Can a Sadistic Torturer Be Convicted of Irrationality?

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There is one main reason why we might want to convict a sadistic torturer of irrationality, and that is a "contemporary form of the Kantian hope" that morality is intrinsically tied to our capacity to reason (Mercer n.d., 5), because we might like to think that to act immorally is to act irrationally, and that any moral action is a rational one. Bernard Williams (1981) has argued that this hope is misguided and that morality is not tied to reason in this way, so we, in fact, cannot convict a sadistic torturer of irrationality (though we might convict him of being nasty). John McDowell (1995), on the other hand, has argued that we may indeed convict a sadistic torturer of irrationality;[1] if the sadistic torturer had been properly brought up, if she were a better agent than she in fact is, then she would not have any reason to sadistically torture anyone. This means she has reasons not to sadistically torture anyone, and because she has failed to see these reasons, we may convict her of irrationality.

In this essay I will argue, with Williams, that morality and rationality are not quite tied together in the way outlined

above. I will consider Christine Korsgaard's neo-Kantian approach, however, as a bridge between Williams' and McDowell's views, and argue that, whilst we cannot convict a sadistic torturer of irrationality, we can convict him of inconsistency or, in some cases, of arationality.

Now, what is the difference between irrationality, inconsistency and arationality? For the purposes of this essay I will define them as follows. An agent who is arational does not require reasons for acting. An agent who is irrational, on the other hand, is an agent who acts in a way that is contrary to what she has reason to do. Finally, an agent who is inconsistent acts on one reason she has which is in conflict with another reason she has for acting in a different way. I will return to these distinctions later.

Before we proceed we must also distinguish between three kinds of sadistic torturers, one who enjoys sadistically torturing others and values his identity as such — Caligula for example. Another who does not endorse such an identity but is weak-willed and cannot control his urges to torture others — Dr Jekyll for example. And another who neither rejects nor endorses the practical identity of a sadistic torturer and hence whose "conduct [is] like that of a wanton", who treats each and every one of his present desires as a reason for action (Korsgaard 1996, 99) — a Satyr for example.[2] I will re-

turn to these three cases below.

In *The Sources of Normativity* Korsgaard aims to establish that we all have moral reasons to act in moral ways towards others because we have reasons to value reflective agency (that is, humanity)[3] as an end in itself. Korsgaard derives such moral reasons from an analysis of the structure of the human mind. She starts from what she takes to be the rather uncontroversial claim that the human mind is "essentially reflective" (Korsgaard 1996, 92). This means we need reasons to act, we don't just act on desires, nor are we mere battlefields of conflicting desires. We are reflective, autonomous agents, meaning that we must endorse a particular desire in order to act on it. In order to endorse a particular desire, we need reasons to choose one desire over another. And in order to choose, we must act according to a law. But this is not just any law, the law that we act on must also be up to us, because otherwise we would not feel ourselves to be autonomous, which we do.[4] This law must also, and therefore be, expressive of ourselves, that is, the law that we act on depends on who we think we are, it depends on our practical identities. So, practical identities give rise to reasons for action, and if we don't act on these reasons then we can no longer think of ourselves as having such identities.

We must also have at least some conception of our

practical identity, otherwise we wouldn't have reasons to do any one thing over another. But some of our identities are more important to us than others, and some of them are more easily shed than others. So when our identities come into conflict, i.e. when they give rise to opposite reasons, we are forced to choose which of our identities is more valuable to us. But how?[5]

All of our practical identities are contingent (that is, all but one), so one or another of them may be shed. But "what is not contingent, is that you must be governed by some conception of your practical identity", because if you are not, then "you will lose your grip on yourself as having reason to do one thing rather than another" (Korsgaard 1996, 120-1). But this springs not from a particular conception of yourself, rather, it springs from your identity "simply as a human being", that is, as a reflective agent (Korsgaard 1996, 212). Thus, to be a human being is to have moral identity. And moral identity is prior to any other practical identity you might have, because it is directly derived from your very existence, from your status as a member of humanity. Beyond this, any other practical identity you might have, as a son or a mother, a rockstar or an accountant, all of them depend on your deepest identity as a member of humanity, as a moral agent. This is because if you didn't have the prior identity 'member of humanity', you would not be able to have any of the other practical identities that

you value and endorse. You cannot conceive of yourself as a rockstar if you don't also conceive of yourself as a member of humanity, and from your identity as a member of humanity, you are also a moral agent. Essentially "all value depends on the value of humanity" (Korsgaard 1996, 121). Thus, a value that contradicts the value of humanity leads to a kind of pragmatic contradiction, an inconsistency, because in order to have any value at all, even one that contradicts the value of humanity, is to value humanity in some prior sense.

