

# MORALITY AND THE MARKET PLACE: THE ETHICS OF DAVID GAUTHIER

by

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Philosophers are said by many to live and work in ivory towers, far from the concrete problems of daily life and the marketplace. Very often this stereotypical view of philosophical work has been responsible for leaving the philosopher's thoughtful voice out of the social conversation concerning the moral and political dilemmas of modern life. This is unfortunate. It may be true that philosophers' reasoning about actual moral problems may be more abstract than, for example, that of a novelist or policy maker involved with similar issues. However, the arguments and thought experiments used to develop and test moral theories can provide illumination on moral and political problems that can have

significant practical implications. This, moreover, is true even if, as many ethically skeptical philosophers would maintain, there are no deep moral truths available for philosophical theories to model.<sup>1</sup> In this article, I will consider a

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<sup>1</sup> John Mackie's *Inventing Right and Wrong*, which holds that *all* ethical statements are false, provides a good example of such skepticism and its compatibility with ethical practice. Mackie argues that ethics is philosophically in error (a) because the character of the world leaves no possible room for actually existing ethical properties and (b) because ethical rules are so deeply embedded in particular ways of life that there can be no way of adjudicating ethical disputes associated with different ways of life, of demonstrating that one ethical claim is correct and another is not correct. Despite this ethical skepticism, Mackie, as the title of

very influential ethical theory, published by David Gauthier in 1987, that attempts to derive an approach to ethics that is based on the workings of a free market economy. Particularly in the period that coincides with the supposed triumph of capitalism over its socialist alternatives, such moral approaches are very attractive to many. In this paper, however, I hope to show that whatever may be the efficacy of the marketplace in economics, it has important limits as the basis of a *moral system* and that that marketplace must be subject to independent moral considerations in a way that Gauthier refuses to consider. Because many today do see the capitalist market as the central factor in a just society (Friedman, 1963), this view has important practical applications.

### ***The Prisoner's Dilemma***

Among the most important of the seemingly quite abstract, but theoretically and practically very important, thought experiments that have played an important role in the development of contemporary moral and political theories is the Prisoner's Dilemma. Derived from the

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his book indicates, goes on to consider ethical thought that derives from them as an important human invention whose practical importance does not depend on the literal truth value of the judgments that are derived from it.

mathematical game theory and decision theory, this paradox played an important role in both philosophy and economics in recent years; Gauthier, for example, identifies his exposure to the dilemma as the critical influence on his ethical thought. It purports to demonstrate that the demands of rationality often demand that agents not cooperate even in cases when all can see that cooperation would lead to a better outcome for all than non-cooperation. This paradoxical result is derived from a simple example which is usually, but not essentially, stated in terms of a deal offered by the justice system to two prisoners who are known to have committed a crime but who could only be convicted of a lesser crime on the basis of independently available evidence.

The dilemma assumes, as it is generally assumed by classical economic and social theory, that the agents involved act independently, and that each acts in accordance with the traditional definition of instrumental rationality: each seeks a strategy for acting that allows a maximization of her own interests. In the case of the traditional example used to set forth the dilemma, this takes the form of acting so as to obtain as minimal a prison term as is possible<sup>2</sup>. The prisoners, call them

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<sup>2</sup>Instrumental rationality is neutral concerning ends and sees rational thought as being involved solely in the consideration of predetermined ends. A rationality of ends, such



A and B, are placed in separate cells and engage in separate negotiations with the justice officer, although each is confidently and correctly aware that the deal being offered to them is identical to the one offered to the other. On the basis of available information, the justice officer can convict each of a crime that will bring a prison sentence of three years, but wishes to convict at least one of them of the more serious crime, which brings a sentence of ten years. To obtain their cooperation, the officer tells each that if she cooperates, but her confederate in crime does not, she will get a one year sentence while the confederate gets the maximum. If they testify against each other, they will each get seven years in jail. The rational decision facing the prisoners, then, is to decide whether to testify against their confederate or not<sup>3</sup>.

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as might be found in the philosophies of Aristotle or Aquinas, would assume that rationality favors the achievement of certain final goals. Such determinations, however, have tended to rely on particular metaphysical, theological, or even political positions and it has therefore often been assumed that an ethics based on such a conception of rationality would not be appropriate for modern pluralist societies. This liberal assumption is at the heart of the philosophies behind modern market economics in which the free market is seen as a venue in which consumers can manifest particularized individual preferences.

