problems because she must generalize from the past cases of being held answerable to future similar cases. Thus, learning morality by participation can take considerable time and experience. While learning under such conditions may be difficult, obviously the difficulties are overcome for children do learn. The difficulty of generalizing from a limited number of past cases is related to the problem of induction, especially if we inquire as to the justification of what has been learnt. Once one has learnt the moral precepts required in one's life, i.e. one understands why one is held blameworthy when one is, one may still have difficulty in determining whether new cases are relevantly similar to cases where one knows the principle applies. This difficulty too is related to the problem of induction. Since the problem of induction has a role to play in the discussions of this chapter, we should pause to introduce it.

The problem of induction, though in a way the opposite of determinism (which played a role in the discussion of chapter two), poses a similar problem for rationalist views on moral accountability. Determinism suggests that proper knowledge of the present conditions and governing principles would show that what happens next is fixed, while the problem of induction claims that no amount of knowledge of this sort could possibly reveal anything about the future. But if we cannot really know what particular set of future results will follow say, firing a loaded gun at living people, then how can we justify holding agents

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[378] The Theory of Morality, p. 12.

accountable for the consequences of their actions? There is a clear, if philosophic, sense in which the murderer does not know that pulling the trigger will kill, will succeed in producing the "bad" consequence. Whether the future will conform to the past or not is not something she can control or know.

A rationalist solution is to hold one accountable for the internal, intended, consequence rather than the actual consequence.[379] Now since what is intended is sometimes not even clear to the agent herself, we are again disqualified from holding anyone morally accountable.[380] Perhaps these points clarify Kant's need to postulate a God, i.e. to do the moral assessments and to hold us accountable for our (internal) actions. "Phrases such as 'Only God can judge her' reflect the belief that her internal intention to do the right thing — unknowable to the rest of us — is what really counts."[381]

All the same, surely we ought at some point to know certain moral obligations. The suicide victim in Brandt's example perhaps ought to find out first whether or not she really ought to kill herself before she takes irreversible action.[382] Unfortunately, the problems of fulfilling this requirement go beyond the problems posed by the increasing social complexity, our piecemeal fashion of acquiring moral knowledge, and the problem of induction. For the additional uncertainty, about what the moral rule requires in each necessarily new application, is also a problem.

Indeed, there can be no fact as to what was meant by the moral rule for the new case.[383] The moral rule might be extended in an infinite number of ways; Saul Kripke claims

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[379] Cf. The Theory of Morality, pp. 121, 126-127 and 136-137. See chapter III above.

[380] "For it is not possible for a man to look so far into the depths of his own heart as ever to be entirely certain, even in one single action, of the purity of his moral purpose and the sincerity of his mental disposition . . . ." The Metaphysics of Morals, Part II, p. 51 (Academy, 392). Also in Moral Dilemmas, ed. C.W. Gowans, p. 48. (Note that the Academy pagination in Gowans does not agree with that given in Ellington's translation. I have given Ellington's.)

[381] J. Andre, "Nagel, Williams, and Moral Luck", Analysis, 43, No. 4 (1983), pp. 202-207 especially 204.

[382] "The Morality and Rationality of Suicide", in A Handbook for the Study of Suicide , Ed. S. Perlin (Oxford: Oxford University Press, 1975) Also in Moral Problems , Ed. J. Rachels, 3rd edition (New York: Harper and Row, 1979), pp. 461-64.

[383] Cf. S. Kripke, Wittgenstein on Rules and Private Language (Cambridge, Mass.:

that there can be no fact about which of these various rules really expresses the intended rule. Consider a nonmoral case, the first time one ever adds some pair of numbers, say '68' and '57':

> Ordinarily, I suppose that, in computing '68+57' as I do, I do not simply make an unjustified leap in the dark. I follow directions I previously gave myself that uniquely determine that in this new instance I should say '125'. What are these directions? By hypothesis, I never explicitly told myself that I should say '125' in this very instance. Nor can I say that I should simply 'do the same thing I always did,' if this means 'compute according to the rule exhibited by my previous examples.' That rule could just as well have been the rule for quaddition (the quus function) as for addition.[384]

('Quaddition' simply refers to a rule which is the same as addition when applied to numbers smaller than 57, but which differs for larger numbers.)

C. Rule Scepticism and Accountability for Knowing Moral Requirements

I am suggesting that knowing a moral principle, knowing what it means to be held accountable, and knowing how to apply moral precepts in new cases, are all outside the agent's control. Donagan himself agrees that one gains these types of knowledge by participation in one's society. If we use the word "luck" to refer to what happens to an agent as opposed to what she does, then we may speak of one's knowledge of morality, dependent as it is mostly on others, as a matter of luck: moral luck.[385]

Thomas Nagel has listed some sources of moral luck.[386] Most of these are primarily connected to the question of determinism. First, one may be lucky or unlucky as to the constitutive nature of her character — temperament, natural skills, dispositions. We do not know to what extent these are one's own doing. At a more basic level, one's capacity to make decisions and to control oneself are not something one could take credit for.[387] This is one

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[383](cont'd) Harvard University Press, 1982), pp.7-25.
[384] Wittgenstein on Rules and Private Language, pp. 10-11.
[385] Cf. M. Nussbaum, The Fragility of Goodness, p.3; "I do not mean to imply that the events in question are random or uncaused. What happens to a person by luck will be just what does not happen through his or her own agency . . . ."
[386] Cf. "Moral Luck", in Mortal Questions, p. 28.
[387] Cf. D. Dennett, Elbow Room: The Varieties of Free Will Worth Wanting (Cambridge, Mass.: MIT, 1984), p. 84.

way in which the agent is partially determined, and yet being naturally antisocial, for example, could make meeting the requirements of morality more difficult than, for example, being naturally sensitive and sympathetic. Second, because often the circumstances in which the agent finds herself are determined by factors not in her control, some agents face much tougher moral tests than others. Another of Nagel's sources of moral luck is the lack of control one has over how what she attempts will turn out. This is not so much a question of how one is determined by internal or external factors or their combination, but rather a question of uncertainty about the future, a problem of induction.

Now to Nagel's sources of moral luck I would add another. Someone may be lucky in knowing or unlucky in not knowing the moral requirements that apply to the situation she finds herself in. Sometimes one has time to think the matter through or to seek moral advice, which just reduces to a case of lucky knowledge, but not always.

The notion of moral luck seems to be impossible by definition for those who wish to restrict morality to the arena of agent control, those who hold that 'ought' implies 'can'. Now if we simply have unrestricted (or unlimited) control, then even the rationalist conception of morality could be intact, but no problem of luck can arise. Zimmerman distinguishes between restricted and unrestricted control.[388] Restricted control could involve uncertainties about the extent of the agent's control. No one ever has unrestricted control if only because no one had control over when they were born.

Zimmerman sees no problem with restricted control for morality, because we have always known that agents do not have unrestricted control. But Kant seems to worry about the uncertainties of restricted control. For example, "But how many people who have lived a long and blameless life are merely fortunate to have escaped many temptations?"[389] Notice that this worry corresponds exactly to one of Nagel's sources of moral luck, luck with respect to testing circumstances. On the other hand, if we simply have no control at all, then one can be lucky or unlucky all right, but the rationalist vision of morality would not be possible —

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[388] "Luck and Moral Responsibility", Ethics 97 (Jan. 1987), pp. 374-386.
[389] The Metaphysics of Morals, Part II, p. 51 (Academy, 392). Also in Moral Dilemmas, ed. C.W. Gowans, p. 48.

moral blameworthiness and praiseworthiness lose the significance they have under the assumption that 'ought' implies 'can'.

(Recall that I do not deny that this principle often describes the actual situations which occur, only that the principle can be counted on always. Perhaps the fact that accountability does so often go together with the agent's having control, gives extra pragmatic bite to the cases where the agent lacks the control.)

Hard determinism and extreme scepticism about induction each leave less room for rationalist morality. Zimmerman denies as plainly false the view that "No event is such that anyone is ever in restricted control of it."[390] Then he notes in his footnote 11 that he is assuming that hard determinism is not true. He seems to hold that if it were true, then that "No event is such that [any person] is morally accountable for its occurring" would also be true. I cannot follow Zimmerman to this extreme. For I hold that although accountability usually accompanies agent control it does not necessarily do so. It may be that if agents never had control that our conception of moral accountability would be somewhat different (perhaps it would have less bite pragmatically).

Important to my refusal to go so far as Zimmerman is the conviction that if the truth of hard determinism makes moral accountability impossible, then it would be equally impossible to hold someone genuinely convinced of the truth of hard determinism morally accountable.[391] So I hold that hard determinism merely leaves less room for morality, i.e. morality is very limited in the sorts of justification it can appeal to, and in the sorts of aims it can adopt, perhaps even in the precepts it can lay down (these must all be pragmatic). There is correspondingly less chance of a successful moral theory and less chance that any particular act will fall under a successful theory's purview as a moral act.

