Schmidtz on Moral Recognition Rules: a Critique

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Abstract: Schmidtz's reconstruction of morality advances Hart-type recognition rules for a "personal" and an "interpersonal" strand of morality. I argue that his view does not succeed for reasons owed both to the way in which Schmidtz construes of the task of reconstructing morality and the content of the moral recognition rules that he proposes. For Schmidtz, this task must be approached from a Hart-type "internal" perspective, but this leaves his reconstruction with an unresolved problem of parochiality. And he reconstructs morality as a pursuit of the aim of the flourishing of individuals as reflectively rational agents. But while it is plausible to see reflective rationality as good, it does not seem to be a morally fundamental good. Ways to instantiate or pursue it depend for their moral value on other, more fundamental moral values that are beyond the normative space mapped by Schmidtz's moral recognition rules.

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1.

In "Moral Dualism,"[1] David Schmidtz makes a fascinating attempt to reconstruct two strands of morality, and to identify Hart-type recognition rules for each stand. And while many parts of Schmidtz's work have received extensive discussion, his conception of moral dualism and the role that it accords to moral recognition rules has received very little attention.[2] What I want to do below is to engage Schmidtz's conception of moral dualism, with a focus on the use he makes of Hart-type moral recognition rules. My overall conclusion will be negative. Some of the substantive moral views that Schmidtz puts forward in the process of developing this reconstruction of morality seem highly attractive–including especially his view that the flourishing of individuals as reflectively rational agents is an important good. Still, his reconstruction of not succeed–for reasons that are rooted both in the way in which Schmidtz approaches the task of reconstructing morality and in the content of the recognition rules that he proposes.

I proceed as follows. Section 2 considers the status of Schmidtz's reconstructive enterprise and engages the use he makes use of Hart-type recognition rules. Schmidtz in effect claims that recognition rules for morality *must* be arrived at from what Hart calls an *internal* perspective, rather than a Hart-type external perspective–this commits Schmidtz to a normative reconstruction of morality. Section 2 takes first steps to calling into question this claim. Section 3 argues that if we follow Schmidtz and aim to arrive at moral recognition rules exclusively from an internal perspective, we will be left with a risk of parochiality. In this light, I address Schmidtz's proposed recognition rules and argue that they either they are reconstructively inadequate or parochial. (I also consider, and reject, an ontological reading of his case.) Section 4 concludes with observations on the normative dependence of reflective rationality. Roughly, Schmidtz sees morality as a pursuit of the *telos* of the flourishing of individuals as reflectively rational agents. But it seems that the moral value of ways to instantiate, or pursue, the flourishing of individuals as such agents depends on other, more fundamental moral values. These are values that, it seems, are beyond the sights of Schmidtz's reconstruction, but they are values a reconstructive view of morality should focus on–or so I shall submit.

2.

Schmidtz advances his recognition rules as part of an attempt to reconstruct morality, or

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[1] David Schmidtz, *Person, Polis, Planet: Essays in Applied Philosophy* (Oxford: Oxford University Press, 2008), pp. 117-45. Below, page numbers in the main text refer to this edition.

[2] E.g., three reviews of Schmidtz's *Person, Polis, Planet* do not elaborate on it in any greater detail, even though, as Elizabeth Tefler rightly notes, the chapter "Moral Dualism" is one of the most important contributions that this book makes. See Tefler, Review of *Person, Polis, Planet*, by David Schmidtz, in *Analysis* Vol 69/3 (2009), pp. 582–585; Thomas Porter more recently recognizes the importance that the idea of moral dualism has for Schmidtz, but touches on it and the content of Schmidtz's proposed recognition rules only briefly: see Porter, Review of *Person, Polis, Planet: Essays in Applied Philosophy*, by David Schmidtz, in: *Mind*, Vol. 121/482 (2012), pp. 519-523; David Boonin's review sidesteps the issue almost entirely: see his Review of *Person, Polis, Planet: Essays in Applied Philosophy*, by David Schmidtz, in *Ethics*, Vol. 119/2 (2009), pp. 378-382. In Schmidtz's own words, his view of moral dualism "is among the more important things I've done," and he adds that "if there were anything I've written that I wish had gotten more attention, this would be it." (Schmidtz, *Person, Polis, Planet*, p. 7.)

rather what he sees as two strands of morality. To put this in context, let me start by considering what reconstructive accounts of morality do.