<sup>3</sup>MacIntyre considers such a refusal to establish a socially sanctioned ordering of preferences--in essence a cultural theory of virtues--as a result of the Enlightenment and as the collapse of the very idea of morality. For MacIntyre, the social contractarian morality and social life

Because the two prisoners are assumed to be making this decision independently and to be making it solely on the basis of their individual interest, they need to determine the impact of their choice in terms of each of the decisions that the other can make. Using prisoner A as an example we can see that she will do better testifying against B no matter how B decides to act. Say B does not testify against A: A will then get a sentence of one year if A testifies against B and three years if A does not testify against her. Now consider the situation if B does not testify against A: she will get seven years if A testifies against B and ten years if he does not testify against B. No matter what B does, then, A will make out better if she decides to testify against B, making it rational for her to so testify against her confederate. B is in exactly the same situation and thus will determine that it is also rational for her to testify against A. Thus, the rational course of action for each prisoner is to testify against the other, leading to the result that each spends seven years in prison.

What makes this result paradoxical, of course, is that, despite the dictates of rationality, each would have done better if they had refused to cooperate with the justice officer. If they had not agreed to testify against each other they would have each gotten the lighter sentence of

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assumed by Gauthier is a psuedo-morality that stands in the wake of that collapse.



three years in prison rather than seven. One normally assumes that one can rely on rationality to maximize one's self-interest but in this case acting rationally seems to lead to a less than optimal result for each of the confederates. It is, of course, quite true that each will be able to recognize this paradoxical result prior to making her decision and it might be argued that therefore the truly rational course would be to refrain from co-operating with the justice officer. This solution, however, becomes unstable as each recognizes that if the other has motivation to not cooperate with the officer, it will be in his own best interest to make the opposite decision thereby gaining a minimal sentence of one year. Each will recognize this temptation in the other and will avoid risking a ten year sentence by agreeing to testify against the other.

One way around this result is to assume that human relations involve an inherent sense of solidarity and therefore postulate that their relationship involves an implicit agreement to not co-operate with the authorities against the other if caught. As long as we maintain the assumption of self-interest--the assumption that connects the example to economic theory--this weakening on the initial constraints will, if anything, increase the temptation of each to testify against the other as well as the mutual awareness that such a temptation exists, thus making it rational to violate the implicit agreement. If a truly self-

interested person were to have full confidence that his confederate was ideologically or morally committed to the solidarity among thieves that in Plato's *Republic* is said to have an instrumental basis, the potential costs of violating the agreement would be effectively reduced to nothing and there would be no inhibition against rational agreements.

Theoretically, the Prisoner's Dilemma can be a very effective instrument in investigating the nature and limits of the instrumental rationality that has dominated Western thought, particularly economic thought, at least since Hobbes. Once its basic principles are mastered and it is removed from the context of the somewhat artificial example through which it is standardly explained, the basic structure of the dilemma can illuminate a wide variety of ethical and social issues. Any human situation where individuals can gain advantage over others brings in elements of the Prisoner's Dilemma and the consideration of rationality that it brings into play are important for understanding tendencies towards lack of cooperation and instability in society. The Dilemma is also critical for the understanding of the ethical implications of the free market and its own effects on society.

There are, however, clearly some limitations on the application of the Prisoner's Dilemma. If the tendency to opt out of cooperative relations were as pervasive as the Prisoner's Dilemma



makes it seem it should be one would expect that society would never move from the state of nature as defined by Hobbes, a state of war of all against all, a world where there is

No arts; no letters; no society; and which is worst of all, continual fear and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short. (Ch. 13)

Living at the time of the English civil war it was apparent to Hobbes that human societies are all too prone to collapse into violent anarchy. It is still the case today that societies, do collapse into such anarchy on a regular basis, but for all that the fact is that a considerable degree of co-operation does exist.

One way of explaining this would be to reject the assumption that human beings think and act solely in accordance with the character they are assumed to have by market economists; they may not, for example, at base be self-interested human beings. Gauthier, however, believes that it is possible to explain social cooperation within the context of a view of human beings that is compatible with the assumptions of market economists and their philosophical offshoots. To evaluate his work, therefore, we will have to more closely examine that view of human nature.

### ***The Market and Human Nature***

In his *Politics*, Aristotle

commented that a human being who was not a citizen, not a member of a society, would be a monster (bk. 1), suggesting that we are a species whose nature is essentially social. Heidegger (1962, 120) states this assumption just as clearly when he claims that even the hermit who turns away from social life is by that very act manifesting the social nature of human beings: what makes the hermit's life so distinctive is precisely that it turns away from relations with others that are so characteristically human. From these perspectives, one's relationships with others are not voluntary options for human beings but an inherent part of who they are.