Nagel seems vaguely aware that hard determinism and extreme scepticism about induction are the limiting cases for his sources of moral luck. The limiting case for the source I am adding lies in extreme rule or meaning scepticism as outlined by Saul Kripke.[392] The

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[390] Cf. Zimmerman, "Luck and Moral Responsibility", p. 377.
[391] See chapter II and III above.
[392] Cf. Wittgenstein on Rules and Private Language.

chance of moral knowledge in the limiting case is less here, just as there is less chance of actions or their outcomes being "moral" in the other limiting cases. Since its limiting case is distinct, I take this additional source of moral luck to also be distinct from Nagel's sources.

Even though I believe our knowing the relevant moral rules is largely a matter of luck, I would still maintain that we need to be held morally answerable for this knowledge in order to learn morality by participation in a community. Rationalists will want things to be either black or white with no room for degrees of grey — sometimes holding agents accountable for knowing the moral rules and understanding how to apply them consistently, and other times maintaining that ignorance excuses.[393]

We can be accountable for this knowledge even for cases where no substitute for experience is possible. Suppose that I have created a new "designer drug". Given that it is brand new, I cannot know, without eventually trying it on someone, whether its benefits will outweigh its harms. I cannot know whether it will turn out that it ought to have been used, or whether it will turn out that it ought to have been destroyed and legislated an illegal substance. Does this mean I will not be accountable no matter what I do with it? Surely not.

Of course to some extent we can, and try to, minimize the moral risk. We would try the drug on animals first, and even then we might begin with rats, working our way up to monkeys. Next, we would try it on the terminally ill as a last resort. But even with these procedures, some risk remains. The suffering of the animals deserves some moral consideration. The suffering of the terminally ill due to the drug is not entirely excused by their desperate situation and informed consent. As Nagel points out there is a big difference between rescuing someone from a fire and dropping them from the twelfth floor in the attempt — a difference for which one may be held accountable whether or not one first got consent.

Another example would be the development of the theories which made possible nuclear bombs. The scientist cannot know in advance whether his theories will lead to greater good or evil. And science is often enough considered to involve great moral risk for those who

[393] Cf. Aquinas, Summa Theologiae, I-II, 6, 8, I-II, 19, 6, and I-II, 76, 1-2; Donagan, The Theory of Morality, pp. 5, 130 and 134-135.

choose to participate in its advancement.

Now admittedly these examples might seem linked to problems of induction sooner than to problems of rule following (ignorance of fact rather than ignorance of rule). I have chosen these cases where ignorance of the moral requirement is dependent on ignorance of empirical matters, because such cases have the additional feature that in these cases the moral knowledge is in principle not available until too late. The notion of moral accountability still makes sense even in these cases, for the scientist reasonably wishes, when things turn out well, to share in the praise.

In any case, part of the problem of rule following is the problem of knowing what the rule means in each necessarily new situation. The "newness" which causes a problem here, strongly parallels the sense of the "newness" of the future which causes the problem for induction.[394] The problems are nevertheless distinct as inductive reasoning aims at predicting an outcome, while the creation and following of rules aims at guiding our action (both internal and external).

I have been suggesting that acquiring and applying moral rules is a much more tentative business than we typically may think. Moreover, holding moral agents accountable for being familiar with morality's requirements means being prepared to hold them blameworthy and praiseworthy for matters not always in their control. Since we must learn morality by participation I am suggesting that we must hold agents accountable in these apparently arbitrary ways if we are to avoid Kant's sceptical conclusion that we are incapable of applying the concept of accountability to particular cases. For at what point are we justified in holding an agent accountable for moral knowledge? Very few will wish to claim that the new-born infant should know right from wrong, and so is a proper subject for punishment. If ignorance will excuse when the agent cannot be held accountable for it, then the question facing rationalists is: what are the conditions for holding an agent accountable for knowledge not possessed?

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[394] Kripke, in setting out the problem of rule following refers to the new riddle of induction, and appeals to an example using numbers which have never yet been added.

D. Learning to be Accountable

We might anticipate the reply: we are justified in holding an agent accountable for her ignorance in cases where she knew that knowledge a.) was available, and b.) would be required, in likely upcoming situations.[395] But this reply does not cover all cases. I believe this will become more obvious if we ask just how does a creature move from a state of never being accountable to a state of being reasonably held accountable?

Daniel Dennett writes:

> How could any deterministic process of 'character transformation' beginning with a being that was not responsible for any of its 'decisions' ever yield a being who was not only responsible for its decisions, but responsible for having the sort of character that would make those decisions? For that matter, how could an indeterministic process from the same starting point yield anything better?[396]

Renford Bambrough introduces a related question:

> The absurdity of requiring single supreme principle as the foundation and justification of morality is evoked by asking whether the inculcation of such a principle could be the usual way, or any way at all, of initiating a child into the understanding of good and evil, right and wrong.[397]

Those of us who know about morality, in other words those who Donagan would say have succeeded in learning it by participation, can inform the young child of the basic moral requirements, and the child will observe our actions and words in holding one another accountable. Nevertheless, this child will be ignorant of what it means to be held accountable, until she has first-hand experience of being held accountable. Just as in the case of the new drug we hold the experimenter accountable so also in the case of a child learning necessarily new moral precepts we can hold her answerable.

Consider the parallel to children learning to use mathematical rules. Simply informing a child that "1 + 1 = 2" neither teaches the rule for addition, nor how to use the rule in

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[395] Donagan is not so explicit. "Ignorance, whether of the principles of morality, or of precepts derived from them . . . is culpable or inculpable according as it proceeds from negligence—from want of due consideration." The Theory of Morality, p. 134.

[396] Elbow Room, p. 84.

[397] "The Roots of Moral Reason" in Gewirth's Ethical Rationalism: Critical Essays with a Reply by Alan Gewirth (Chicago: University of Chicago Press, 1984), Ed. E. Regis Jr., p. 41.

applications. The child will not know when the "2" response is appropriate just as she will not know that it would be inappropriate to blame a younger sibling for the same things she is blamed for doing. Practice is required, along with experience of the conditions for being held accountable for mathematical responses.

I am not suggesting that we have been (or should be) burdening children with a lot of accountability unfairly. Rather it is a gradual process which perhaps peaks during the adolescent and teen years. Even this late in life agents are sometimes excused on the grounds that they are not fully accountable. And indeed, these agents do not fully grasp the significance of being held accountable — that there really are consequences to actions. In fact, not all adults ever reach a stage of realistic acceptance of the fact that their actions have consequences, so there is a grey area where we will sometimes want to protect children and teens from the consequences of their acts. If we are to learn to be accountable at all, we will sometimes have to be accountable for more than we could have expected.

For example, nobody can really make another take a long-range view of their own life. Continually punishing a teenager the following day for partying too late merely reinforces her seeing herself as being accountable in a relatively short-term way. One can tell her that not doing her home-work now will influence her ability to do what she wants a few years from now, one can show by example that one is trying for future rewards several years away, for example, by working towards a future promotion, and one can take an interest in, or reinforce, any current interests she may have and explain how present behaviour may determine the future pursuit of these.

Even so, none of these efforts will bring about the change in outlook as much as the cultural fact that at some point a person is simply more generally expected to take a long range view of their future, and if they fail to do so, they are allowed to genuinely hurt themselves. They cannot really take the long-term view at the start of the process of being "taught" to do so by their culture. If the process is successful, they can do so at the end of the process, but if the process fails, then they will still be being held accountable for more than they could do.

Kantians will object that I have confused not knowing the adverse consequences of one's wrong actions with not knowing the requirement. Kant recognized that calculating the consequences of one's actions is not easy and held that duty requires that we act out of reverence for the moral law. "Thus the moral worth of an action does not depend on the result expected from it . . . ."[398] Provided that the agent knows the requirement, not knowing what the adverse consequences are like as an experience will not, on this rationalist account, lessen the blameworthiness of not fulfilling the requirement.

In response I point out that even rationalists should see that the cases are not the same for the fully mature moral agent and the one who is still learning what is involved in accepting accountability. Of course the fully mature moral agent need not know the precise consequences of moral failure in order to deserve blame, but, in the case of one in the process of growing accustomed to the bearing of accountability, the possibility exists of having a rather intellectual knowledge of the requirement (they will say the right words) without really internalizing its practical significance as a requirement (i.e. that one will be held accountable for various requirements with various degrees of regularity). Someone does not recognize something as a requirement without grasping the precept's force or pull on her behaviour. Yet this is precisely what the one who has never been punished or held accountable for her actions cannot grasp.

(When I first punished our toddler for deliberately spilling his milk by taking it away from him and saying firmly, "No", he took me to be simply obstructing his desires and cried bitterly. Of course this behaviour is open to other interpretations, and I certainly do not claim to be an expert in toddler psychology. But I can assure the reader that he did not pick up this response as an effective means for getting his parents to give in. His mother and I happened to be strict about this matter.)

