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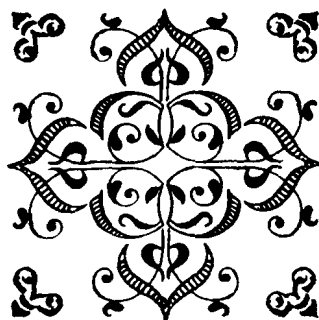
## Hare's Theory of Rational Assent

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## *XI. Hare's Theory of Rational Assent*

IN this paper I want to defend Hare's ethical theory against an interesting criticism by D P Gauthier, viz: that the moral judgment, 'C may incarcerate me' does not entail the prescription, 'Let C incarcerate me'. Thus a person may accept the former while refusing to assent to the latter without inconsistency ('Hare's Debtors', *Mind* LXVII, July 1968, 400-405). If Gauthier is right, Hare's universal prescriptivism has not provided us with a procedure for settling certain cases of conflicting desires. I shall argue that Gauthier's criticism overlooks two crucial points regarding Hare's ethical theory, viz: (1) According to Hare's universal prescriptivism a person cannot accept a moral judgment, 'C may do x' unless he can assent to the corresponding prescription, 'Let C do x'; (2) Hare's ethical theory includes a theory of rational assent which holds that a person cannot assent to a prescription, if doing so conflicts with his desires.

### I

Consider the test case: 'A owes money to B, and B owes money to C, and it is the law that creditors may exact their debts by putting their debtors into prison. B asks himself, "Can I say I ought to take this measure against A in order to make him pay?"' (*Freedom and Reason*, 90-93). In order for B to formulate the moral judgment, 'I ought to incarcerate A', he must be employing 'ought' both universalizably and prescriptively. To do this B must assent to the prescription, 'Let C incarcerate me', and this he will not do, since it is against his desires to go to prison. So, according to Hare's theory, B must reject the moral judgment from which this unacceptable prescription derives.<sup>1</sup>

But exactly what does B ask himself? Since the relevant judgment is formulated in terms of 'ought', it would seem that B is deliberating over whether or not he is required to incarcerate A. This is misleading. B is not concerned about what he *must* do. Rather he is concerned about what he is *permitted* to do. If he can successfully universalize the judgment, 'I ought to incarcerate A' then he *may*

incarcerate A; if he cannot, he may not. We must then ask whether 'C may incarcerate me' entails 'Let C incarcerate me? If not, then dissenting from the latter does not require rejecting the former.

Gauthier contends that the prescription, 'Let C put me into prison' is not entailed by the judgment, 'C may put me into prison'. Hence B may accept both the moral principle, 'Anyone who is in my position may put his debtor into prison' and the prescription, 'Let C *not* put me into prison'; and still assert 'Let me put A into prison'.

Gauthier points out that the permission, 'P may do x' may be interpreted in a weaker and a stronger way. In the weaker sense it is simply the denial of the requirement, 'P ought not to do x'. In the stronger sense it is the denial of both the requirements, 'P ought to do x' and 'P ought not to do x'. The stronger interpretation implies that it is indifferent whether or not P does x. In other words, P is justified in doing x and is justified in not doing x. Both interpretations of 'P may do x' are compatible with the judgments, 'P ought to do x' and 'P ought not to do x', as well as their denials. Thus, both are compatible with the imperatives, 'Let P do x' and 'Let P not do x'.

Gauthier considers an objection to this. According to Hare's theory of prescriptive inference (*The Language of Morals*, 17-31) 'P may do x' is compatible with 'Let P not do x'. However, if someone says 'You may do x', he would normally be taken to be giving permission. And if someone says 'Don't do x', he would normally be taken to be forbidding or prohibiting you from doing it. Generally to combine permission with prohibition is unwarranted and even, in some cases, self-defeating. And 'Permissions and prohibition are not generally compatible, so that either Hare's theory or [Gauthier's] account of it must be mistaken' ('HD', 403).