Now, let's turn to the issue that arises from the Caligula-like torturer archetype, the sadistic torturer who values the practical identity of a sadistic torturer. Is this a rational position? We might agree with Korsgaard's argument above that the value of humanity is in some sense prior or deeper than any other value we might have, because any such value derives its normativity from the fact that we are humans. But we might question whether our commitment to another value may not be stronger, for example, in the case of Caligula, whom we might describe as being more deeply committed to the value of humanity, but more strongly committed to the value of sadism. That is, what if Caligula simply cares more about sadism than he does about humanity?

Faced with this problem, Korsgaard distinguishes be-

tween two kinds of conflict that can arise from our practical identities. We can have a practical identity that is "in and of itself contradictory to the value of humanity", e.g. an assassin, or we can have a practical identity that "is not by its nature contradictory to moral value, but that leads to a conflict with it in this or that case" (Korsgaard 1996, 126). Which kind of conflict arises for Caligula? It is certainly true that his practical identity as a sadistic torturer leads to conflict with the value of humanity in some cases as, by definition, he often has reason to harm or even kill others. These actions are contradictory to the value of humanity. Beyond this, it seems that Caligula never has good reason to treat the humanity of his victims as an end in itself, since his victims are merely a means to his pleasure, and so we can conclude that the practical identity of a sadistic torturer is in and of itself contradictory to the value of humanity. It's true that Caligula might value the humanity of his friends and family, but, as Korsgaard writes, this is a "reflectively unstable" position that is likely to lead the agent to reflection. (Korsgaard 1996, 128) And when he reflects more deeply, he will go on to see his mistakes, and to have reasons to shed his identity as a sadistic torturer, in favour of retaining his identity as a reflective agent, which he cannot shed.

Here it is worth distinguishing between reflection and rationality. What is the difference between being "re-

flectively unstable" and being irrational? Earlier I distinguished between irrationality and inconsistency; to be irrational is to act in a way that is contrary to what one has reason to do, and to be inconsistent is to act on a particular reason one has which is in conflict with another reason one has for acting in another way. Caligula is not irrational in this sense, because he has reason to act in the way that he does, i.e. to torture, because he values the identity of a sadistic torturer, so he is acting in line with what he has reason to do. Caligula is, however, inconsistent, because he is acting on reasons which arise from his practical identity as a sadistic torturer, and these reasons conflict with the reasons that arise from his identity as a reflective agent. This means Caligula is also "reflectively unstable". So we cannot convict Caligula of irrationality, but we can convict him of inconsistency.

Here we see how Korsgaard accommodates Williams' view, as no Korsgaardian reflective agent could really be irrational, since an agent can only act in a particular way if she has some reason to do so, and so no reflective agent can act in a way that is contrary to what she has reason to do. This is closely tied to Williams' internal-reasons view. Williams has argued against the hope that morality is closely connected to rationality. This is because, for Williams (1981), an agent A has reason to φ if and only if A could reach the conclusion to φ by

a sound deliberative route from the motivations that A actually has in her actual motivational set S — i.e. the set of her desires, beliefs, attitudes, etc. Korsgaard builds this into her argument from the start, as the defining characteristic of Korsgaard's moral agent is that she is essentially reflective, that is, she can only act if she has some desire to act in some way (i.e. she can only act if she has something in her motivational set) and if she reflectively endorses one desire over another (i.e. through a sound deliberative route she concludes in favour of φ-ing). Because Caligula is a reflective agent, he has 'valuing humanity' in his motivational set, and so there is a sound deliberative route that he could take to reach the conclusion that he should not torture, so he has an internal reason not to torture. Of course, Caligula also has reason to torture, because he endorses the identity of a sadistic torturer, so he is "reflectively unstable" and inconsistent.