On a reconstructive account of morality, we try to identify what relevant people relevantly treat and construe as moral. This often, though not always (see below), takes the form of an exercise in *descriptive ethics*. Reconstructive accounts assume that "moral" practices exist and that they can be identified as moral at least by their competent participants, and they aim to capture by what standards, or on what grounds, participants successfully do so. Accordingly, what, at a pre-theoretical level, counts as a *successful* identification of φ as moral does not depend on what the reconstructive account identifies as such. It depends on what competent participants upon consideration identify as moral, and what identifications of things as moral they can share. Likewise, whether, at a pre-theoretical level, an agent qualifies as a *competent* participant in moral practice does not depend on whether she, or her considered judgments, complies with the reconstructive account. Instead, it depends on whether she is recognized by other, competent participants as someone who participates in this practice and who understands and more often than not gets right what this practice calls for, as seen by other competent participants.

With this comes a certain direction of fit. A reconstructive account of moral practice must fit the considered moral judgments of competent participants, rather than *vice versa*. It depends for its normative status–its truth, accuracy, or reconstructive adequacy–on tracking what competent participants upon consideration say, believe, or do. Other things being equal, therefore, a mismatch between what a candidate reconstruction of moral practice identifies as "moral" and what competent participants in that practice identify as "moral" counts against the adequacy of the account, and provides a reason to adjust it–or at least if this is what competent participants would upon consideration say. By analogy: if you are a competent Salsa dancer and I for the first time try to identify what body movements count as Salsa moves, then if I find myself in disagreement with your considered judgments in this matter, I should adjust my views to yours, rather than concluding that you get Salsa wrong.

Not least, descriptive reconstructions of morality can employ the word "moral" in its descriptive use. There is disagreement about the application criteria of this word, but when we do use it descriptively, we call things "moral" without thereby committing ourselves to them. We use this word in this way when we refer to practices of moral strangers as "moral," while withholding normative judgment about what, for them, counts as moral, or as moral competency. E.g., you can refer to Sharia law as a religious "morality" or as expressing a religious "moral" doctrine without expressing any kind of agreement or disagreement with it. Descriptive reconstructions of morality aim at an account of what some people *as a matter of fact* regard as moral–rightly or wrongly, or for better or worse.

Schmidtz is not after a descriptive reconstruction of morality. Yes, he sets out to *reconstruct* morality–or what it actually is for something to count as "moral." And so he looks for moral recognition rules and takes it that his account needs to draw on, or accord with, pre-theoretical views of competent participants in moral practice, e.g., to identify morality's subject matter (p. 133). But he takes it that if we refer to φ as moral, then we refer to φ as *meriting endorsement*. Thus, his reconstruction aims to arrive at a *normative* account of morality. Accordingly, he moves back and forth between referring to something as "moral" and referring to it as "right" (p. 117f.), and he insists that a moral recognition rule "*must* home in on a property with normative force, one that constitutes reason for endorsement." (p. 122; my emphasis) Note the point here is not that a moral recognition

rule must home in on something that *someone*, but not necessarily the observer, takes to constitute a reason for endorsement. For Schmidtz, to identify φ as moral is or entails recognizing φ as meriting endorsement.[3] On this view, then, reconstructing morality is *not* an exercise in descriptive ethics.

To put this in context, contrast it with Hart, from whom Schmidtz borrows (p. 117). For Schmidtz, reconstructing morality is working out at a Hart-type recognition rule for the special case of morality. Hart's recognition rules are secondary rules (rules that apply to other, lower-order, primary rules of conduct) that identify whether given primary rules belongs to a given rule family: they are tools to resolve problems of "uncertainty"[4] about the family membership of other rules. Accordingly, a moral recognition rule would identify whether a given rule of conduct has membership in the family of moral rules (as that family stands at a given time, or is at that time construed by relevant people). Alas, Hart also distinguishes between "internal" and "external" usages of recognition rules. Recognition rules are used by an agent from an internal perspective when they are used to identify other, primary rules as authoritative *for the agent*. Suppose you accept that a family of rules has authority for you and you use a recognition rule, R, to identify whether a given rule, φ, is a member of that family. In this case, you use R to identify whether φ is authoritative for you. By contrast, you use R from an external perspective if you use R to identify whether φ is a member of that family *without* accepting in your own right that family membership confers authority. Hart puts the point in terms of the validity of legal rules. As he explains, we can use a legal recognition rule to identify a primary rule as part of a legal system, as valid *within that system*, or "as passing all the tests provided by the rule of recognition and so as a rule of the system," with *or* without in our own right endorsing as authoritative the system, or the relevant primary rule.[5] Thus, for Hart, it is not the case that a recognition rule must identify what, from the observer's point of view, has normative force or constitutes reason for endorsement.