Legal systems typically hold citizens under their jurisdiction accountable for knowing the requirements of the law. Ignorance does not excuse. I would agree that sometimes

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[398] The Groundwork of the Metaphysic of Morals (New York: Harper and Row, 1964), pp. 68-69 (Academy 400-401). "Theory and Practice" in Perpetual Peace and Other Essays on Politics, History, and Morals (Indianapolis: Hackett, 1983), Tran. T. Humphrey, pp. 69-70 (Academy 286-287).

ignorance does not excuse. This sometimes causes problems with aboriginal peoples. In the movie "The Gods Must Be Crazy", for example, an African Bushman unfamiliar with the legal concept of property takes someone else's sheep to eat. Charges of theft are laid, and the Bushman goes to prison. A lawyer does eventually manage to straighten matters out somewhat; he finds some quirk of the legal system by which to set his client free. The legal system fails to interact with the Bushman on a level that respects his humanity and background in a case like this. Communication had broken down in both directions.

A rationalist like Kant would wish to both respect the person of the Bushman, and have a set law-like system for determining the Bushman's accountability to have known what is required of him. So either the Bushman is accountable and is rightly sent to jail or he is not accountable on the grounds that he is less than rational, in which case we superior rational beings would be treating him as a child, and unfortunately he would be treated with less respect than other adults of our culture. But if the rationalist can appeal in the case of the moral training of children to their lack of rationality, to make this appeal here begs the question against the possibility that rationality may be pluralistic. There must be some grey area here; we must be able to excuse without paternalism.

E. Ethical Rationalism and Accountability for Moral Knowledge

An obvious move we might expect from rationalists at this point of our argument (if not earlier) is the claim that an agent can be held accountable for knowing moral requirements and how to apply them in new cases in precise proportion to the agent's rationality. This move can account for childrens' lack of understanding of moral requirements and their haphazard way of acquiring these. But, when applied to other cultures, this move suggests an attitude of superiority toward members of other cultures by patronizingly insinuating that they are less rational than members of our culture.

On the other hand, perhaps from a rationalist standpoint, the members of some cultures will be more likely to be more rational than the members of others. If some ways of living are more rational than others, then we should not be surprised to find that some

cultures foster rationality better than others. The rationalist might go on to object to my way of tying one's coming to understand a moral requirement to the experience of being held accountable for it, claiming that my account simply makes the acquisition of moral understanding far too empirical. One is to learn what is required of one not by inductive reasoning from what has been required of one in the past, but by deductive reasoning about what is and is not inconsistent or self-contradictory. One's ability to perform these deductions will depend on one's rationality.

We might wonder whether, in protecting their account of accountability from matters outside the agent's control in the empirical world, rationalists are not making their account of morality irrelevant to life in the empirical world. Morality, if my presentation of rationalism has not been unfair, is a matter of internal intentions and expectations rather than actual consequences.[399] Moreover, our knowledge of which intentions are required is a matter, not of observing the actual world, but of ratiocination about consistency and self-contradiction.[400] In order to have a systematic and fair rationalist view of accountability, the agent must be protected from the contingencies of empirical life where uncertainty and lack of control afflict moral action and understanding.

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[399] For the reason I include "expectations" with the more common "intentions" cf. The Theory of Morality, p. 125, where Donagan argues that some voluntary actions (i.e. actions for which one is accountable) are not intentional. He gives the example of someone exacting the payment of a debt foreseeing that this will ruin the debtor. "But, ruining his debtor is no part of the plan according to which he acts." His intention is perhaps solely to save his own family. Donagan holds that if one foresees a morally impermissible result, even without intending it, then one can be held culpable.

[400] Cf. A. Gewirth, Reason and Morality (Chicago: University of Chicago Press, 1978), pp. 21-25. Gewirth concludes that inductive arguments are not sufficient to justify a supreme moral principle. But this does not mean that he has no use for inductive arguments, just that they cannot do what he wants on their own. I have been arguing, in part, that in so far as induction depends on empirical matters, ethical rationalists should be opposed to the use of inductive arguments because rationalists wish to tie moral accountability to just what is in an agent's control, and empirical consequences are not entirely in the agent's control. Gewirth believes that the supreme moral principle can be justified, if it can be shown to be logically necessary, so that its denial is self-contradictory, and the premises supporting the logically necessary principle must themselves be materially necessary. The point is that we thus discover the supreme principle of morality by reason rather than experience, and this supreme principle determines the rules which guide our actions in particular cases.

Before I continue, considerable explanation is required. First I wish to explain what I mean by "irrelevant". Second, I must deal with the response that the rationalist need not be concerned about how we acquire moral knowledge, so long as we see the justification it has once we have it. This opens a discussion on children's moral status as objects of our actions. Questions are also raised about how children learn basic morality. I argue that certain central elements of morality can not be learnt by participation on the rationalist view. Donagan claims that we learn about morality by participation,[401] and surely this is true. But this truth does not fit well with other elements of his rationalism.

In Henric Ibsen's The Wild Duck the character Gregers Werle is developed as having all the right intentions, especially from a Kantian point of view. He is honest to a fault, and believes in the power of truth to improve the lives of agents. Yet his clumsiness in doing his good deeds results in the most horrid consequences. A happy marriage is destroyed and a child kills herself. Ibsen exposed new meaning for the aphorism that the road to hell is paved with good intentions. This play reveals powerful reasons for holding agents accountable for more than just their intentions and expectations.[402] Nor will the rationalists' move to hold agents accountable also for the dispositions and habits they intentionally develop answer Ibsen's challenge.

It is true that actions considered objectively are still right or wrong for Donagan, Aquinas, and Kant,[403] but Gregers does not do anything wrong or impermissible so far as I understand Kant's, Aquinas's, and Donagan's positions as they would apply to his actions. Indeed, some of the more significant actions performed by Gregers are not merely permissible, but rather required of everyone by ethical rationalism.[404] In spite of Gregers' good will and actions, no one should aspire to be like him. His behaviour is an expression of moral idealism in a pejorative sense; it is a morality out of touch with the everyday lives of

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[401] Cf. The Theory of Morality, pp. 6, 12, and 134-135.
[402] On the need to include "expectations see note 24 above.
[403] On what considering actions objectively means see Donagan, The Theory of Morality, p. 37.
[404] The main point of contention in this argument being the question: when does avoiding giving information constitute lying or at least deception — the expression of an opinion which one does not hold, cf. The Theory of Morality, p. 88.

those it is imposed on; it cares not for their empirical good.

Moreover, even if one did do an objectively wrong action, one need not be blamable on Donagan's view. One should try to avoid doing wrong actions, but one need not be concerned about success or failure. The rightness or wrongness of actions objectively considered is irrelevant to the evaluation of agents. The case of internal acts which are right or wrong may be thought an exception to this rule. If intending such and so is wrong, then that intending such and so is blamable might seem to follow automatically, as one is culpable for intended wrongs, but if one has an inculpably mistaken conscience about what intention is required then even an impermissible intention may be inculpable. Again, to say that agents may be praiseworthy for their good intentions while doing wrongs is insensitive to the empirical suffering of those hurt by the wrongs. For the most part then, one's exterior physical actions are irrelevant to whether one is to be praised or blamed, and someone's goodness or badness is irrelevant to whether her exterior physical actions are right or wrong.

The traditional rationalist/empiricist division is starting to show here, explaining the appropriateness of the name "ethical rationalism". I suppose that the distinction between empiricism and rationalism is primarily understood in terms of epistemology.[405] We now see in ethical rationalism a parallel to the Cartesian quest for certainty, regularity, and a move towards the internal. We have also seen an aversion to allowing the contingencies of the empirical consequences of acts a role in determining praise or blame and right or wrong, and an avoidance of the uncertainties of knowledge gained from experience.[406]

An agent, rationalists would suppose, cannot be held accountable for having had a specific set of experiences, especially when these depend essentially on others' actions (i.e. their holding the agent accountable for her actions and conveying to her what will be

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[405] Cf. B. Aune, Rationalism, Empiricism, and Pragmatism: An Introduction (New York: Random House, 1970), p. vii.

[406] Cf. M. Nussbaum, The Fragility of Goodness, p. 20, where she contrasts two views of ethics. On the side corresponding to the position of ethical rationalism we find: "agent as purely active"; aim: "control; elimination of the power of the external", "trust reposed only in the immutable", and "intellect [pictured] as pure sunlight". The other side she characterizes as not so much the opposite but as a balanced mix of elements.

required). The agent can supposedly be held accountable for what a creature of her particular degree of rationality would or should be able to figure out on their own. Intentions, expectations, and ratiocination are internal and so apparently within an area of greater agent control.