Korsgaard also accommodates McDowell, a reasons-externalist, here, who wants to say that Caligula should be convicted of something more than merely being nasty, for he has failed to see and act on the deeper, moral reasons. Whilst Korsgaard's view does not allow us to convict Caligula of irrationality per se, it does allow us to convict him (and, indeed, any other agent who endorses a practical identity that is in and of itself contradictory to the value of humanity) of being

"reflectively unstable", of being inconsistent. FitzPatrick puts this in more precise terms, writing that, just like one who holds 'P or not-Q and not-P' is also committed to holding 'not-Q', Korsgaard's reflective agent is committed to the value of humanity whenever she exercises any kind of agency at all, that is, whenever she acts at all (FitzPatrick 2005, 672), regardless of whether or not she has taken that sound deliberative route, regardless of whether or not she has reflected, because if she were to reflect at all, she would come to that conclusion (that she is committed to the value of humanity and thus has moral reasons). This position satisfies (some of) the demands of the reasons-externalist because, though moral reasons are internal reasons, they are also universal — all reflective agents, all human beings, have these reasons in their motivational set. This means that all human beings have reason to act morally.

Critics of Korsgaard have argued that her argument fails to properly answer the sceptic because her conclusion is inescapably conditional, if one values one's own reflective agency, then one has moral reasons. But this criticism is quite misguided in two different ways. First, Korsgaard's conditional conclusion is in fact much stronger than this, it is rather, if a reflective agent acts at all, then she has moral reasons. This antecedent is much more difficult to contest or deny. Second, even if the criticism did point to a weaker conditional conclu-

sion, Korsgaard's argument for it still starts from a reasonably uncontroversial claim about the structure of the human mind, that it is "essentially reflective" (Korsgaard 1996, 92). This antecedent is still not one that the skeptic can easily contest or deny, perhaps especially because Korsgaard is not making claims about the ways the mind or the world really are, but rather about the ways that we experience them. The very moment the skeptic asks 'why should I be moral?' she already reveals that she is a reflective agent and that she experiences the world and her agency in the way that Korsgaard describes. Indeed, as Allan Gibbard writes, Korsgaard starts "from the plight of *anyone* who reflects on what to do and why", even the skeptic who asks 'why should I be moral?' (Gibbard 1999, 140, my emphasis). This makes Korsgaard's argument particularly immune to skepticism, despite its conditional conclusion.

Another, more serious objection to Korsgaard's position is that she makes too far a jump from valuing one's own humanity to valuing the humanity of others. Essentially, why should Caligula value the humanity of his victims merely because he values his own humanity, or that of his friends and family? Korsgaard writes that to value anything that is in contradiction to the value of humanity leads to a pragmatic contradiction. This is because our capacity to value anything comes from our identity as human beings, and so valuing humanity

is what it is to be a human being.

As I have argued above, Caligula is an inconsistent agent because he acts on the reasons that arise from his identity as a sadistic torturer, and these reasons are in conflict with the reasons that arise from his identity as a reflective agent. Caligula feels the pull (or at the very least would do so if he reflected more deeply) in both directions. Korsgaard's point is that in any such situation where an agent has reasons to act in opposite ways, the agent becomes "reflectively unstable". This does not strike me as a particularly controversial claim. Beyond this, when an agent is in such a "reflectively unstable" position, and acts on a reason that is in conflict with reasons that arise from her identity as a reflective agent (as a moral agent), the agent commits herself to both valuing humanity and not valuing humanity.[6] This is a "reflectively unstable" pragmatic contradiction because any agent who is committed to valuing 'P' and 'not-P' commits oneself to a pragmatic contradiction, and it is impossible to act on both of these values, one must choose, and so one is forced to take a sound deliberative route to the conclusion that 'P or[7] not-P', to φ or to not-φ, and if one reflects enough one will shed any identity that is in conflict with the value of humanity.