If we think of the task of reconstructing morality as a task of working out moral recognition rules, we might draw on Hart, as well, in assuming that we can use these rules from an external *or* an internal perspective. Accordingly, it would seem that, in *arriving at* recognition rules, we can adopt an external *or* an internal perspective. A descriptive reconstruction of morality would adopt an external perspective. As much as we can figure out, if we can, how to identify a legal rule of the British legal system as such a rule without submitting to the authority of that system, we can figure out, if we can, how to identify what rules moral strangers construe as moral without subscribing to their moral outlook. What an observer identifies as "moral" in the descriptive sense *may or may not* be something that, from that observer's perspective, merits endorsement.

Of course Schmidtz disagrees: as we saw earlier, he claims that moral recognition rules *must* identify something that 'constitutes reason for endorsement'. He adds:

> One difference between moral versus legal reasoning is that questions about how we recognize morality are hard to separate from questions about whether we have reason to endorse it. Morality's recognition rules pick out the extension of "moral" just as the law's recognition rules pick out the extension of "legal."

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[3] Tefler, too, observes this point: see Tefler, Review of *Person, Polis, Planet,* p. 581.

[4] H. L. A. Hart, *The Concept of Law* (Oxford: Oxford University Press, 1997), p. 92.

[5] Hart, *The Concept of Law*, p. 102f.

> Morality's recognition rules, however, pick out X as moral by homing in on properties that, from a plural perspective, give us reasons to endorse X. … [I]n formulating a theory about what makes something moral, we are seeking to identify truth *makers*. So, although moral recognition rules serve an epistemological role, they serve that role by tracking moral ontology. Moreover, to play their epistemological role in a moral agent's life, recognition rules have to be *usable* truth makers. A [moral] theory's recognition rules … must direct us to look for a kind of truth; moreover they must direct us to look for a truth we are capable of finding. (p. 131)

> This, then, is the normative status of morality's recognition rules. Being recognized as moral has normative force because, when morality's recognition rules pick out X as moral, they do so by recognizing that we have reasons to endorse X from a plural perspective. (p. 132)

Yes, moral and legal reasoning differ, and, yes, it may be hard to separate questions about how to recognize morality from questions about whether we have reasons to endorse it–*if* we take it not only (i) that recognizing morality is a matter of applying moral recognition rules, but *also* (ii) that moral recognition rules must home in on some property that, from *our* point of view, gives *us* reason for endorsement. But why should we construe moral recognition rules in terms of (ii) if indeed we need them to recognize morality, as Schmidtz assumes, but (ii) runs us into the problem that it becomes hard to separate questions about how to recognize morality from questions about whether we have reasons to endorse it? It is not necessary to construe moral recognition rules in such normatively engaged terms. Following Hart, and aligned with descriptive conceptions of morality, we can accept (i) without accepting (ii). At any rate, Schmidtz does not establish otherwise (or at least I am not aware where he does this). If this is right, then we remain at liberty to grant that reconstructing morality is a matter of identifying moral recognition rules without also committing ourselves to the view that we can identify as moral only those things that, from our own point of view, have normative force or instantiate properties that constitute reasons for endorsement.