I doubt whether children would figure out very much about morality without some interaction in a society that showed approval and disapproval. Perhaps even the ability to reason depends on interaction with other reasoners. On the other hand, my understanding of the justification for "1 + 1 = 2" is not that other reasoners taught me this, but rather that reason can demonstrate its truth. Perhaps, then, rationalists need not be very concerned about how irrational creatures acquire reason or moral understanding so long as they have a correct account of what any rational agent must agree to as morally right. [407]

Even so, this cavalier unconcern for the 'irrational' creature leaves open questions about their moral standing as objects of our actions. Clearly, we are not expected to have to show them the respect due a fully rational agent, but surely we still need to be given some justification for the violations of the rationalists' own "'ought' implies 'can'" principle which are necessary to teach them about being accountable because some respect is still due them. This justification cannot rest in their actually being accountable as they are, under the present supposition, not yet fully rational. What justifies holding one who is not yet worthy or deserving of being held accountable, accountable — especially while insisting that "'ought' implies 'can'"?

Donagan might reply that the justification lies not in their deserving to be treated as accountable, but in the benefit their moral education will be to them.[408] Of course, children are not being taught by participation that 'ought' implies 'can' on this view.[409] There must

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[407] Donagan would object to this way of describing the situation. He holds that children "are rational creatures, whose reason is in process of development". Cf. The Theory of Morality, pp. 66, 82-83 and 101. The reasoning of adults is also in process of development. But he does allow that force can be used on children for their own good. To satisfy Donagan, one may read "creatures whose reason is not yet mature" where I write "irrational creatures" in this section.

[408] Cf. The Theory of Morality, p. 82.

[409] But cf. The Theory of Morality, p. 12.

be, on this view, a different theoretical explanation of the treatment of children than that given for adults. They are treated as less than fully rational for they are treated as if 'ought' does not imply 'can'. This violation of the "'ought' implies 'can'" principle is supposedly justified in terms of future value to them.

In my view, on the other hand, children are considered to be treated the same as fully rational creatures — "'ought' implies 'can'" need not apply to either group — and that sameness is justified, as the violation of "'ought' implies 'can'" for children is justified for Donagan, in terms of future value to them. I hold that children become persons primarily because they are treated as persons. This is true of both their moral and their rational education, although their training must be paced to their current level of development.

Donagan holds that "respect for human beings as rational creatures entails, in general, treating every normal adult as responsible for the conduct of his own affairs".[410] In training children to be moral we must not be showing them this same respect. (Children will not be given the same respect as others on the matter of "'ought' implying 'can'".)

We would not, however, expect children to develop into full persons in virtue of being treated like, for example, dogs. We cannot hope to develop the sense of freedom in a creature we always treat as determined. I am suggesting that we can encourage the development of children's autonomy by ignoring the extent to which they are usually determined more easily and obviously by external forces than adults are. I do not believe we are to use their determinability as a ladder to be thrown away. The idea of raising a child in a "Skinner box" is offensive because, even if efficient at behaviour modification and control, it fails to show respect or treat the child as a person. The future good of the child will not justify any means toward that end.

Nor is the question of suspending "'ought' implies 'can'", to give moral training to the child, a peripheral point which the rationalist could simply concede without serious damage to his general position. Why cannot it equally be suspended in order to give moral training to adults, on the grounds of their future moral good as I have been advocating?[411]

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[410] The Theory of Morality, p. 82.

[411] The training here would often be like a maintenance program, continually putting

Presumably the answer must lie in the supposition that adults, being already fully rational, must be respected for their autonomy. Therefore, when adults are not treated as if "'ought' implies 'can'", they are not shown the respect due to autonomous beings.[412]

Children are being treated as if we could determine their future membership in the moral community for them. Showing respect to rational autonomous agents is the very basis of the rationalist ethical systems we are here considering.[413] So either what counts as showing respect to children is not the same as what counts as showing respect to others or they are not treated as autonomous agents; in neither case would it be possible for them to learn what is most basic to morality by participation.

My position does not have this problem because not being treated as if "'ought' implies 'can'" is not a matter of disrespect in either case on my view. One might think, however, that unless I assume that children are autonomous, children cannot learn to be autonomous agents by participation on my view either. But on my view children are treated as autonomous even though they are not. Donagan cannot follow me here because his theory needs some justification for treating adults differently than children (so that adults can count on "'ought' implies 'can'").

Again, Donagan himself has written that "blaming somebody for an action is, in part, holding him answerable for it."[414] He goes on at this place to point out that "to demand that [one] answer for something for which, as a rational agent, he cannot answer. . . . would be to refuse to respect him as a rational creature." I have been arguing that if we are to learn individual precepts of morality by participation,[415] then children will need to be blamed for actions from time to time before they can know the precept involved. In being blamed for the action they are being held accountable for the precept as one they ought to know. So the

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[411](cont'd) pressure on agents to keep their moral ideals high, to strive hard to meet obligations and to work towards eliminating possible dilemmas.

[412] Cf. Kant, Groundwork of the Metaphysic of Morals, p. 103, (Academy 436). "Autonomy is therefore the ground of the dignity of human nature and of every rational nature."

[413] Cf. Donagan, The Theory of Morality, pp. 65-66. Cf. also p. 35 (where autonomy is noted as a distinguishing mark of rational animals).

[414] The Theory of Morality, p. 121.

[415] As Donagan suggests at pp. 6, 12 and 134-135 of The Theory of Morality.

rationalist must suspend "'ought' implies 'can'" for those learning particular precepts by participation. But treating children this way either violates the basic rule for respecting agents, thus making it impossible that they should learn the basic rule by participation, or the basic rule is not being applied to children, again making it impossible that they should be learning it by participation.

Kripke's arguments about rule scepticism make it clear that a two-stage learning system will not work because the learning of precepts (the first stage) would never be completed. Also, not only are the learners failing to learn by participation the second stage (respect by treatment in accordance with "'ought' implies 'can'") while in the first stage, the opposite principles would actually be being reinforced.

This brings me to a further point of response to the rationalist move of holding persons accountable for knowing moral requirements only to the point which their rationality ought to have revealed the requirements. The rationalist flight from the contingencies of experience is no longer sufficient to avoid the problems of uncertainty. Meaning or rule scepticism attacks deductive reasoning, the very bastion of rationalism. And while we may not wish to adopt an extreme meaning or rule sceptical stance, we should at least admit that reason has not set the meanings of the terms it analyses. Reason does not decide how rules are to be followed or even what rule was intended. Thus the putative link between the agent's degree of rationality and a.) our holding her accountable for knowing the meanings of the moral terms (which we use to tell her what is required in the situation), or b.) our holding her accountable for applying the moral rule we have given her "correctly" is unfounded. I would suggest that this point is especially telling when the agent is initially learning the meanings or rules involved.

F. A Pluralist, Community-Based Alternative

A community's tradition or way of life likely has greater influence than reason on which meanings are available for analysis and on what constitutes "following a rule". "Meaning" and "rule following" are matters involving shared understandings and common

regular practices. I would not like, however, to make community standards the sole basis of morality. Saying what is morally right or wrong is different from telling the results of a survey on community standards. Community standards themselves can be judged to be immoral. I hold that while moral life starts out in the community, it need not remain community bound. Reason and rationality have a role to play in improving on the starting place of community standards.[416]

Some will object that the requirements of reason are universal, so that the "starting place" is not important. Rationality will require exactly the same standard regardless of the starting place. How can, or should, reason be limited by the past of the group to which an individual rational agent belongs? My response begins in pseudo-Kantian terms; if reason is to have a healthy respect for persons it must also have respect for that person's understanding of the world, her traditional community standards. Furthermore, if reason's solutions or requirements are to be recognized as solutions or requirements they must be expressed in meanings shared by those being addressed.

For example, the Bushman cannot understand the requirement of not stealing when it is applied to an object he cannot recognize as property. Or again, if an action is of a type which in the Bushman's group stands for initiating aggression, he will not see it as an appropriate punishment even when he feels a moral obligation to mete out some punishment. The culturally wrong rituals just elicit the wrong responses, however good the intentions.

If we turn to examples closer to home, many would regard as irrational the refusal to use or develop prime agricultural land to grow food, when so many are starving — especially when that land is not being used for any comparably rational purpose. Again, many would regard as irrational the refusal to use a huge food source to feed the starving on the grounds of some ancient taboo. Kant wrote that "as a rational being [a man] necessarily wills that all his powers be developed, since they serve him, and are given him, for all sorts of possible ends."[417]

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[416] Perhaps Donagan and I do not disagree at this level of generality.

