Contractualism: Scanlon

WHAT MORALITY IS ABOUT. The contractualist sees morality as a rational debate (not necessarily public). The idea, as Scanlon notes, has similarities with other theories, like Kantianism and utilitarianism. These theories align the moral question with the question of what is rational for us to do or will. The answer turns out to be that our rational willing or action has to take other people's interests into account. The contractualist modifies this question somewhat: in thinking about right and wrong we ask what kind of principles other people will find *reasonable* to accept. 190 191

REASONABLENESS. A distinctive feature of contractualism is, therefore, the idea that moral principles are those that others would find reasonable to accept (or at least not to reject). The contrast here is meant to be between 'reasonable' and 'rational'. It is, I think, an elusive one. Some possible examples: 192

(i) It is not reasonable for Putin to threaten a nuclear war. But it is rational for him to do so.
(ii) It was not reasonable for Putin to start a war with Ukraine. Nor was it rational for him to do so.
(iii) It is reasonable for you to expect the government adopt decent economic policies. It is not rational for you to expect that.

The distinction, as Scanlon says, turns on the restricted range of aims we assume when we judge someone unreasonable. But, I think, the same may well be said about some uses of 'rational' (also in the examples above). We often tend to use 'rational' as a label for the most effective strategies of achieving our self-interest.

So in fact Scanlon admits that to state contractualism in terms of rationality would mean to interpret morality as a matter of strategy—not for achieving your self-interest, but for finding an equilibrium in which everyone agrees on the principles (perhaps because everyone is, as a result, better off). But often that's impossible. The reasonable principles may entail that some actors win, some other lose. 193

In another attempt to explain his contractualism, Scanlon says that moral decisions/verdicts involve judgement about what objections to them would be reasonable. And he also says that it is a judgement about how suitable certain principles would be for 'mutual recognition and accommodation'. But 'recognition'—of what? and 'accommodation'—of what? Well, I think that we envisage here a negotiation in which certain principles are agreed upon based on how far they accommodate the parties' interests. Certainly, in the course of such negotiation the parties will have to compromise, i.e. to forgo some of their interests and 'accommodate' the interests of others. 194

To repeat, it seems to me that the reasonable/rational contrast is tied to the conception of rationality that is, in some non-trivial way, self-interested. When you say to a child following his tantrum, 'Please be reasonable!', you probably want him to come to some sort of arrangement with you and others. You need not deny that the tantrum *is* rational, so far as it can achieve the child's selfish goal (where 'selfish' means ignoring at least your own interests).

PROHIBITION. Following the formulation of contractualism we say: if X-ing is prohibited in C, then it is reasonable to reject the principle that permits X-ing in C. Similarly: if X-ing is permitted in C, then it is reasonable to reject the principle that prohibits X-ing in C.

But now, there is an apparent paradox. If the objections to permitting X are stronger than the objections to prohibiting X, then it is reasonable to reject any principle permitting X. This means that: the objections to prohibiting X are not strong enough, compared to the objections permitting X, to reasonably reject prohibiting X. Yet sometimes this obvious link fails. 195

Example 1 (Shipwreck). It is unreasonable to permit taking a life vest by force. Yet it is also unreasonable to prohibit taking it by force—since the alternative is to say that the only moral action in those circumstances is for both to drown voluntarily. 196

Scanlon considers two ideas in response. First, there may be a threshold of reasonable rejection. In simple terms, this means that the costs may be so high as to discard any objections by others. Scanlon thinks that there is no such threshold. Secondly, supposing that there is no threshold, it may be that some principles aren't rejectable. Such would be the principle that everyone is entitled to struggle for his own survival. This principle is special, because it overtly recognises the symmetry in the claims of all parties. 196

PRINCIPLES. Why should moral value be ascribed to principles, rather than actions? That's because we don't have a direct insight into the value of actions. We debate and explain our judgement of the morality of actions. In the process we appeal to the principles whose job is to explain those judgements. 197 198

It is not true, as Scanlon notes, that in a controversial scenario you should be able to formulate precisely any general *rule* under which the action falls. Too many actions may be justified by appealing to exceptions from a general rule. Instead, we should think of principles as reasons that permit or rule out a particular course of behaviour.

Example 2 (Truth-telling). It is unlikely that 'Always tell the truth' would be accepted as a universal rule. But we may not be able to specify in advance (see McDowell) the exceptions that permit lying. Nevertheless we should be able to conduct a rational discussion about truth-telling in particular cases by appealing to the general, 'reasonable' reasons that motivate the truth-teller or the liar. This appeal to reasons is what the contractualist understands by finding reasonable principles to justify your behaviour.

GENERALITY AND BIASES. In section 4 Scanlon's purpose is to characterise the 'others' to whom the contractualist justifies the principles and who may reject those principles. To cut the story short, the worry is that the 'others' would be affected by biases in such a way as to make the justification procedure partial and non-objective. So we have to ignore the particular preferences and backgrounds of the 'others'. Our justification must appeal only to 'generic reasons' for desiring a particular conduct—namely, the reasons that people have in virtue of being in a given situation. This ensures the sufficient generality of those reasons and screens off the various idiosyncratic reasons that only a few individuals may have.

CIRCULARITY AND REJECTABILITY. But what *are* those generic reasons, exactly? and what to do when there is a clash between them? Generic reasons can't themselves be a matter of some undefined 'rightness'. For this would render contractualism circular and theoretically idle. Instead, we must take them to depend on the effects they have on the well-being of people—not in accordance with these people's whims, but objectively so.

This priority of well-being (understood in the utilitarian way) is not absolute, however. We shouldn't think that all questions of rejectability are *reduced* to the questions of well-being. In some situations, people may well reject arbitrary distribution of goods, even if such distribution results in the overall increase of happiness, including their own. Such charges of unfairness must be taken at face value and are legitimate grounds for rejecting the proposed moral principles.

It also follows that there is no algorithmic procedure for specifying in advance how this or that principle would fare in moral deliberation. In particular situations, we must exercise our own judgement as to whether certain considerations are relevant for accepting or rejecting the proposed principles.

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