Before I move on, let me take note of the following passage:

> A recognition rule must home on a property with normative force… To complicate matters, the property's normative force must be independent of morality. It must give us reason for endorsement of an ordinary kind, ordinary in the sense of appealing to interests and desires. (If we said we recognize X as moral in virtue of having the property of being moral, that would be circular. Our method of recognizing what is moral must not presuppose that we already recognize what is moral.) On the other hand, morality is, after all, what a recognition rule is supposed to be recognizing. The rule has to be a basis for endorsing something *as moral*, despite having a normative force that is not essentially moral. (p. 122)

Something is not right here. Why is it that, if reconstructing morality takes the form of arriving at Hart-type recognition rules, these rules must not only home in on a property that, from the observer's point of view, has normative force, but *must* do so in a way that *does not presuppose we already recognize what is moral*? We have just seen that *if* reconstructing morality is a matter of arriving at Hart-type recognition rules, then these rules may or may not home in on some property that, from the observer's point of view,

has normative force–for we might arrive at them from an external perspective. But let us suppose we adopt an internal perspective, as Schmidtz apparently does. Why, then, is it that these rules *must not* presuppose that we already recognize what is moral? This seems to run up against the way in which recognition rules earn their normative status–even if we use them from an internal perspective. Such rules are reconstructively adequate only where they suitably track given moral practices and the considered judgments of their competent participants–i.e., people who *already* take themselves and relevant others to recognize their shared practices as moral, or as meriting endorsement. But then it is *not* the case that a moral recognition rule *must not* presuppose that we, or relevant people, already recognize what is moral. To the contrary: such rules depend for their reconstructive adequacy on the assumption that relevant people *already* recognize things as moral.

Recall: where recognition rules are used from an internal perspective, they are used to identify whether primary rules belong to a rule family that, from the observer's point of view, has authority. Thus, if you accept that moral rules have authority for you and you use a recognition rule, R, to identify whether a given rule, φ, is a member of the family of moral rules, you use R from the internal perspective. And yes, this means that you use R to identify whether φ has authority for you. But you use R here in order to help you with the question:

Q1   Is φ a member in the family of moral rules (where this would make φ have authority for me)?

You do not use R to help you with the question:

Q2   Why does membership in the family of moral rules constitute reasons for endorsement?

And whatever meaning you and your peers attach to the word 'moral', it is something that R must track for it to merit the status of a tool by which to sort primary rules like φ into the group of moral rules–that is, as you and you moral peers construe of that group and whatever it is that, by your lights, makes moral rules have authority. From your point of view, then, you and your peers must be able to recognize something as moral before R can become, or be known to be, a suitable sorting tool for the task.

In fact, it seems that any Hart-type recognition rule that can help you with Q2, above, would not properly be a *moral* recognition rule. It would not be a recognition rule that helps you to recognize membership in the family of moral rules. Rather, it would be a recognition rule, R*, that helps you group the family of moral rules into the family of rule families that, by your lights, instantiate properties that constitute reasons for endorsement. But here, too, we would have to suppose that you and your competent peers *already* recognize rules, or rule families, as instantiating such properties–again, as you and your peers see things and whatever it is that, by your lights, makes rules, or rule families, have authority. This is so at least if R* is an adequate recognition rule, and as such merits the rank of such a sorting tool.

3.
To move on: the above suggests that, for Schmidtz, the task of reconstructing morality takes the form of working out moral recognition rules from an *internal* perspective (in Hart's sense). What does this mean? The following appears to be on Schmidtz's lines. Suppose the moral practice you reconstruct is *your* practice–i.e., a practice that you and your moral peers engage in as an exercise of what you mutually recognize as moral competency. In this case, your moral recognition rule reconstructs what you, in light of

your pre-theoretical judgments, see as constituting reasons for endorsement. Accordingly, you assess the adequacy of a candidate moral recognition rule in light of its capacity to do a good job at tracking these judgements, or practices that correspond to them. And the most successful candidate will single out as moral *only* those things that you and your moral peers upon consideration take to have normative force, or to merit endorsement.

Now, this renders the task of reconstructing morality *positional*–and with this comes a risk of parochiality. If we only adopt an internal perspective, what we reconstruct as "moral" accords with *our* considered opinions–or, say, practices, theories, doctrines, and so on, that instantiate or prescribe things that, from *our* perspective, have normative force or merit endorsement. And so we would draw the boundaries of *morality*–as opposed to the boundaries of moral views, practices, theories, doctrines, and so on, that we (partly) agree with, find reasonable, shareable, or plausible–in terms of *our* views of what has normative force or constitutes reasons for endorsement.