[417] Cf. Groundwork of the metaphysics of morals, p. 90 (Academy p. 423). Admittedly Kant is writing of talents, not food sources and land. But Kant's reasons given for developing talents apply equally to foods and lands — they serve

Donagan agrees noting that "it [Aquinas's principle of practical reason] commands every human being, as far as he reasonably can, to promote human good generally, both directly . . . and indirectly (by producing the means for human flourishing, such as growing food)."[418] In this command Donagan finds Aquinas's version of the fundamental principle of morality. Moreover, Kant views helping those we can easily help as rational. Donagan and Alan Gewirth concur.[419]

Let me caution that some may find what I am about to suggest disgusting. My only justification for taking this liberty is that I hope to make the reader aware of how insensitive our imposed rational morals might be to those of different cultural sensibilities. Cemeteries render huge tracts of land useless for the production of basic necessities for living. It is only ancient cultural taboo that keeps us from turning graveyards into farms or housing. The emotional needs which are met by interment could be equally met in other ways — at least after a period of adjustment. Donagan holds, "[n]o social institution can create or destroy moral rights or duties".[420] Although he has in mind the social institution of legalised slavery, our traditional ways of respecting the dead clearly could not undermine our duty to aid the starving on this view. So Donagan must advocate doing away with graveyards, which is insensitive to the practices of our culture.

Moreover, the bodies of dead humans could be developed as a food source. Some cultures in the past used this source. The living are surely more important than the dead. Some bodies would be unhealthy because of disease, but inspectors could presumably determine edibility. Some might be willing to eat human flesh in an emergency, yet refuse to countenance the idea as a general practice. Is it more rational to prefer that meat rot? Or, as a culture do we simply not have the shared idea of dead humans as meat? I suggest that the latter is true and that the conventions may rightly be respected without first investigating their rationality.

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[417](cont'd) man, and are given to man (i.e. are available) for all sorts of possible ends.

[418] The Theory of Morality, p. 61.

[419] Cf. The Theory of Morality, pp. 85-86, and Reason and Morality, pp. 217-230.

[420] The Theory of Morality, p. 97.

I suspect that the very idea of having to rationally justify the morality of our practices of respecting the dead, especially relative to the proposal that we might use them for food instead, would offend many. I would argue that imposing moral rationality on the practices of other cultures, while being offended when the tables are reversed, is just hypocritical.

Also consider that Kripke's views may be used to show that reason's ability is limited. If no rational basis can be found for practicing addition in new cases the way we do rather than using some other mathematical function — because there simply is no fact about which rule was intended — then optimism about the universality of reason's rules for moral practices appears unfounded also. When the rationalist finds a rule which he believes is dictated by reason, there is no fact about which rule was meant for new cases. Perhaps, reason just cannot offer a universal single standard on the morality of, for example, the treatment of the dead.

I hold that a community-based pluralist morality better reflects the way moral accountability is assumed and learned. In particular, the significance of moral terms and various actions is determined culturally by common practices built up over time. We mostly will not even feel a need to rationally justify assigning accountability the way we do, seeing certain actions as morally required, or counting certain actions as the application of this or that moral rule, unless we are exposed to other ways of doing things.[421] Any universality in moral requirements and the way we apply accountability lies in the brute, but contingent, fact of cultural agreement. The rationalist asks for justification which cannot be had, while the pluralist community-based approach is based on agreement which can be had.[422]

My response to the question of how reason is to be limited by the past of the group is not totally satisfactory. What rationalists, in particular, would like is at least some rational basis for balancing questions of respect for cultural ways of doing things against the criticisms reason may raise against doing things this way. They will want a reason for accepting one

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[421] Cf. Donagan, The Theory of Morality, p. 33; "Characteristically, we become aware of what we presuppose when we encounter human beings whose intellectual traditions are not ours . . . ."

[422] Cf. Kripke, pp. 96-98 and 111-112.

balance rather than another. But to give an answer to this question would once again allow considerations of rationality (perhaps preconceived) priority over communities' conventions. We have reason's criticism of current moral practices. We have rational ideals which we pursue. But the application of these standards, how the rules are put into practice, is not likely to be the same everywhere.

We can work towards making the practices "consistent" (or at least foster practices involving fewer moral conflicts), and more like those of mathematics, but progress may be slow. Which way of doing things is really more "consistent" is not always obvious. Moreover, sometimes, even ideals which reason would condemn as inconsistent from many points of view outside a particular culture might need to be tolerated while new understandings and practices are built up within that culture. Also we might wish to resist the move toward "consistency" if this will remove all variety from human ways of doing things. We might value the variety found in differing cultures (which can be explored for its own sake) more than the avoidance of rare moral conflicts. Obviously, the plurality of standards, ideals, and ways of putting them into practice, would provide for the possibility of genuine moral dilemmas. We could be lucky in that these possibilities might never give rise to actual genuine moral dilemmas, but so long as these possibilities exist, genuine dilemmas are not in principle impossible.

G. A Note of Comparison with Hegel

Donagan might object that in a discussion of Hegel's rejection of Kant's ethics he has given general answers to the criticisms of a view similar to mine, and furthermore has advanced arguments against such pluralist communitarian views.[423] We will do well to consider briefly the similarity of my position with Hegel's, and whether Donagan's answers to and criticisms of Hegel might be successfully be applied against my position.

Similarities exist between my criticism of rationalist ethics and Hegel's criticisms of Kant's ethics on two points. I have 1.) raised questions about the relevance of rationalist ethics to our lives in the empirical world. I have also 2.) argued that morality must respect

[423] The Theory of Morality, pp. 9-17.

cultural practices. I argued the first point primarily in two ways. I argued that a.) the rationalist attempt to protect autonomy and accountability from the contingencies of the empirical world leads to a retreat into the inner world of intentions. I also have argued that b.) rule or meaning scepticism challenges reason's ability to rule on what constitutes correctly following its rules. Hegel has written:

> However essential it is to give prominence . . . to the way in which knowledge of the will, thanks to Kant's philosophy, has won its firm foundation . . . owing to the thought of its infinite autonomy, still to adhere to the exclusively moral position, without making the transition to the conception of ethics, is to reduce this gain to an empty formalism, and the science of morals to the preaching of duty for duty's sake. From this point of view no immanent doctrine of duties is possible . . . if the definition of duty is taken to be the absence of contradiction . . . then no transition is possible to the specification of particular duties . . . . But if duty is to be willed simply for duty's sake and not for the sake of some content, it is only a formal identity whose nature it is to exclude all content and specification.[424]

> While we laid emphasis above on the fact that the outlook of Kant's philosophy is a high one in that it propounds a correspondence between duty and rationality, we must still notice here that this point of view is defective in lacking all articulation. The proposition: 'Act as if the maxim of thine action could be laid down as a universal principle', would be admirable if we already had determinate principles of conduct. In Kant's case . . . his criterion of non-contradiction is productive of nothing, since where there is nothing, there can be no contradiction either.[425]

Charles Taylor puts the point in a way which brings out the similarity to my two arguments for this point even more.

> The problem with Kant's criterion of rationality is that it has purchased radical autonomy at the price of emptiness. . . . Kant attempted to avoid any appeal to the way things are, either to an order of ideas or a constellation of de facto desires. . . . Kant believed that this gave him a viable theory because he thought that the formal criterion would actually rule some actions in and others out. But the arguments to this effect are very shaky, and once one loses faith in them, one is left with a criterion that has no bite at all, which can allow anything as a morally possible action Moral autonomy has been purchased at the price of vacuity. This is a criticism that Hegel never tires of addressing to Kant.[426]

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[424] Hegel's Philosophy of Right, trans. T.M. Knox (Oxford: Oxford University Press, 1952), pp. 89-90.
[425] Hegel, pp. 253-254. Cf. C.W. Gowans, "Introduction the debate on Moral Dilemmas", in Moral Dilemmas, ed. C.W. Gowans (Oxford: Oxford University Press, 1987), p. 10.
[426] Hegel and Modern Society (Cambridge: Cambridge University Press, 1979), pp. 77-78.

Taylor suggests the argument that Kant must avoid appeals to "the way things are" (presumably, empirical reality) in order to secure moral autonomy acceptable to reason. Both Taylor and Hegel argue that problems plague the Kantian attempt to move from the principles given by reason to actual practice. (Of course, I do not suppose that they had in mind the Kripkean problem of rule scepticism; it seems clear that they did not.)

On the second point of similarity Hegel has written:

> A constitution is not just something manufactured; it is the work of centuries, it is the Idea, the consciousness of rationality so far as that consciousness is developed in a particular nation. . . . What Napoleon gave to the Spaniards was more rational than what they had before, and yet they recoiled from it as from something alien, because they were not yet educated up to its level. A nation's constitution must embody its feeling for its rights and its position, otherwise there may be a constitution there in an external way, but it is meaningless and valueless. Isolated individuals may often feel the need and the longing for a better constitution, but it is quite another thing, and one that does not arise till later, for the mass of the people to be animated by such an idea. The principle of morality, of the inner life of Socrates, was a necessary product of his age, but time was required before it could become part and parcel of the self-consciousness of everyone.[427]

The example of Socrates shows that Hegel has in mind rational moral principles as well as rational constitutions. (I do not believe, however, that education, when it does not involve the cultivation of new practices, is enough to gain acceptance for new rational moral principles, nor can education decide ultimately the rationality of any practice or application of principle.)