FitzPatrick frames this issue in terms of 'valuing oneself' or 'seeing oneself as unconditionally valuable', since

one is the source of value[8] (FitzPatrick 2005, 666). So, because we value things, and because we are the source of value, we must regard ourselves as "unconditionally valuable", or "value-conferring" (FitzPatrick 2005, 662-3). He argues that this is the step in Korsgaard's argument which is unjustified, because, according to him, it requires a "psychological necessity" that is simply not satisfied in reality (FitzPatrick 2005, 666-7). I have just shown why it is a pragmatic contradiction to have any value whatever that contradicts the value of humanity, but FitzPatrick takes issue with an earlier step in Korsgaard's argument, the move from our valuing anything at all to our valuing ourselves (i.e. our own humanity). Is it necessary to establish Korsgaard's argument that an agent who has values also believe that she is herself valuable in her capacity to give objects value? In Korsgaard's terms, is it necessary for us to value even our own humanity?

This is a crucial step in Korsgaard's argument to establish that we have moral reasons, but I don't think that this step demands a kind of "psychological necessity" as FitzPatrick understands it. Here, FitzPatrick seems to mean that the agent must believe herself to be unconditionally valuable when she makes any choice whatever. But this is not really the case. Most of the time we are driven by parts of our identity that are not the moral part, that is, most of the time we don't act on moral

reasons, but on reasons that arise from other practical identities we endorse. Just as a student, for example, has reason to get up early and get to class on time. Of course these identities, and therefore the reasons that arise from them, are in a sense secondary to our moral identity, and they must not conflict with our moral identity (otherwise we will find ourselves in a "reflectively unstable" position), and so the value of humanity is implicit in all of our other values, but we need not be, and indeed we aren't, constantly conscious of this fact about ourselves.

I have reason, for example, to get to class on time, and this reason arises from a practical conception of myself as a student, an identity which I value and endorse. I may come to question why it is that I value this practical identity, and I may come to give it up upon reflection. Upon further reflection I might ask myself why it is that I value anything at all, why it is that I have the capacity to value things, and then I will be confronted with certain facts about the structure of my mind, and my most fundamental identity as a reflective, moral agent, and then come to value this in myself, in itself, and in others. But this occurs only under reflection, only when I come to question my capacity to value anything whatever, or, indeed, when I am faced with a difficult choice between different parts of my identity, one of which is the moral, reflective part. Note here the point made above that

Korsgaard's conclusion is inescapably conditional; if I were to reflect, then I would come to the conclusion that I must value humanity and therefore have moral reasons.

The point here is the one made by Williams that an agent A has an internal reason to φ if and only if A could reach the conclusion to φ by a sound deliberative route from A's actual motivational set S. By virtue of acting at all A has 'valuing humanity' in her motivational set, and so there is a sound deliberative route she could take to the conscious conclusion to value humanity, but it is not necessary that she be constantly conscious of this fact about her motivational set. From this we can establish that the "psychological necessity" that Fitz-Patrick identifies is not really a necessity for Korsgaard at all; what is necessary for her is that an agent would come to value herself (and consequently value humanity in general and in others) if she came to reflect upon it.

We are now left with the issues that arise from the Dr. Jekyll-like torturer, who does not endorse the identity of a sadistic torturer but who nonetheless succumbs to his desire to torture others, and the Satyr-like, wanton torturer, who neither endorses nor rejects the identity of a sadistic torturer. Let's begin with Dr. Jekyll.

Dr. Jekyll's is an issue of weak will, and it is a more difficult

and interesting case than Caligula's. Dr. Jekyll resents the fact that there is a sadistic side to him and actively rejects the practical identity of a sadistic torturer, yet Dr. Jekyll still succumbs to his desires to torture others when those desires arise, though he goes on to regret having acted on those desires later. Can we convict Dr. Jekyll of irrationality? It is certainly true that Dr. Jekyll has internal reasons not to act on his sadistic desires when they do arise, but does he also have external reasons not to do so? That is, does Dr. Jekyll, or any reflective agent, have an external reason to always treat humanity as an end? I have argued above that Korsgaard is a reasons-internalist, and so she holds the view that an agent A has reason to φ if and only if A could reach the conclusion to φ by a sound deliberative route from A's actual motivational set S. But, of course, all reflective agents have moral reasons — this is as close as a reasons-internalist can get to a universal, external reason. There are two ways that we can view and resolve the problem from this perspective.