However, maybe what we take to have that status is something that every moral agent should take to have that status. E.g., maybe it really is followable by *all* within an inclusive scope (O'Neill), or reciprocally acceptable by *all* affected people (Forst), or justifiable by *unrestricted* robust public reasons (Postema), or such that *no-one* could reasonably reject it (Scanlon)[6]–to mention just some of the justification standards by which moral doctrines that pursue inclusive, universalist aims might specify when moral views merit endorsement as reasonable, right, valid–or as "objective" in an interpersonal, inclusive sense. (And, driven by these aims, such doctrines tend to define morality not in terms of *substantive* ends–ends which, prior to further argument, can have limited appeal and be reasonably contested–but, like Kant, in *formal* terms: and so they look to the form of justification, reasoning, moral language, and so on.) But as far as we are concerned, this would be a lucky coincidence: our recognition rule would identify rules as moral, or as meriting endorsement, not because they are inclusively justifiable, but because they fit to what *we* believe. And as this "we" may not be inclusive–even without our awareness, our perspective may be "plural" (Schmidtz), or public, but not also inclusive, or unrestricted, in scope[7]–what we recognize as moral, or as meriting endorsement, might not merit endorsement "objectively" (if anything does), and at any rate moral strangers might have good moral reasons to reject it.

Maybe this worry is out of place in the particular case at hand. I will turn to this and the content of Schmidtz's moral recognition rules shortly. For now, consider an analogy. If we recognize people as chess players only if they make chess moves that we think are good chess moves, then we do not recognize any way of playing chess other than the way that we think is good. Thus, we effectively equate (i) the set of characteristics that qualify people as participants in a given practice, e.g., chess playing, with (ii) the set of characteristics that qualify them as excelling in that practice, e.g., that make them good as chess players. But of course these things are different, and should be kept apart. We can

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[6] See Onora O'Neill, *Toward Justice and Virtue* (Cambridge: Cambridge University Press. 1996); Rainer Forst, "The Justification of Human Rights and the Basic Right to Justification: A Reflexive Approach," *Ethics*, Vol. 120/4 (July 2010), pp. 711-740; Gerald J. Postema, "Public Practical Reasoning: An Archeology," *Social Philosophy and Policy* 12 (1995), pp. 43-86; Thomas Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998).

[7] On restricted and unrestricted public, trans-individual reasoning, see Postema, "Public Practical Reasoning: An Archeology," esp. pp. 53-76.

agree at the level of (i), while disagreeing at the level of (ii). I.e., our views of what makes a good chess-player may differ, while we agree about what it takes to play chess. This has implications for the depth of our understanding of chess and our aptness at it. Where we recognizing different, competing views of what makes good chess-playing as genuine views about chess-playing, we learn more about the game–we can thereby gain an extended, critical perspective that helps us in assessing and tweaking our own chess-playing.

Applied to the moral case, if we disagree about the standards of rightness and goodness–or about what, in the moral case, constitutes reason for endorsement–we will disagree as to what it takes for us to excel as moral agents. But we can still agree as to what it takes for us to be committed moral agents. This, too, has implications for the depth of our understanding of morality and our aptness at it. Recognizing different views of the standards of rightness and goodness, or practices governed by them, as moral (without thereby agreeing with them), puts into perspective our own views. It will often constitute a need to re-examine and de-relativise them, or to transcend the limitations of our own perspective toward grounds that can be shared as common within more inclusive scopes.[8] And so it can bring out what is good about our views and what, upon reflection, calls for revision. And this we have reasons to take seriously especially if we desire to act on standards of rightness and goodness not simply because they happen to be ours, but because they get things right or, for all that we know, should be accorded authority. As Mill wisely puts it, "[h]e who knows only his own side of the case, knows little of that"[9]– and recognizing moral difference as *moral* often is a first step to shifting a moral outlook from a conventional to a *critical* outlook that is reflectively, critically and reasonably endorsed. And, it seems, the ability to endorse our moral views critically is something that Schmidtz takes to matter: it accords with what he calls "reflective rationality" (see below).