I do not mean to suggest any overall agreement between my position and Hegel's. That Hegel saw similar weaknesses in Kant as I see in ethical rationalism is perhaps not surprising given that Kant was an ethical rationalist.

Donagan has responded to Hegel's criticisms of Kantian ethics.[428] He believes that Hegel underestimates Kant's reverence for traditional or common morality. He also believes that it is possible, on Kant's model of moral theory, to derive specific, substantive moral principles from pure reason, and that therefore, rationalist ethics need not be purely formal and empty of content. Donagan also attacks Hegel's position as being itself devoid of specific content, and as unable to consistently account for someone being morally better than the tradition they happen to live in.

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[427] Hegel, pp. 286-287.
[428] The Theory of Morality, pp. 9-17.

On the question of Kant's acceptance of common morality, we should be concerned not so much with whether Kant actually held "that the business of philosophy was to explore common moral knowledge, not to deny or supersede it . . . ."[429] Rather we must decide whether Kant could hold this consistently with his ethical rationalism and in particular with the rejection of moral conflict and with his views on the importance of autonomy for morality (an acceptance of "'ought' implies 'can'"). I have been arguing that an appeal to community ethics in accounting for how morality is learned, far from guaranteeing that 'ought' implies 'can', guarantees the opposite: one learns by being held accountable before one can be accountable.

On the question of Kant being able to derive specific principles from his fundamental principle, and ultimately from pure reason, I doubt whether the degree of specificity that can be gained will be enough. I am concerned about the degree of specificity being insufficient in two ways. First, because so much of morality is a matter of good will or right intentions on the Kantian view, perhaps only internal acts are actually specified: any overt physical act will be inculpable so long as one had good intentions. Secondly, Kripke has shown that the rules can be as specific as those for addition; nevertheless, the rule does not tell us how to go on in new cases, how to determine that a particular case is a case for just this rule. No matter how specific a precept or principle seems, it can be extended in an infinite number of more specific ways when applied to some new case. (Moreover, this gap cannot be avoided, for if the "rule" is so specific that it applies to exactly one particular case with its unique time and place, then this is not a rule or principle at all.)

Donagan addresses two concerns about the lack of specific content in Kantian ethics which are different from the problems of the retreat to the internal and rule scepticism which I have raised. At least he does not consider the problems I have been raising directly, but he does develop an example which makes use of the idea that applying moral precepts can be an obvious matter.[430] I shall turn to this example shortly. Donagan perhaps comes somewhat

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[429] Cf. The Theory of Morality, p. 9.
[430] The Theory of Morality, pp. 15-17.

closer to considering the Kripkean type of lack of content later in his book,[431] but he makes a number of appeals to tradition in dealing with the question of applying precepts. He also admits there that problems of application are less likely to arise from bizarre cases as from deeper consideration of traditionally known cases. (I wonder where one would find "obvious" cases, if not among those already considered by the tradition.)

In replying to the question of someone supposing that "duty for duty's sake" means an empty aimless life, the sole point of which is obeying moral law, Donagan rightly points out that Kant recognized happiness as a natural end for man, which everyone does have in addition to any desire to do her duty.

The second problem he recognizes is that of deriving substantive precepts from the purely logical and a priori principles which can be generated form reason alone. Of course, the reason Donagan does not address my concerns may be that while they have similarities to Hegel's criticism of Kant, Hegel's points just are different from mine.

Donagan's claim that Hegel cannot consistently praise Socrates as better than his fellows is partially answered in the quotation from The Philosophy of Right about constitutions. Socrates was ahead of his time. The common morality of one age, as well as other features of the times, influences the morality of the next age. Some perceptive individuals may be influenced by these "forces" (reasons, points of view, exposure to new rituals, changes in language, etcetera) sooner than the majority of their fellows. Admittedly, progress is assumed in this explanation. Donagan does not believe that Hegel is justified in assuming that common morality is improving. If we think about the development of Germany into the Third Reich we might agree with Donagan.

On the other hand, Socrates' arguments had influence, starting in his own community and continuing through a variety of moral cultures up to our own time. Most of the arguments of Nazism are out of step with this long tradition. Donagan might wish to hold that Socrates' power to convince so many from diverse backgrounds lay in his rationality. Provided we note that many common influences have acted on the various conceptions of

[431] The Theory of Morality, pp. 66-74.

reason and morality at work in the cultures reached by Socrates' rationality, Hegel might be able to agree that reason played a role. Unlike Donagan, I am inclined to interpret Hegel as having some respect for the role of reason in morality. If I am wrong in interpreting Hegel and Donagan is right, then here is simply a further difference between myself and Hegel. For I can allow that reason has some role to play, what I cannot allow is that its role extends to eliminating genuine moral conflicts or guaranteeing certain versions of "'ought' implies 'can'".

Consider now Donagan's claim that it is actually morality based on the standards of the local culture, rather than those based on rationality, that lack specific content. Donagan uses an example based on the experience of an Austrian farmer in World War II. This man was considering refusing to serve in the German army. The penalty for not serving was death. The farmer consulted his priest and bishop. Donagan takes their advice — that he not resist service — to be based on the mores of the German culture of that day. But, Donagan claims, rationalist morality did indicate that one was right in not serving in an unjust war, and enough evidence was available to the persons in this case to show that the war was unjust. Even the farmer could see the war was unjust; he died rather than serve.

In response, let me first point out that the dispute in this example is not necessarily between rationality and the Nazi society. Perhaps, the dispute is between a newer and an older system of mores, one having little precedent and not yet having stood much test of time. When one is considering giving up an older way of doing things for a newer, perhaps one should be cautious, at least looking to see if reasoning neutral to the two viewpoints can be found and whether it supports the change. I would suspect that the best changes will be those where people holding to the traditional outlook can be convinced by reasons, based in large part on the traditional view, that change will be for the better. The example shows that the priest and bishop switched the community standards they were willing to appeal to with untoward haste. I do not know whether Hegel can agree with my response, but his comment about Socrates' moral principles becoming in time "part and parcel of the consciousness of everyone" of his age suggests that some link of reason may connect one age to future ages.

Moreover, even a rational thinker like Socrates is claimed to be a necessary product of his age.

Someone supportive of Donagan's position might object that my response, while placing restrictions on how social values evolve, does not show that an appeal to cultural values could rule out any concrete standards whatsoever. This objection may be true in principle; that is to say, the various cultural systems of value might have had nothing in common. Even so I can respond that, given the empirical facts, we have enough values in common to communicate on moral topics across cultures. Not just any content will do. Indeed, Donagan recognizes that one of the two basic principles of morality is common to many communities.[432] Having points of morality in common between cultures is not surprising given the similarity of basic human needs. When we consider that basic needs played a greater role in cultures of the distant past, and that the best cultural changes retain some link to their past, we can see common threads running through the various standards.

Donagan's development of his example of the farmer resisting serving in the Nazi military introduces a further problem for my position. In objecting to the appeal to the mores of that German community Donagan writes, "according to those mores, apart from such fanciful possibilities of war with the declared intention of destroying the church as an institution, no individual citizen was deemed capable of assuring himself that any war his country proposed to wage was unjust".[433] One senses that Donagan finds this result outrageous. If someone thought that Kripke was arguing that no one is to be deemed capable of assuring himself that '68 + 57' does not yield '5', they might be similarly outraged. Fortunately, the point is not that people cannot assure themselves of the obvious — Kripke is aware that mathematical proofs could be given — rather that the assurance is not derivable along rationalist lines.

Moreover, two paths are available leading to doubt about the unjustness of the war in even an obvious case like this one used by Donagan. The first relies on Kant's claim that we can not even judge the worthiness of our own intentions.[434] One's intention is worthy if one

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[432] The Theory of Morality, p. 58. Cf. also pp. 134-135.
[433] The Theory of Morality, p. 17.
[434] Cf. The Critique of Pure Reason, A551=B579 note, p. 475. See also Kant's Groundwork of the Metaphysic of Morals, Chapter II, especially the first three

intends to act on the right motive.[435] If we cannot tell in our own case whether our intentions are worthy or not, then how can it be so obvious to us that the Nazi leadership's intentions were wrong? Presumably, Kant must hold that the moral status of their intentions is not obvious.[436] But, Donagan maintains that a just war is one undertaken with a right intention.[437]

Donagan apparently has to disagree with Kant on this point, and maintain instead that the moral status of the intentions of even others can sometimes be obvious to one.[438] Donagan will need, if he wishes to disagree with Kant, to make room for this unkantian position as he certainly admits that culpability cannot be "read off" from the wrongness of the acts.[439] Now it is true that we have access to some indications of agents' intentions. We sometimes have their statements of what they are trying to do. Sometimes we can observe their reactions for discovering what makes them happy and satisfied, or disappointed, worried and upset. But Donagan admits in developing this example that we cannot trust the statements of state leaders about the justness of the wars they lead their people into. Nor does the average citizen have much opportunity to observe the natural reactions of state leaders to a variety of situations.