Gauthier replies that this objection confuses two senses of 'permit'. One sense indicates what is morally permissible (permit 1) where this includes what is morally indifferent. The second sense refers to what a person permits, i.e. what he acquiesces in or what he allows to happen (permit 2). This second sense explains how it is possible for a person not to permit 2 what he acknowledges to be permissible 1.

And it is not always the case that a person need, or even should allow what is permissible to happen. he may be entitled to oppose it. So if permission is taken to imply acquiescence (i.e. permit 2) or withholding opposition then a person may rightly not permit (permit 2) what he acknowledges to be permissible (permit 1) ('HD', 403).

Hare suggests that either C and B *both* ought to imprison their debtors, or that they *both* ought not to, or that it is indifferent what they do (*FR*, 102). This last possibility is left unexplored. Consider the following passage which is crucial to Hare's argument:

... the last alternative leaves it open to B and C to do what they like in the matter, and we may suppose that, though B would like to have this freedom, he will be unwilling to allow it to C, it is as unlikely that he will *permit* C to put him (B) into prison as that he will *prescribe* it (FR, 102).

Gauthier asks what the sense is in which Hare is using 'permit'. If we interpret 'permit' in the first sense, B's not agreeing that C's incarcerating him is permissible 1 is, though possible, very implausible. The conditions of universalizability and prescriptivity tell us that *if* B does not admit that C is justified in incarcerating him then he cannot consider himself justified in incarcerating A. But 'Hare gives us no reason why B should refuse to admit that C's action is permissible' ('HD', 404). Taking 'permit' in the second sense, B's unwillingness to have C incarcerate him, is irrelevant to the permissibility 1 of such an action. This is so since the fact that B will not permit 2 C to incarcerate him is compatible with B *himself* judging that C is entitled to take such action, that is, that C is permitted 1 to incarcerate him. So it does seem that Gauthier is right in maintaining that a person may not permit what he acknowledges is permissible. And so his claim that the moral judgment 'C may put me (B) into prison' does not entail the prescription 'Let C put me (B) into prison' still stands.

What if we interpret 'Let C put me into prison', not as a command, but as an expression of permission? Then it is entailed by 'C may put me into prison'. And if one rejects the former, he must also reject the latter. However, this is so because it is itself a moral judgment. Thus accepting it no longer depends on desires or inclinations. Consider:

B can refuse to accept it [Let C put me into prison] because of his strong inclination not to go to prison, only if he maintains that his inclination makes C's attempt to imprison him unjustifiable. *And Hare cannot suppose that as the basis of his argument* ('HD', 405, my italics).

If 'Let C put me into prison' is interpreted as an expression of acquiescence, then it is not entailed by 'C may put me into prison', where the latter is equivalent to 'C is morally permitted to put me into prison'. If we reinterpret 'C may put me into prison' as an expression of acquiescence, then it does entail 'Let C put me into prison'. This is so only because it is not then that moral judgment which is entailed by the moral principle that — anyone who is in my position may put his debtor into prison.

Thus, according to Gauthier, Hare cannot base his ethical theory on the debtor example for the following reasons: (1) No prescription follows from moral judgments which express permissions. So, in the bilateral case, the debtor may accept the moral judgment, 'C may put

me into prison' as well as the prescription, 'Let C not put me into prison' without inconsistency. (2) There are two senses of 'permit', one which refers to what is morally permissible, another which refers to what a person acquiesces in. Confusing these two senses leads one to suppose that either (a) or (b) is true: (a) The moral permission, 'C may put me into prison' entails the expression of acquiescence, 'Let C put me into prison'. But it doesn't. (b) If the moral permission, 'C may put me into prison' does entail the expression of acquiescence, 'Let C put me into prison', it does so only if one reinterprets 'Let C put me into prison' as an expression of moral permission. And accepting this can no longer depend on desires.