First, we could say that whenever a sadistic desire arises in Dr. Jekyll his motivational set changes so significantly that there is no sound deliberative route he could take to arrive at the conclusion not to act on that sadistic desire,[9] so that he ceases to be a reflective agent at all, and is more like an animal acting on instinct.[10] I don't think that Korsgaard would accept this as a possibili-

ty, for she thinks that the very fact of being a member of the human species means that one is a reflective agent, but even if it were the case that Dr. Jekyll essentially ceased to be a human being (defined relevantly as a reflective agent, and not in the mere biological sense) when he acted on his sadistic desires, we still could not convict him of irrationality. Just as we would not convict an animal of irrationality when it harms or kills another animal, we cannot convict Dr. Jekyll of irrationality in this case, for he does not meet the requirements of reflective agency at all, that is, he is arational, he requires no reason for acting.[11]

The second approach we can take here is to argue that, when a sadistic desire arises in Dr. Jekyll his motivational set changes so as to contain an endorsement of the value of sadism. In this case, Dr. Jekyll essentially becomes Caligula when he acts on his sadistic desires, but there is still a sound deliberative route he could take from his actual motivational set to arrive at the conclusion not to act on his sadistic desires. In this case, we still cannot convict Dr. Jekyll of irrationality, for, as I have shown above, we cannot convict Caligula of irrationality. Although we can (and, indeed, should) convict Dr. Jekyll of inconsistency in this case, just as we have convicted Caligula of the same offence above.

Thus, from the perspective of Korsgaard's neo-Kantian

approach, Dr. Jekyll is either a genuine wanton, that is, an arational creature who does not require reasons for acting, or Dr. Jekyll is more like Caligula, an inconsistent agent. Either way, we cannot convict Dr. Jekyll of irrationality, though we may convict him of arationality or of inconsistency.

We are now left with the issue of the Satyr, the (Korsgaardian) wanton who neither rejects nor endorses the practical identity of a sadistic torturer, but merely takes each and every present desire to be a reason for acting, and occasionally has sadistic desires which he takes to be reasons for action. Note that this is not the same as the first approach to the Dr. Jekyll case above — the Satyr is still a reflective agent in this case, he still requires reasons for action (see Korsgaard 1996, 99). The issue here is one of the domain over which the law that we act on must range.

As I have said above, Korsgaard's approach requires an agent to endorse a particular desire in order to act on it, and in order to do that the agent requires reasons to endorse one desire over another, and in order to do that the agent must act according to a law. This is because the free will of the agent[12] is a "rational causality", meaning it acts according to some law. Because the will is free, it "must be entirely self-determining", but because the will is also a rational causality, it must act

according to some law, for "it cannot be conceived as acting and choosing for no reason" (Korsgaard 1996, 97-8). So the free will "must have its own law", but again we are faced with the same problem as before; how can the will have reason for acting on one law rather than another? Korsgaard concludes that Kant's categorical imperative is the answer to this question, because all it does is "merely tell us to choose a law", "its only constraint on our choice is that it has the form of a law" (Korsgaard, 1996, 98). So, the categorical imperative "describes what a free will must do in order to be what it is", in order to be a free, rational causality (Korsgaard 1996, 98).

But this law is not necessarily a moral one — here the issue of the domain over which the law must range must be considered. The wanton Satyr acts on a law that commands taking each present desire as a reason for acting — this is not a moral law. The moral law must range over every rational being to give rise to moral reasons (Korsgaard 1996, 99). But does the Satyr have reason to act according to the moral law rather than the wanton law? Is there a sound deliberative route from his actual motivational set that he could take to arrive at the moral law? Korsgaard argues that there is.

Korsgaard writes that "the reflective structure of the mind is a source of 'self-consciousness' because it

forces us to have a conception of ourselves" (Korsgaard 1996, 100). This means that when we choose to act on one desire over another we experience "something over and above" our desires which chooses between them, and that is what we experience as 'ourselves' (Korsgaard 1996, 100). This, in turn, means that the law which we choose to act on must be one that we regard as expressive of ourselves, that is, it must be expressive of our particular practical identities, the most central of which is the practical identity of a reflective agent. So the law that we act on must be representative of this basic fact about who we are, and so the wanton law is not a proper law for a human being. Essentially, according to Korsgaard, no human being could be satisfied with such a law, for it does not properly represent oneself, and it does not properly solve the practical problem which Korsgaard identifies, that is, the problem of how to decide what to do and why — the wanton law fails to answer the 'why' part of the problem in an adequate way.