In response, I point out that the obviousness of the worthiness of intentions might be more a matter of sharing the same culture as the agent with these intentions, than of prowess

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[434](cont'd) paragraphs, and The Metaphysics of Morals, Part II, p. 51 (Academy, 392). Also in Moral Dilemmas, ed. C.W. Gowans, p. 48.

[435] The Theory of Morality, p. 127.

[436] In the Groundwork, p. 75, Kant writes, "but in fact we can never, even by the most strenuous self-examination, get to the bottom of our secret impulsions; for when moral value is in question, we are concerned, not with the actions which we see, but with their inner principles which we cannot see." In The Metaphysics of Morals, p. 51, he writes, "man cannot so scrutinize the depths of his own heart as to be quite certain, even in a single action, of the purity of his moral purpose . . . ." In The Critique of Pure Reason, A551=B579, he writes, "The real morality of actions, their merit or guilt, even that of our own conduct, thus remains entirely hidden from us."

[437] The Theory of Morality, p. 15. He gives other criteria as well, but he appeals to the large agreement among Catholic moralists as to how the criteria are applied. In other words, he appeals to the standards of a community rather than to reason itself.

[438] The Theory of Morality, p. 127.

[439] The Theory of Morality, pp. 54 and 112.

in reasoning. Donagan will need to strengthen his position here, for even in the case of the Nazi leadership, doubts about their true intentions are in order, given our dependence on external evidence. Of course one might find the idea that we cannot know that the Nazi leadership had bad intentions counter intuitive. I do. But I, unlike rationalists, do not mind the appeals made to external evidence in establishing that their intentions were bad. Donagan must worry about anything not under these agents' direct control tainting the evidence, and hence, any external evidence is dubitable. In any case, another path to doubt is available.

The second path leading to doubt of the "obvious" unjustness of the war (and in other cases whatever makes for the straightforwardness of applying a moral precept) lies with the newness of the case to which the rules are being applied. Can any reason be given as to what should count as "going on as we did with these rules before"? Practices change. Treating rules as laying down something static within the evolving changes of cultural practices merely ignores the newness of the changing ways of life. Thus, not merely does each agent necessarily go through a period of new cases, but rather every decision is necessarily a new case. The extent to which any given agent understands how to apply moral rules rightly depends importantly on matters outside her control: her cultural background.

So clearly, if one holds that 'ought' implies 'can', the only way any agent can be held morally accountable on any occasion (i.e. even in the obvious cases) is under the assumption that the influence of her cultural background on her understanding of what was morally required of her was legitimate and proper. But one's cultural community cannot influence only in accordance with "'ought' implies 'can'", for one continues to learn how to apply the moral rules in new cases, by continued participation in the tradition. One's culture has no other means by which to teach or influence. And moral accountability cannot get started without it, even in the obvious cases.

Chapter VII

CONCLUSION

I have argued that unavoidable blameworthiness exists by attempting to show how genuine moral dilemmas can occur and how some obligations can not be fulfilled. My strategy has been to concentrate on the arguments against unavoidable blame, moral dilemmas, and unfulfillable obligations put forward by ethical rationalists. I have done so because I believe that their view is very attractive and captures sentiments popular within ordinary morality.

The argument begins from an investigation of the "'ought' implies 'can'" principle. There are problems specifying the type of possibility which this principle requires so as to conform with the way we actually do excuse and hold agents accountable. Part of the problem is that in real life any particular action is not limited by any one simple impossibility. Moreover, one usually could have avoided the impossibility. Thus, impossibility does not appear to be an accurate guide to the limits of accountability.

The much discussed "contradiction" which supposedly arises from the "'ought' implies 'can'" principle when held conjointly with the agglomeration principle and the view that dilemmas are genuine was shown not to exist for a number of versions of "'ought' implies 'can'". The supporters of genuine dilemmas have been wrongly presented as forced to choose between giving up the agglomeration principle or "'ought' implies 'can'".

Even so, a more serious problem is uncovered for those holding to the genuineness of dilemmas by looking to the ethical rationalists motivation for accepting "'ought' implies 'can'": there is no unavoidable blameworthiness. I believe that if the rationalist were to accuse those who accept genuine dilemmas of giving up unavoidable blameworthiness, the criticism would be correct. I admit that rationalists can accept some dilemmas as genuine in the cases of dilemmas secundum quid and moreover that some supporters of genuine dilemmas have accepted this limitation. But the dilemmas which remain after subtracting those which are unavoidable are not very tragic. Dilemmas secundum quid are just cases of agents getting what they had coming; surely it is not a tragedy to get what one deserves.

Many might quite happily give up tragedy in ethics, so I argue further that real life cases do on rare occasions involve agents being held accountable for more than they could do or prevent. I argue that there are pragmatic advantages to so holding agents accountable. Moreover, I argue that the opposing view, seeing matters as black or white, does not capture the greys of real life situations, situations which involve taking risks for the sake of noble and worthy ideals. Again I argue that a little unavoidable accountability may actually motivate moral behaviour.

More specifically, the strategy of ethical rationalists to remove accountability to an internal realm of mental states is not successful in avoiding moral dilemmas. The everyday lives of people contribute to their moral beliefs. People are not aware of every contradiction which may result from their beliefs. One can find oneself in circumstances where one honestly believes that every course of action is wrong, try though one might to take a different view. In such a case, when one chooses a course of action one will be culpable for knowingly choosing wrong. Donagan's position at least has not ruled out the possibility of second-order (internal) genuine dilemmas.

Part of my strategy has been to show that in examples with any complexity mirroring that of real life often no one would really wish to claim that the agent was wrong in doing what led to moral dilemma: the risk taken by the amateur athlete, the nuclear scientists, the sister who visits her dying brother knowing that his wife has left him, the parents who adopt an older child. Sometimes the search for a previous wrong may be futile, or worse, destructive of legitimate and valuable human ideals and goals. At the same time, some balance is required or everyone will have good excuses; blameworthiness will be too easily avoided.

Looking at the first-order system of precepts I considered the two main candidates for the fundamental principle. The principle which requires that each rational agent be regarded as an end in herself rather than as a mere means, does not specify that one will never come across conflict in obeying this requirement. The case of killing in self-defense is a good example because clearly the attacker is not treated as a rational agent under what usually counts as treating another as an end. Nor is the justification for making an exception here

obviously dictated by the principle itself.

In the case of the other main principle — do what can be willed to be universalized — the question is whether all the maxims can be jointly willed to be universal in a dilemma situation. The problem is that sometimes the negation of the maxims cannot be separately willed to be universal either. I suspect that the rationalist system really does attempt to model itself after logical systems. I offer an alternative account of what it means to say that moral rules must be followed, or express necessary requirements. I suggest that this means they are not overridable by non-moral requirements and that blame is the necessary consequence of non-compliance.

But new and initially attractive proposals have been made by Donagan to deal with the problem of conflicting promises. The problem of conflicting commitments is special because there is only one rule — keep your promises — which does not, therefore, conflict with others, and one can come into conflicts even towards promisees who are innocent. Donagan's conditions rely too heavily on the epistemic notion of acceptable belief. The result is that either what counts as acceptable belief is objective and based on known probabilities, making promising nearly impossible for ordinary people, or what counts as acceptable belief is subjective which does not afford promisees as much protection as would be right.

Donagan tries to appeal to community standards of acceptability in his appeal to acceptable beliefs and claims that we learn morality by participation in a moral community. These appeals to community do not fit well either with his rationalism or the rejection of unavoidable blame. Surely if children are to brought into the moral community they must be held accountable in various ways as they grow into agenthood. But if they are not yet agents then they should not be held accountable, because it is precisely agents who can avoid the actions which are blameworthy. How could we wait for children to magically become accountable before holding them so? On the rationalist view real accountability, being internal, could only be assessed by God, who ordinary human parents are not. Thus I hold that some unavoidable blameworthiness must be accepted.

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APPENDIX

A. Passages From Kant Relevant to "'Ought' Implies 'Can'"

I

Does 'Ought' Imply 'Is Possible'?

> This 'ought' expresses a possible action the ground of which cannot be anything but a mere concept; whereas in the case of a merely natural action the ground must always be an appearance. The action to which the 'ought' applies must indeed be possible under natural conditions.[440]

> For since reason commands that such actions take place, it must be possible for them to take place.[441]

> For it would not be a duty to pursue a certain effect of our will (whether it is thought of as completed or as continually approaching completion), if it were not possible to do so in experience . . . .[442]

II

The Meaning of 'Possible'

> That which agrees with the formal conditions of experience, that is, with the conditions of intuition and of concepts, is possible.