The view of human nature held by market economists does not involve a denial of the importance of social interaction and cooperation for human life. Marketplaces are in fact places where people interact, presumably under the assumption that their lives are improved by such interactions. Unlike the thinkers mentioned in the last paragraph, however, in this tradition human beings are often not viewed as being essentially social; rather, social relationships are held to be voluntary deviations for a "state of nature", entered into only because rational calculation suggests that the benefits of social life outweigh the costs of a life lived outside the constraints of society. Gauthier, for example, argues that, in what he calls the liberal view of human beings, all human associations are purely voluntary and subject to a cost-benefit analysis:



The liberal individual does not lack emotional ties to other persons, but those she has are of her own volition, or more properly, represent the joint volition of the persons tied. Just as each individual has her own conception of the good, and makes her choice among possible ways of life, so each individual makes her own choice of others as objects of affection. She is not bound by fixed social roles, either in her activities or her feelings. Although social effective relationships are essential to the liberal individual, there are no essential social relationships. (346)

Such a person chooses to enter into a specific society but her essential being is not rooted to any such society. It is not, of course, presumed that people *literally* make a calculation and decision about entering into social life, but it is at least assumed that social life can be justified through such a rational procedure. Social life has no inherent value for this tradition and that life would be apt to dissolve if its benefits did in fact not outweigh the costs.

This view of human nature is essentially egoistic and does not concede that an individual human being has any essential responsibility for anything other than the satisfaction of his or her own needs and desires. In the language of economics, such persons seek self-fulfillment by maximizing their utilities. Both the individualism

and the initial moral egoism of the man of the market is well-expressed in the following passage from *Morals by Agreement*:

A person is conceived as an independent centre of activity, endeavoring to direct his capacities and resources to the fulfillment of his interests. He considers what he can do, but initially draws no distinction between what he may and may not do. (p. 9)

Such persons are not inherently bound by any moral codes and have no essential connection to or interest in a larger community. They may or may not be "egoistic" in the narrow sense in which that term is used to refer to a commitment towards selfishness. They may see their interests as happening to include the welfare of others or they may voluntarily choose to act to further the well being of others. All such concerns, however, are seen as being based on free choice, not on requirements of moral or social responsibility. Taken in his essential isolation, such a person stands apart from any moral constraints.

Such individualism is achieved at the cost of a loss of any sense of overriding values that are associated with many forms of traditional social life. Aristotle's ethical and political theory depended upon a view of essential human nature as having a specific end, *telos*, the realization of which in a life could be identified with



happiness. At the highest level this end was identified with philosophical contemplation, although he suggested that most people would have to be content with a social life of citizenship and friendship. Others, like the virtue ethicist Alisdair MacIntyre (1984), have been more skeptical of whether there is any single goal for human life. They contend, however, that each human culture has had its own notion of the human *telos* and the achievement of a virtuous life can be identified with the fulfillment of that end; for someone in the Middle Ages this would involve religious concerns while for someone living in the Homeric age it might involve living according to a warrior code. In such views of human life and society there is a single, or at most a limited number of ways of achieving happiness and to live rationally is to pursue just those forms of life.

Gauthier, and many economists, take a very different view of rational preference. What one prefers is not, for him, a matter of a predesigned innately human or cultural pattern but an individual subjective choice. His position is very much in line with Hume's contention (Book 2) that what one prefers is not a matter of reason but simply a matter of choice. For Hume, one is not even being irrational if one acts out of a desire to scratch an itchy finger even though one knows that doing so will lead to the destruction of the entire world. As long as preferences are consistent and considered, no preference is to be rationally favored

over any other. Value is, in his view, a function of preference not a reason for preferring one thing over another:

Value is not an inherent characteristic of things or states of affairs, not something existing as part of the ontological furniture of the universe in a manner quite independent of persons and their activities. Rather, value is created or determined through preference. Values are products of our affectations. (p. 47)

Human reason, on this view, is purely the instrumental reason we examined when we looked at the Prisoner's Dilemma.<sup>4</sup>

A Nietzschean philosopher might uphold a person who seeks to fulfill his arbitrary desires as a model of humanity. Gauthier, however, is not a nihilist and he wishes not to deny the existence of a sort of morality but to demonstrate how certain moral constraints might actually be in the interest of this type of radical individual. In this he follows Hobbes' strategy of trying to demonstrate that it is rational for egoists to accept constraints when the costs of not accepting them are so great that they

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4. For a basic account of these results and an extended discussion of their philosophical implications, see Christopher Cherniak's *Minimal Rationality*. Cherniak does not, however, extend his discussion to social and political philosophy as is being done here.



outweigh the benefits of unfettered action. For Gauthier, entry into social life does not change one's identity as a utility-maximizer but rather transforms one from a straightforward utility maximizer who will do anything to satisfy personal desires, to a constrained utility maximizer who accepts limits on the methods in any situation used out of an awareness that such limits do pay off in benefits in the long run.

In practice, the constraints accepted by the liberal person involve a commitment to live in accordance with the rules of the market, to enter into agreements fairly and to not take advantage of opportunities to be a free-rider or a parasite. In an ideal free market each person would bring to the bargaining skills or products available to others and would be able to, through the intermediary of money, obtain services and products that served to fulfill his own needs and desires. Because no one person can be self-sufficient enough to fulfill all his needs--it might be difficult to be equally skillful as a shoemaker and a construction worker--and because many useful services and products demand the cooperation of a great many people, there is a great deal of advantage to participating in the marketplace. Being a hermit is a more human option for Gauthier and other market theorists than it is for Heidegger, but the cost of entering into such a life would, for them, be highly prohibitive. The hermit might gain in freedom but he would lose many of the goods that make life

worthwhile.