So not only is there a sound deliberative route the Satyr could take from his current motivational set to conclude that he should act on the moral law, but it is inevitable that he will take such a route if he truly is a reflective agent. Again, either the Satyr continues to behave like a wanton — so that we may conclude that he is a genuine wanton in Frankfurt's sense of the word,

and therefore not a properly reflective agent at all but an arational being —, or the Satyr will, upon reflection, accept the moral law and cease to act on his sadistic desires, and so there will be no need to convict him of irrationality or even of inconsistency. Ultimately, the Satyr is neither irrational, nor inconsistent like Caligula and Dr. Jekyll above. The Satyr is either a genuine wanton, that is, arational, or he will, out of his own accord, begin to act on the moral law.

So, can a sadistic torturer be convicted of irrationality? In this essay I have shown how Korsgaard's approach can give us something of a middle-ground between the reasons-internalism and the reasons-externalism views, allowing us to convict a sadistic torturer of inconsistency or of arationality, though not of irrationality. But what does this mean for the "contemporary form of the Kantian hope" (Mercer n.d., 5) that morality is intrinsically tied to our capacity to reason? I have shown that any sadistic torturer — indeed any reflective agent — has an internal reason to act morally towards others because 'valuing humanity' is part of the actual motivational set of any and all reflective agents. So any and all reflective agents have internal reasons to act morally, though perhaps not overriding reasons to do so. A reflective agent who acts in a way that is contrary to the value of humanity, a "reflectively unstable" agent, is inconsistent. And this "reflectively unstable" position is

likely to encourage an inconsistent agent to reflect, and it is through this reflection that they will come to see that they necessarily value humanity and, therefore, should act morally. So, ultimately, a sadistic torturer cannot be convicted of irrationality. Indeed, irrationality is not a real possibility for a Korsgaardian reflective agent; either one is an inconsistent reflective agent, like Caligula, or one is arational, a genuine wanton, who does not require reasons for acting and is therefore, not a reflective agent at all.

Notes

1. Though McDowell does concede to Williams that 'not seeing the proper reasons' is not necessarily the same as 'irrationality'.
2. Here I use the term 'wanton' in the way in which Korsgaard uses it, rather than the way in which Harry Frankfurt uses it. Korsgaard makes this explicit distinction in *The Sources of Normativity* (1996, 99). Frankfurt's wanton is a genuine wanton, who merely acts on each and every present desire as they arise. Korsgaard's wanton is not a genuine wanton in this way, but a reflective agent who misjudges the domain of the law she acts on. I will go on to discuss this below in relation to Dr. Jekyll and the Satyr.
3. From here onwards I will use the terms 'reflective agent' and 'human being', and the terms 'reflective agency' and 'humanity' interchangeably unless otherwise explicitly stated.
4. Here, Korsgaard is not making a metaphysical claim about autonomy or free will, she is merely describing what she takes to be our experience of ourselves. Whenever we make a choice we feel that this choice was made by us, that we are self-legislating beings and not merely a battlefield of competing desires — this is how we experience choice.

5. This is the issue that arises in the case of Caligula, the agent who values his identity as a sadistic torturer. I will explore this in more detail below.
6. She commits herself to valuing humanity because she is constantly committed to this, by virtue of valuing anything at all. She commits herself to not valuing humanity because she acts on a reason that is in conflict with her moral reasons.
7. This is the exclusive 'or', of course.
8. That is, realism is false in the sense that there are no mind-independent moral properties 'out there'.
9. This is indeed the case in Stevenson's original novella The *Strange Case of Dr. Jekyll and Mr. Hyde*, since Dr. Jekyll literally becomes another person, Mr. Hyde, when his sadistic desires arise.
10. Indeed, human beings often act in this way. For example, when we touch a hot plate that burns our hands we instinctively and unreflectively let go immediately to protect ourselves — it is in this way that Dr. Jekyll seems to act in these circumstances. Of course, in the case of the hot plate our actions do not conflict with the value of humanity and so no problem arises as it does for Dr. Jekyll here.
11. Here, Dr. Jekyll is a genuine wanton in Harry Frankfurt's sense.
12. Again, this is not a metaphysical claim, but merely a claim about how we experience choice.

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