## II

Is one ever justified in accepting a judgement that someone may do x and yet assent to the imperative or prescription, 'Don't do x!'? Gauthier's answer is that it is justifiable, once we distinguish between two senses of 'permit'. Gauthier cites the example of a competitive game in which one may oppose what is permissible 1. In such a case, one says, in effect: you are permitted 1 to put me into prison (if you can) and I prohibit (not permit 2) you from doing so (if I can).

This overlooks, however, the important point that the distinction between two senses of 'permit' is tenable only if moral situations are best illustrated on the model of competitive games. But Gauthier gives us no reason to suppose that they are. And there is reason to think they are not. Moral reasoning has, as one of its salient goals, the task of providing a procedure which rationally adjudicates competing claims and conflicts of interest. It is the logical principle of universalizability which shows B that A's desires are relevant to his (B's) moral reasoning, thus generating the conflict *in the first place*. It is then the prescriptivity of the moral 'ought' in conjunction with what B wants which, according to Hare, resolves the conflict. Remember that B asks himself, 'Can I incarcerate A in these circumstances given his inclinations?'. Here 'can' signifies neither what is legally permissible nor what B has the *power* to do. Rather what B wants to know is whether his judgment to incarcerate A *can be defended on rational grounds*. That is to say, are there rules for adjudicating the conflict the application of which results in eliminating it (the conflict)? Rather than eliminating the conflict, reasoning on the model of competitive games provides a vehicle for further exacerbating it.

The core idea is that if it is permissible 1 for someone to do something in a *moral situation*, then the fact that it is permissible 1 calls on the rationality of other agents to recognize the justifiability of this act. That is, the permissibility 1 of the action requires that others support it by permitting 2 its occurrence. If Jones is morally justified in doing x then others are *not* justified in preventing him. In other words saying that someone is justified in doing x implies that he has a right to do x,

and if someone has a right to do x, then others have the correlative duty to honour his right.<sup>2</sup>

### III

The confusion as I see it rests on a failure to understand the purpose in applying Hare's procedure in the first place. This apparatus is designed to function as a method not only for deciding which course of action is morally permissible but, in doing so, it first functions as a procedure for determining that to which a person can rationally assent. If, in applying the principles of universalizability and prescriptivity, the agent is left with a prescription to which he is unwilling to assent, since it is contrary to his desires, then he cannot rationally accept the moral judgments and moral principles which generate this prescription. If, on the other hand, the result of universalizability and prescriptivity does not yield a prescription which is contrary to his desires, then he can rationally accept the moral judgment and moral principle which generates it. This is why Gauthier is wrong when he says, 'B's refusal to acquiesce is quite compatible with his admission that C is justified in imprisoning him'. *According to Hare's theory what is permitted 1 is determined by what a person does not permit 2 or acquiesces in.* The fact that a person does not permit 2 someone from acting toward him in a certain way is incompatible with his judging the action as being permissible 1. In other words, if one's reasoning is to follow the structures placed on it by universalizability and prescriptivity, then one is permitted 1 not to permit 2 some action only if that action is not permissible 1, that is, only if the person could not universalize the moral judgment on which it is based since doing so would commit him to a prescription which would be contrary to his desires and thus, would be something to which he cannot assent. Furthermore, it is his *not* acquiescing in this behaviour which makes it impossible for him to judge it to be sanctioned by a universal prescription; and it is this impossibility which makes it impermissible 1.

Similarly, one must scrutinize Gauthier's claim that 'if Hare means that B is unlikely to admit that C is justified in imprisoning him, then his claim (that he will not permit C to put him (B) into prison) is relevant but unsubstantiated' ('HD', 404). It is unsubstantiated, according to Gauthier because Hare gives us no reason why B should refuse to admit that C's action is permissible. But he does. Hare claims that after applying the principles of universalizability and prescriptivity B is committed to the prescription, 'Let C put me into prison', and this he (B) cannot permit 2 (assent to), since it is contrary to his desires. Since he cannot permit 2 (assent to) this prescription, he cannot conclude that it is permissible 1 for C to incarcerate him.