The Prisoner's Dilemma, however, demonstrates that achieving the rational cooperation necessary for the maintenance of an efficient marketplace is not an easy task. The opportunities for taking advantage of situations created by the marketplace are very many, particularly when those marketplaces become large and impersonal. In a small town, a merchant who consistently cheats her customers will gain a reputation as a crook and is apt to be soon replaced by a more honest seller. In a large city, such a merchant might be able to take advantage of the market by treating regular customers fairly and cheating only those from whom he does not expect repeat business; or he can cheat only in situations where it is likely that his behavior would be treated as an accident. Similarly, in a large-scale society it may be possible to avoid paying for the common goods that make such social life possible; a tax evader might, for example, take advantage of a road system without paying for it. Given that the advantages of a market economy are closely associated with the economies of scale made possible by large scale markets, the potential for partially opting out of the competitive market--for seeking to reap the advantages of having such a market but doing so in a manner that unfairly exploits others within it--are real possibilities. Because of the tendency towards instability of cooperative arrangements revealed by



the Prisoner's Dilemma, these problems are very real.

There is, moreover, ample evidence that the problems caused by unfair market practices do have a deleterious effect on economic systems. If one knows that there is a good chance that one will be treated unfairly in any given transaction, one's strategy may not so much be to avoid transactions as much as to conclude that the system itself is unfair and to decide to take advantage of the system itself. This, at the very least, can lead to gross inefficiency within an economic system that has become a mere parody of well-working free market and in extreme situations can lead to economic crisis and the collapse of the economic system. Such systems must be based on the type of trust that the Prisoner's Dilemma suggests may be hard to come by given the assumption that participants are independent agents rationally acting in their self-interest. Because these are precisely the assumptions made by market economists, it is clear that *some* solution to the problem is required.

One way of dealing with the problem would be to weaken the assumption that human beings are purely self-interested beings. Adam Smith, for example, the most important early theorist of the market economy, postulated that human beings were motivated by "sympathy" as well as by self-interest. This compromise with the non-egoistic tradition could help provide the 'glue' needed to hold

markets together by enforcing fair play; human beings may have enough communal feeling to make it plausible that they will naturally avoid taking advantage of others. Aside from what many would consider to be its social, psychological, and historical implausibility, this compromise might tend to indicate that the system is even more prone to abuse by those who for whatever reason are apt to become market predators than would otherwise be the case: a self-interested individual would have many opportunities for taking advantage of market participants who could be assumed to be prone to trust and fair play.

Gauthier seeks to devise an approach to explaining the fair workings of the marketplace that does not compromise its egoistic assumptions. It is possible, he argues, for self-interested individuals to internalize *moral* constraints on their behavior purely on the basis of their self-interest. Gauthier's enterprise, therefore, is to establish a morality of the free enterprise marketplace where people agree to reign in their absolute freedom of action in order to maximize the realization of their goals. Society here is not based on a Rousseauian solidarity but is a co-operative venture that allows individuals to pursue their goals. This follows directly from Gauthier's view of human personhood:

Co-operation may . . . seem a second-best form of interaction, not because it runs counter to our



desires, but because each person would prefer a natural harmony in which she could fulfill herself without constraint. But a natural harmony could exist only if our preferences and capabilities dovetailed in ways that would preclude their free development. Natural harmony would require a higher level of artifice, a shaping of our natures in ways that, at least until genetic engineering is perfected, are not possible, and were they possible, would surely not be desirable. If human individuality is to bloom, then we must expect some degree of conflict among the aims and interests of persons rather than natural harmony. Market and morals tame this conflict, reconciling individuality with mutual benefit. (p. 19)

Society as a whole is here conceived on the model of a capitalist marketplace in which prices are set for goods and services in ways, according to the ideal theory, the overall level of satisfaction in a society is maximized. The overall level of society, however, is not a concern for the egoistic individual; that person will only act co-operatively insofar as he or she can benefit from that co-operation.