I now turn to the content of Schmidtz's recognition rules. Maybe Schmidtz's view is not parochial: maybe his proposed moral recognition rules are suitably inclusive. Let us look at them, then. To begin with, for Schmidtz, a recognition rule is a "supporting condition," i.e., a "qualified sufficient condition" for endorsement (p. 118)–i.e., a sufficient reason for endorsement if and when countervailing conditions are absent. He leaves open when conditions are countervailing, but, from context, it seems that counter-intuitiveness can be such a condition (ibid.; p, 121 n. 8). E.g., if a moral recognition rule, R, identifies φ as moral, or as meriting endorsement, but relevant people do not accept that φ merits endorsement in light of their moral or other intuitions, then φ is not moral, or does not merit endorsement.[10]

Next, Schmidtz proposes that morality has at least two strands, each with its own recognition rule. The "personal strand" concerns how an agent affects her own character.

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[8] This marks an important theme not only for many Kantian views, but also in Hume. E.g., see Postema, "Public Practical Reasoning: An Archeology," p. 56ff.

[9] J. S. Mill, *On Liberty and Other Essays*. Ed. John Gray (Oxford: Oxford University Press, 1998), p. 42.

[10] Note that if this indeed is what Schmidtz entails, it spells trouble. The view that φ is moral, or merits endorsement, only if all relevant people can accept φ in light of their considered moral intuitions is not plausible. To make it plausible, we would need to massage it into entailing that relevant people will always be able to accept moral views that they *really ought to act on*. It is not clear how this can be done as part of a *reconstruction* of morality (as opposed to a *non*-reconstructive normative view).

The "interpersonal strand" concerns constraints on individual or collective conduct. His recognition rule for the personal strand is:

> RRP   A goal is "moral" if "pursuing it helps the agent to develop in a reflectively rational way" subject to countervailing conditions (p. 136f., 142).

Reflective rationality here is a form of "eudaimonist rationality" (p. 143), or rationality directed at developing and sustaining a "psychologically healthy character" (p. 129), i.e., a character that embraces other-regarding ends and concerns, that cultivates ends the agent takes to be worth living for, and that is devoted to the satisfaction of preferences the agent deems worthy of satisfaction (p. 67; and pp. 67-74).

As his recognition rule of the interpersonal strand, Schmidtz specifies:

> RRI   "A constraint on conduct is moral if it works through social structure in a collectively rational way" subject to countervailing conditions. (p. 136f, 142)

Collective rationality is defined as "the property of being conducive to the flourishing of people in general as reflectively rational agents" (p. 135), where this is subject to an impartiality constraint: "[c]ollective rationality goes beyond appeal to self-interest by being impartial." (p. 120) Schmidtz brings these things together when he writes:

> We should not think of either strand as independently specifying a sufficient condition for something being moral. No single strand speaks for morality as a whole. If a goal's choice and subsequent pursuit helps Kate to sustain a reflectively rational character, then the goal is moral by the lights of the personal strand. If Kate pursues that goal within constraints imposed by collectively rational social structure, then her pursuit is moral by the lights of the interpersonal strand. *To be moral, period, her choice and the subsequent pursuit must pass both tests* (and maybe other tests as well if morality has more than these two strands.) (p. 137; my emphasis)

Schmidtz tells here us that passing *both tests*, or being moral in the sense of RRP *and* RRI, is *necessary* for something to be "moral, period," or to pick out a property with normative force, or one that constitutes a reason for endorsement. (It seems that this adds another meaning of "moral" and a *third* recognition rule, i.e., something is "moral, period" only if it meets RRP *and* RRI.)[11]

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[11] To elaborate: let 'φRRI' mean that φ meets RRI, 'φRRP' that φ meets RRP, and 'φM' that φ is moral (in at least one of Schmidtz's senses). Countervailing conditions aside, Schmidtz's view on moral recognition rules as 'supporting conditions' or (qualified) *sufficient* conditions suggests:

    1. $\varphi RRP \rightarrow \varphi M$ (if φ meets RRP, then it is moral),

    2. $\varphi RRI \rightarrow \varphi M$ (if φ meets RRI, then it is moral),

which entails:

    3. $(\varphi RRP \,.v.\, \varphi RRI) \rightarrow \varphi M$,

i.e., something that passes one of the two tests but not the other already counts as moral and so as meriting endorsement. But when Schmidtz says that to be moral, φ must pass *both* tests–and, in this context, he allows that something may not count as moral even if it passes both tests–he suggests:

    4. $-(\varphi RRP \,.\&.\, \varphi RRI) \rightarrow -\varphi M$

This is far more demanding than (3). With (4), it is *not* the case that something that passes one of the two tests but not the other counts as moral. The air of incoherence dissipates if we take it that (4) specifies an additional, different sense of 'moral'.