> Thus if it is in connection only with the formal conditions of experience, and so merely in the understanding, its object is called possible.[443]

> But if we should seek to frame quite new concepts of substances, forces, reciprocal actions, from the material which perception presents to us, without experience itself yielding the example of their connection, we should be occupying ourselves with mere fancies, of whose possibility there is no criterion since we have neither borrowed these concepts [directly] from experience, nor have taken experience as our instructress in their formation. . . . [C]oncepts the possibility of which is altogether groundless, as they cannot be based on experience and its known laws; and without such confirmation they are arbitrary combinations of thoughts, which, although indeed free from contradiction, can make no claim to objective reality, and none, therefore, as to the possibility of an object such as we here profess to think.

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[440] Critique of Pure Reason, A547-A548=B575-B576, trans. N. Kemp Smith (Toronto: Macmillan, 1929), p. 473.
[441] I. Kant, Critique of Pure Reason, A807=B835, pp. 637.
[442] In Perpetual Peace and Other Essays on Politics, History and Morals, T. Humphrey trans. (Indianapolis: Hackett, 1793, 1983) p. 62.
[443] Critique of Pure Reason, A218 or B265 and A234 or B286, pp. 239 and 252.

It does, indeed, seem as if the possibility of a triangle could be known from its concept in and by itself . . . . But since this is only the form of an object, it would remain a mere product of imagination, and the possibility of its object would still be doubtful. To determine its possibility, something more is required, namely, that such a figure be thought under no conditions save those upon which all objects of experience rest.[444]

Moreover, the poverty of the customary inferences through which we throw open a great realm of possibility, of which all that is actual (the objects of experience) is only a small part, is patently obvious. . . . It does indeed seem as if we were justified in extending the number of possible things beyond that of the actual, on the ground that something must be added to the possible to constitute the actual. But this [alleged] process of adding to the possible I refuse to allow. . . . What can be added is only a relation to my understanding . . . .[445]

III

Does 'Ought' Imply 'I Think I Can' Or Perhaps Even 'I Know I Can'?

Freedom is here being treated only as a transcendental idea whereby reason [i.e. in commanding the 'ought'] is led to think that it can begin the series of conditions in the [field of] appearance . . . .[446]

He judges, therefore, that he can do something because he knows that he ought . . . .[447]

[H]e must judge that he can do what the law unconditionally commands he ought to do.[448]

[T]o know that we can do it because our own reason acknowledges it as its law and says that we ought to do it . . . is inseparably present in the consciousness of the law . . . .[449]

[M]an is aware that he can do this because he ought to . . . .[450]

Taken objectively, morality is in itself practical, for it is the totality of unconditionally binding laws according to which we ought to act, and once one has

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[444] Critique of Pure Reason, A222-A224 or B269-B271, pp. 241-242.
[445] Critique of Pure Reason, A231 or B283-284, p. 250.
[446] Critique of Pure Reason, A558=B586, p. 479.
[447] I. Kant, Critique of Practical Reason, trans. L. White Beck (Indianapolis: Bobbs-Merrill, 1956), p. 30 (Academy edition pagination).
[448] I. Kant, Metaphysical Principles of Virtue (Part II of The Metaphysics of Morals), trans. J. W. Ellington (Indianapolis: Hackett, 1964, 1983), p. 37.
[449] Critique of Practical Reason, p. 159 (Academy edition pagination).
[450] "On the Proverb: That May be True in Theory, But Is of No Practical Use", in Perpetual Peace and Other Essays on Politics, History, and Morals, p. 70.

acknowledged the authority of its concept of duty, it would be utterly absurd to continue wanting to say that one cannot do his duty. For if that were so, then this concept would disappear from morality (ultra posse nemo obligatur) . . . .[451]

IV

Might What Ought Not to Be, Be Inevitable?

[R]eason will not give way to any ground which is empirically given. Reason . . . here . . . frames for itself . . . an order of its own . . . according to which it declares actions to be necessary [i.e. ought to be done], even although they have never taken place, and perhaps never will take place.

For it may be that all that has happened in the course of nature, and in accordance with its empirical grounds must inevitably have happened, ought not to have happened. [452]

[R]eason exhibits it [i.e. the moral law] as a ground of determination which is completely independent of and not to be outweighed by any sensuous condition.[453]

V

Does 'Ought' Imply 'Can With Supernatural Help'?

If a man's own deeds are not sufficient to justify him before his conscience (as it judges him strictly), reason is entitled to adopt on faith a supernatural supplement to fill what is lacking to his justification . . . .

That reason has this title is self-evident. For man must be able to become what his vocation requires him to be (adequate to the holy law); and if he cannot do this naturally by his own powers, he may hope to achieve it by God's cooperation from without (whatever form this may take).[454]

VI

Does 'Ought' Imply 'Some Efficacy'?

Obviously, if all causality in the sensible world were mere nature, every event would be determined by another in time, in accordance with necessary laws. Appearances, in determining the will, would have in the actions of the will their natural effects, and would render the actions necessary. . . . For practical freedom presupposes that although something has not happened, it ought to have happened, and that its cause, [as found] in the [field of] appearance, is not, therefore, so determining that it excludes a causality of our will -- a causality which,

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[451] "To Perpetual Peace A Philosophical Sketch", in Perpetual Peace and Other Essays on Politics, History, and Morals, p. 127.
[452] Critique of Pure Reason, A548=B576 & A550=B578, p. 473-474.
[453] Critique of Practical Reason, p. 29-30 (Academy edition pagination).
[454] The Conflict of the Faculties, Trans. M. J. Gregor (New York: Abaris, 1979), pp. 75-77.

independently of those natural causes, and even contrary to their force and influence, can produce something that is determined in the time-order in accordance with empirical laws, and which can therefore begin a series of events entirely of itself.[455]

That our reason has causality, or that we at least represent it to ourselves as having causality, is evident from the imperatives which in all matters of conduct we impose as rules upon our active powers. 'Ought' expresses a kind of necessity and of connection with grounds which is found nowhere else in the whole of nature. The understanding can know in nature only what is, what has been, or what will be. We cannot say that anything in nature ought to be other than what in all these time-relations it actually is. When we have the course of nature alone in view, 'ought' has no meaning whatsoever. It is just as absurd to ask what ought to happen in the natural world as to ask what properties a circle ought to have. . . .

This 'ought' expresses a possible action the ground of which cannot be anything but a mere concept; whereas in the case of a merely natural action the ground must always be an appearance. The action to which the 'ought' applies must indeed be possible under natural conditions. These conditions, however, do not play any part in determining the will itself, but only in determining the effect and its consequences in the [field of] appearance. No matter how many natural grounds or how many sensuous impulses may impel me to will, they can never give rise to the 'ought' . . . . [R]eason will not give way to any ground which is empirically given. . . . And at the same time reason also presupposes that it can have causality in regard to all these actions, since otherwise no empirical effects could be expected from its ideas.[456]

[Freedom] must also be described in positive terms, as the power of originating a series of events.[457]

VII

The Examples

Suppose that someone says his lust is irresistible [i.e. cannot be resisted] when the desired object and opportunity are present. Ask him if he would not control his passion if, in front of the house where he has this opportunity, a gallows were erected on which he would be hanged immediately after gratifying his lust. We do not have to guess very long what his answer would be. But ask him whether he thinks it would be possible for him to overcome his love of life, however great it may be, if his sovereign threatened him with the same sudden death unless he made a false deposition against an honorable man whom the ruler wished to destroy under a plausible pretext. Whether he would or not he perhaps will not venture to say; but that it would be possible for him he would certainly admit without hesitation.[458]

VIII

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[455] Critique of Pure Reason, A534=B562, p. 465. Notice that the terms 'ought' and 'can' do occur in the last sentence here, and while 'implies' does not, 'therefore' does.

[456] Critique of Pure Reason, A547-548=B575-576, p. 472-473.

[457] Critique of Pure Reason, A554=B582, p. 476.

[458] Critique of Practical Reason, p. 30 (Academy edition pagination).

'Ought' Implies 'Must Be Able'

> We ought to conform to it [i.e. our morally-legislative reason]; consequently we must be able to do so. . . . For how it is possible that the bare idea of conformity to law, as such, should be a stronger incentive for the will than all the incentives conceivable whose source is personal gain, can neither be understood by reason nor yet proved by examples from experience.[459]

> For when the moral law commands that we ought now to be better men, it follows inevitably that we must be able to be better men. . . . Yet he [i.e. man] must be able to hope through his own efforts to reach the road which leads thither . . . because he ought to become a good man and is to be adjudged morally good only by virtue of that which can be imputed to him as performed by himself.[460]

[459] Religion Within the Limits of Reason Alone. Trans. T.M. Greene and H.H. Hudson (New York: Harper, 1934, 1960), p. 55-56.
[460] Religion Within the Limits of Reason Alone. p. 46.