For Hobbes, the radical solution was that members of society would cede their freedom to an absolute ruler who would be able to coerce orderliness but who would also be able to reap the

profits of the cooperative enterprises for himself. Gauthier, however, sees the free market as having provided a better model of cooperation. With an ideal marketplace members of a society would be free to seek to realize their needs and desires by bargaining with the others in a rational manner. The goods needed to realize certain of these desires will be scarce in any society and the price mechanism allows a means of engaging in such bargaining leading to a situation where people will be able to attempt to maximize the level of the realization of their desires within certain limits; that is, members of society are assumed to act in their own interests but to accept certain limits to the pursuit of those interests. They cannot act as fully Hobbsian individuals who accept absolutely no constraints to their egoism. As in Hobbes' political philosophy, although in a much less radical manner, concessions must be made in the interest of gaining the greater goods that result from the existence of a stable society in which cooperation is possible. For both of these thinkers, the origin of social and political life lies not in an inherently human social nature, as it was for a philosopher like Aristotle, but in the egoistic calculation that the best strategy for maximizing the realization of one's desires lies in ceding some of the freedom to pursue those desires. It is rational to give up the right to steal goods from others if making this concession allows social institutions to exist which provide benefits beyond those available from the usurpation of



goods from those less powerful.

Gauthier seeks to avoid the instability by making the decision to act fairly *within the market system* not so much contingent on specific rational calculation but rather as an overall commitment to the values of the ideal marketplace. This involves an internalization of the morality of the ideal marketplace and a decision to, in the absence of evidence to the contrary, expect that others have also internalized this morality; this solution to the problem raised by the Prisoner's Dilemma involves the creation of a society where enough of the participants accept this morality and are disposed to act as if market deals are generally made with full disclosure and fairness. Morality for Gauthier involves "[t]he disposition to keep one's agreement, given sufficient security, without appealing to directly utility-maximizing considerations, makes one an eligible partner in beneficial co-operation, and so it is itself beneficial" (p. 162). In a society where members have internalized these moral values, and do not calculate their utilities on a case-by-case basis, transactions will generally be conducted fairly and their will be no reason for people to opt out of cooperation in response to individual cases where they happen to have been exploited.

Internalization of the morality of the market does not indicate a commitment to turn the other cheek in response to those who exploit implicit

trust for their own benefit. Gauthier writes:

... faced with persons whom she believes to be straightforward maximizers, a constrained maximizer does not play into their hands by basing her actions on the joint strategy she would like everybody to accept, but rather, to avoid being exploited, she behaves as a straightforward maximizer, acting on the individual strategy that maximizes her utility given the strategy she expects others to employ. A constrained maximizer makes reasonably certain that she is among like-disposed persons before she actually constrains her direct pursuit of maximum utility. (p. 169)

The morally socialized member of the market system thus exploits a strategy of "tit-for-tat" that has been found to be effective in avoiding negative outcomes in games of iterated Prisoner's Dilemma which involve more than one round of interaction; in this strategy one cooperates with a fellow participant until one is betrayed at which point one ceases to cooperate with that participant. This assumes, as Gauthier notes, a level of "translucency" in the society (p. 174), a general, though not infallible, ability to evaluate whether one has been, or can expect to be, treated fairly. One may occasionally be exploited by someone who avoids these consequences by not engaging in



transactions where the unfairness can be immediately discovered--as would be the case of a con man who moved quickly from victim to victim and from town to town--but these occasions are assumed to be rare enough to not counteract the benefits gained from making the general presumption of fairness.

Morality for Gauthier therefore does not consist of dictates derived from a golden rule, from considerations of the goodness of the whole, or from a divine command. Rather, morality consists of a higher order commitment and disposition to treat those with whom one engages in interactions as equals with fairness as long as they show themselves to have a mutual disposition to act in such a manner. Although Gauthier accepts a morality that would involve limiting one's short-term right to take advantage of situations and persons, he remains an egoist who bases morality firmly on long-term self-interest. In one of his most general statements of the nature of his moral theory, Gauthier compares his view to that proposed by a character in Plato's *Republic*:

It seems that what Glaucon says about justice, we must say about morality. It is a mean between what is best--bettering one's situation at whatever cost to others, and what is worst--having one's situation worsened at others' pleasure. We care for morality, not for its own sake, but because we

lack the strength to dominate our fellows or the self-sufficiency to avoid interaction with them. The person who could secure her ends either independently of others or by subordinating them would never agree to the constraints of morality. She would be irrational--mad. (p. 307)

In the second section of this article I will offer a critique of this view of morality and the assumptions that stand behind it.

### **Gauthier's Moral Revisionism**

Let us, for the time being at least, accept that Gauthier's philosophical analyses of the benefits and nature of market systems are correct and that it is in enlightened self-interest to internalize the moral values of the market economy. Given Gauthier's arguments one will have derived a moral system that requires one to respect the basic rights of other market participants under the assumption that your own rights will, in general, be respected by them. One will internalize values that keep one from cheating and killing, or from taking advantage of them in any manner. It might seem, then, that Gauthier does reproduce our ordinary moral values and that he thus demonstrates that, contrary to what might initially be thought, those values are compatible with moral and psychological egoism.