Gauthier contends that when we interpret 'Let C put me into prison' as an expression of what is permissible 1, it is entailed by 'C may put me into prison' but 'it is itself a moral judgment. Accepting it can no longer depend on inclinations' ('HD', 405). He then says quite rightly that 'B can refuse to accept "Let C put me into prison" because of his strong inclinations not to go to prison, only if he maintains that his inclinations make C's attempt to imprison him unjustifiable. And Hare cannot suppose this as the basis of his argument' ('HD', 405). *But clearly this is just what Hare does suppose.*<sup>3</sup> According to Hare B cannot accept the moral judgment, 'I ought to put A into prison', since doing so would commit him to the prescription, 'Let C put me into prison' and this 'he is not ready to accept' (FR, 91) — since doing so would be contrary to his desires.

Gauthier should ask the following questions regarding Hare's ethical theory: (1) what is the relationship between permit 1 and permit 2? (2) what determines whether or not a person can permit 2 some action from happening? According to Hare's ethical theory someone can acknowledge that an act is permissible 1 only if one can permit 2 it. And, according to Hare's theory of rational assent, one cannot permit 2 an act that one desires not to happen.

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1. I argue that this argument has some very peculiar consequences in 'Universalizability and Prescriptivity in Practical Reasoning' in *The Southern Journal of Philosophy*, Spring 1977.

2. William H Baumer makes essentially the same point in 'Indefensible Impersonal Egoism' in *Philosophical Studies*, XVIII, No. 5 (1967) 72-75.

3. Though documentation is required to support this contention, it seems clear that Hare is committed to the principle that a person cannot assent to a prescription, after applying the universalizability criterion, if doing so conflicts with his desires. Call this principle *D*. Assenting to a prescription *conflicts* with one's desires if one does not desire (or, desires *not*) to perform the act sanctioned (prescribed) by it. To document that Hare accepts some such principle as *D* consider the following passages from *Freedom and Reason*: (1) 92: "Because moral judgments have to be universalizable, B cannot say that he ought to put A into prison for debt without committing himself to the view that C, who is *ex hypothesi* in the same position *vis-a-vis* himself, ought to put *him* into prison; and because moral judgments are prescriptive, this would be, in effect, prescribing to C to put *him* into prison; and this he is unwilling to do, since he has a strong inclination not to go to prison" (italics mine after first semi-colon); (2) 94: Hare states that a person's inclinations or interests are a necessary condition for the applicability of the universalizability criterion and that the implications of applying this criterion are accepted or defeated depending upon whether they conflict with the agent's *desires*; (3) 97: In discussing moral disagreement Hare says that two people may disagree when '... their different inclinations make one reject some singular prescription which the other can accept'; (4) 109: Hare compares one's aversion to being incarcerated and one's *inability* to



*accept* the prescription, 'Let me (B) be incarcerated' with the *belief* that the cat is on the mat and the *inability to accept* the proposition, 'The cat is not on the mat'; (5) 109: In considering whether or not he is guilty of deducing a moral judgment from a factual statement Hare writes: 'It is not a question of a factual statement about a person's inclinations being inconsistent with a moral judgment; rather, *his inclinations being what they are, he cannot assent sincerely to a certain prescription* [my italics] and if he cannot do this, he cannot assent to a certain universal prescription which entails it, when conjoined with factual statements about the circumstances whose truth he admits. Because of this entailment, if he assented to the factual statements and to the universal prescription, but refused (*as he must, his inclinations being what they are* [my italics] to assent to the singular prescription, he would be guilty of a logical inconsistency'; (6) 110-111: 'The analogy is between two relations [see number 4 above]: the relations between in both cases, the "mental state" of these men and what they say. If I believe that there is a cat on the mat I cannot sincerely say that there is not; and, if I want not to be put in prison . . . I cannot sincerely say "Let me be put into prison".'