There are, however, implications of Gauthier's moral system that demonstrate that although his theory intersects with common moral views on many matters there are significant deviations from those views on many others. These deviations are most clearly evident in Gauthier's consideration of what beings deserve moral treatment. Because he derives moral commitment from the assumption that people are seeking mutual benefit within the marketplace, he finds that moral consideration is only for those who can fully participate as equals within that marketplace, who can themselves enter into the agreement to dispose themselves to act in accordance with its values. Beings who cannot contribute as equals in the exchanges of the market--the severely handicapped, infants, and all non-humans-- are thus owed no moral consideration. Such beings, whose moral claims might essentially be seen as claims to a right to be free-riders within a moral system to which they cannot participate, are "beyond the moral pale" (p. 261) for Gauthier. Moreover, because future generations not yet living can provide one with no benefits, they too are not owed any moral consideration:

the individual does his descendants no injustice in not concerning himself with them. If the world is not left a fit place for their habitation, much less their well-being, this merely characterizes the circumstances in which they find themselves; their

rights are not affected. (p. 298)

Because the agreement to act morally is an agreement for mutual benefit there is no impediment to refusing to accept as part of the moral universe those who cannot provide one with benefits.

Moral theories can either be evaluated on the basis of the way they generally conform to our ordinary moral intuitions or on their own terms whether or not they model those intuitions. It is clear that given the implications just considered, Gauthier's theory must be considered to be strongly revisionary. When faced with a child who is torturing a cat (or even an infant or severely handicapped person), the Gauthierian theorist will not be able to make the immediate moral judgment of "That's wrong," even though he may fully acknowledge that the cat is in pain. Taxpayers considering a policy regarding the mentally disturbed or the severely retarded would not need to consider the needs of those people or to ensure that they lived as fulfilled lives as possible. Similarly, there would be no moral inhibition on the present generation's exploitation of the earth because of concern with those who will follow us. Although we may have obligations to generations now living, we should feel no moral inhibition about maintaining the viability of the earth for generations to come. All of these implications are antithetical to the moral intuitions of many and for that reason those who believe that moral theory must closely coincide with moral



intuitions would have to reject Gauthier's theory.

Although any moral theory worth considering will be somewhat revisionist, it will at least clarify difficult moral issues; it can be argued that Gauthier's theory is so far from our ordinary views that even someone who accepts moderate revisionism would have to find that these considerations refute the theory. Certain of the examples provided, such as that of gratuitous torture, are not marginal issues that need adjudication but, rather, are quite central to our view of morality. This rejection, moreover, need not be based on *mere* intuition. What may be more at issue is Gauthier's identification of human moral agency with the self-interested market self. This goes against the common assumption, made by Kant among many others, that human life is inherently of value and that moral activity must be at least in part based on that inherent, rather than instrumental, value. From this perspective, one has an obligation to respect the rights of others even when one might consistently gain advantage over them; this would expand human obligation to many of the human groups that are excluded by Gauthier's market-based approach. Human preference has no bearing on at least certain forms of value in this approach.

A rejection of the identification of value with preference can also be used to provide a more intuitive conclusion about the case involving the torturing of

a cat. In this case many would hold it absurd to speak of the right of the cat to be treated well--although there are proponents of animal rights--but even in the absence of this one might find that all things being equal pain has an intrinsically negative value and thus should be avoided in all cases where there are no countervailing circumstances. Although the pain experienced by the cat need not have the same status as human pain--for the human being there may, for example, be the added factor of a higher order awareness that one is in pain--this intrinsic negative value could be enough to provide a *prima facie* reason for a reflectively moral being to try to prevent such pain from occurring as long as that moral being is associated with something more than mere enlightened self-interest. Once one rejects the assumption that the market plays as central a role in morality as it does in capitalist economics, beings with whom one cannot enter into agreements may nonetheless be capable of being morally relevant to one's actions.

The response of a supporter of Gauthier who might want to accommodate the ordinary intuitions in these cases might be to acknowledge that we generally would react against the maltreatment of those excluded from the moral universe as defined by the theory but to hold that these reactions are not strictly moral. Nothing in the theory prevents human beings from adopting a stance of empathy



towards any being, although that stance must under the theory be viewed as being strictly voluntary. Given a non-morally relevant tendency towards sympathy one may choose to act to prevent suffering or to further the needs of the handicapped or the unborn of future generations. Because of the force of the language of morality--even with his instrumental view of morality Gauthier acknowledges we may come to find "morality affectively engaging for its own sake" (p. 328)--we may misappropriate our sympathetic reactions to the sphere of morality although they do not properly belong there. It is, however, unlikely that this explanation can fully capture our ordinary reaction to, say, gratuitous cruelty.

### ***Gauthier's Assumptions***

Gauthier, like free market economists, assumes that human beings are in some sense ideally rational, that they are free to identify their utilities as they please, and that they nearly have access to relevant information that will allow them to adopt appropriate strategies for realizing those utilities. These are, moreover, also the assumptions behind traditional treatments of the Prisoner's Dilemma. In this section I will suggest that even given a willingness to accept a strongly revisionist theory of morality, the basic assumptions behind Gauthier's theory simply do not hold.

It was noted before that although Gauthier does not assume that participants in society have perfect information--that their social and economic interactions are transparent--he does rely on translucency, which can be identified with a state of imperfect, but adequate, information. This, however, assumes that all members of the society have relatively equal access to relevant information. Because many members of almost every society do not have unlimited resources to expend obtaining such information, it also assumes that the appropriate information is very cheap and freely available. Without an adequate supply of information, the ability of individuals to predict the outcome of their actions will be placed in question, which will also place in question their ability to act as effectively rational agents. Merely having the capacity to make considered judgements is not sufficient for acting as a rational agent if those judgments are not based on an appropriate store of information.

In a small-scale society where interactions are typically face-to-face, one might argue that all members of a society may tend to have such adequate knowledge. In the modern world of large-scale social life, however, one's ability to gather and evaluate information is less dependent upon personal information-gathering resources than it is upon public media. Unless one is aware of economically and socially current events and their implications one simply will not be



able to act in one's self-interest. The gathering and presenting of information, however, has a dual status as a commodity within the marketplace *and* as a necessary part of the marketplace's infrastructure and this dual status has significant implications. If the infrastructural function of information is to be fulfilled--if members of society are to have ready access to the information they need to conduct their affairs--that information must be freely available to all who need it. Because the information required in a large-scale society has become a commodity, however, the tasks of gathering and presenting it have significant costs which must be met by those who consume that information, resulting in a situation where the information is in fact not freely available. This, as has often been noted in recent years, tends to lead to an important socio-economic dichotomy between those with the education and resources to gather and evaluate the information and those who do not have those resources. The decisions of the former group are likely to be more based on a translucent view of reality than those of the latter group; because members of the latter group do not have adequate information they will be more subject to exploitation in the marketplace.

The problems raised by information as a commodity may in fact have an even more strongly negative effect. In an era when the means of mass communication are becoming

increasingly concentrated in a small number of international conglomerates, access to information that does not conform to the interests of those corporations may become more difficult to come by. This is not meant to suggest that the formal free market for information will dissolve, but this formal freedom may be less important than the ease of access to the public, and the assumption of legitimacy that comes from being in the mainstream. Because the corporations that exercise control over the flow of information are identical to or tied to other participants in the marketplace, the assumption that there will be a free flow of relevant information may not be able to be maintained indefinitely. Already in the United States the political process is very much influenced by the ability of candidates to purchase media time and such influence may be apt to increase in the future. The assumption of translucency may have been justifiable at times when societies were smaller and the means of obtaining relevant information more direct, and thus the model accepted by Gauthier seems more appropriate to a situation in which a market participant must deal with an individual con man or unscrupulous small merchant than to one where major participants are multinational corporations. In such a world, the notion that all participants in the market are equals just may not be sustainable.

The influence of these corporations, moreover, may be as strong on structuring individual



preferences as they are on the information needed to make the decisions needed to realize these preferences as much as possible. The concept of the individual member of the society as a fully independent agent who is wholly in control of his considered preferences may also not be appropriate in a world where that individual is socialized from a young age in a society in which desires, preferences, and perceived needs are strongly influenced by the media and by advertising. Gauthier himself recognizes this potential problem in the context of the fictional account of Aldous Huxley's *Brave New World*. Gauthier comments on Huxley's description of a world in which people's desires and personalities are molded by the yielders of a powerful media technology:

We think of the market as producing goods to satisfy persons. But the advertiser may think of producing persons to be satisfied by goods. Economic man is manifested in the activities of such a manipulative advertiser quite as much as in the activities of the commodity producer. What difference is there between creating a demand for a given supply, and creating a supply for a given demand?

For us the difference is that the individuals in an artificially just society must lack the capacity to change in certain humanly possible

ways. Their preferences must be fixed in two respects--as outputs of social causation and as inputs for social fulfillment. Any variation that would destroy the fit between the two must be eliminated. But we may then question whether these inhabitants of 'brave new world' are fully rational. They act rationally, to maximize their utilities. But are the preferences whose measure they act to maximize fully reflective? Do these persons possess a full self-critical capacity, so that they may subject their preferences to reflective assessment, and alter them, and so their preferentially based behaviour, in the light of that assessment? (p. 323-324)

Thus, in his reply to Huxley's vision of the near future, and presumably to those who see the novel as not unrelated to the present media environment, Gauthier affirms his faith in human rationality; as long as human beings have the ability to reflect critically on their environment they will not fall prey to the dangers inherent in large-scale advertising.

But do human beings actually approximate the ideal rationality that is assumed by economic theory, the game theory that provides the basis of the Prisoner's Dilemma, and Gauthier's moral theory? If they do not they may be prey to advertisers in just the way that Gauthier thinks is unlikely. Indeed, the whole notion that members of the



market society are capable of formulating their preferences and rationally acting to satisfy those preferences contains a rather strong assumption of human rationality that is not supported by recent work in cognitive psychology. The latter indicates that human thought is more often characterized by rough--and not entirely accurate--heuristic judgmental and decision-making processes rather than thought processes that are akin to the formal structures of modern logic. These results may tend to call into question not only the assumptions behind Gauthier's moral theory but also those same assumptions as they operate in traditional economic theory. Given a less than full rationality an individual participant in a free market may neither have full control of his preferences nor have the ability to make fully considered rational judgments about how to satisfy those preferences.

These considerations are not meant to imply that individual society members are irrational creatures who must be paternalistically protected from social and economic predators who have almost absolute power over their actions and desires. Mature adults are best treated as autonomous agents who have the right to pursue their own happiness as they see fit. Acknowledgment of the limitations of human rationality does perhaps imply that the marketplace may not be as an effective or efficient a mechanism for maximizing human satisfaction as some of its proponents propose. Human

beings do not very well conform to the model of the ideal market participant and for that reason moral theory should not reduce them to a status as, to use a phrase of Gauthier's, 'market selves' (p. 99). Indeed, one of the purposes of morality may be precisely to make certain that human beings are treated as something more than participants in the marketplace.

Like many proponents of the free market, Gauthier is an optimist who believes that our social and economic institutions can approximate the ideal market closely enough so that each individual can use the market to maximize his or her own satisfactions. This, however, would require these men and women to function within that marketplace as participants with equal knowledge as other participants and with adequate resources to barter. This relative equality does not, however, exist and if individuals are to achieve life-satisfaction it is likely that the society must accept moral standards that cannot be reduced to an egoistic decision to merely act fairly in the market; given their relative power, it is quite likely that corporations will be able to exploit opportunities without facing the risks that would mitigate against taking advantage of them.

### ***Preferences and Human Values***

In the previous section I argued that human beings should not be



reduced to their marketplace identities and I suggested that given the power of modern media, members of society may often be more apt to have their beliefs and desires molded by the media than to choose them freely themselves. This lack of full autonomy may not, however, be unique to the modern age. In every culture human beings have been influenced by myths and other means of conveying established values to accept certain beliefs and desires, certain ways of being human. The notion that human beings are agents with full autonomy is a quite modern one which may not coincide with 'human nature' as it evolved within the context of small-scale societies where a premium was placed upon social cooperation and solidarity. If this is the case, it may be that the classical liberal ideal of a self that freely chooses its preferences and values may not be fully compatible with our evolved nature.

Gauthier in fact almost concedes this view at one point in which he defends a free market society against those who claim that the radical individualism of such a society is intrinsically alienating:

If human interaction is structured by the condition of perfect competition, then no bond is required among those engaged in it, save those bonds that they freely create as each pursues his own gain. The impersonality of market society, which has become the object of wide criticism, and at the

root of charges of *anomie* and alienation in modern life, is instead the basis of the fundamental liberation it affords. Men and women are freed from the need to establish more particular bonds, whether these be affective or coercive, in order to interact beneficially. The division between siblings and strangers disappears, and it is not replaced by a new division in which subjects cooperate only so long as they remain under the watchful eye of Big Brother. Against the market background of mutual unconcern, particular human relationships of trust and affection may flourish on a voluntary basis. Those who hanker after close-knit relationships of other and earlier forms of human society are in effect seeking to flee from the freedom to choose the persons in whose interests they will take an interest. (p. 101-102)

Gauthier does not here so much deny that human beings can feel detached when they are identified with their market selves as much as he sees it as a cost that is worth paying in return for increased freedom.

If, however, the cognitive mechanisms that have always been responsible for acculturation are now being manipulated by the forces of the marketplace, with the consequence that individuals more serve than are served by that marketplace, the gain in



freedom may be somewhat illusory. While it is true that a member of a consumer society does have a good deal of choice about what to consume, it is unlikely that these choices are apt to be satisfying. From this perspective, the market society differs from traditional society not so much because of the greater life opportunities it offers as because of the nature of the acculturation. The values of the marketplace just may not have the depth or be as satisfying as the values traditionally associated with religion or with other value conferring institutions. As MacIntyre (1984) has emphasized, human beings can only really be satisfied when living according to a final end that gives their lives meaning and coherence. It is unlikely that the life of a consumer is capable of achieving such depth of meaning.

Here, as elsewhere in this critique, I find that the identification of human beings with market selves espoused by Gauthier provides an inadequate basis for human morality and for a satisfying human life. This is, of course, a merely negative conclusion and we are left with the problem of how to maintain the undeniable economic benefits of the market while establishing a value system that is not reducible to human existence within the marketplace. That, however, is a topic for another occasion.

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