The question was: is this view plausibly inclusive? Let me suppose that if the flourishing of individuals as reflectively rational agents is a good that we ought to promote, then if we ought to promote it also collectively, we ought to do so impartially (that is, assuming we can provide a good specification of what impartiality calls for here). But should we take it that the flourishing of individuals as reflectively rational agents is not just *one* good that we have reasons to promote–and, perhaps, an important good–but a *Moral Master Good* not pursuing which would render our individual and collective pursuits *non-moral*, or not "moral, period"?

It is hard to tell. Consider first the reconstructive status of Schmidtz's claims. As I have read him here, Schmidtz's RRP and RRI, as well as his claim that being moral in the sense of RRP and RRI is necessary for something to be "moral, period," are reconstructive claims (albeit they are made from an internal perspective). As such, their normative status –their truth, reconstructive accuracy, or adequacy–depends on whether they adequately track the moral practice that relevant people share as an exercise of moral competency, or what competent participants in this practice upon consideration say, believe, or do. Now it is not clear who counts as a relevant or competent person for Schmidtz's purposes. Hence, it is not clear whose considered judgments count when we assess the reconstructive success of Schmidtz's reconstructive claims. But let me assume that you and I count as a competent for the purpose–let me assume that Schmidtz aims to reconstruct a stretch of moral practice that you and I engage in as competent participants. And while I do not know about your considered judgments, mine suggest that Schmidtz's moral recognition rules are *not* reconstructively adequate. Yes, reflective rationality is a good–or rather: other things being equal, or subject to countervailing conditions, it is good (and, I find, in more ways than one) if agents have, and can at will access resources that enable them to nourish, a character that embraces other-regarding ends and concerns, that cultivates ends they take to be worth living for, and that is devoted to the satisfaction of preferences they deem worthy of satisfaction. But it is counter-intuitive to see the flourishing of individuals as reflectively rational agents as a Moral Master Good not pursuing which renders individual or collective pursuits *non-moral*. Consider:

1. φ is just/fair, but φ is not conducive to the flourishing of individuals as reflectively rational agents,

2. φ impartially treats people as ends in themselves, but φ is not conducive to the flourishing of individuals as reflectively rational agents,

3. φ respects all affected people as free and equal people, but φ is not conducive to the flourishing of individuals as reflectively rational agents,

4. φ is equally justifiable to all affected others as just, but φ is not conducive to the flourishing of individuals as reflectively rational agents.

Such claims may or may not express moral opinions that we share, and they may or may not be true. But, by my lights at least, they are recognizable as expressing moral opinions and they do not seem to be incoherent.

Let me highlight that this is not a dogmatic point. Again, if they are reconstructive in status, then Schmidtz's proposed recognition rules depend for their adequacy on tracking the considered judgments of relevant or competent people (where the competence of these people is not determined by the light of these recognition rules, but on prior, independent grounds—see above). Hence, if you and I count as relevant or competent for the purpose, then if Schmidtz's recognition rules are not aligned with your or my considered judgments in this matter, then this constitutes genuine counter-evidence. And

for this to be the case it is not a requirement that you or I can provide better moral recognition rules or any at all.

But perhaps this consideration misconstrues Schmidtz's overall point as linguistic or epistemological, while the issue really is ontological? That is, aligned with a passage quoted earlier (see above; p. 131), maybe what he claims is that when we, or relevant, morally competent people, refer to φ as moral, then φ *really is* conducive to the flourishing of individuals as reflectively rational agents (as reconstructed by RRP and RRI)–that is, *as a matter of fact* and whether or not anyone is actually aware of this or finds this plausible. I am not sure whether Schmidtz wishes to make this very strong claim. But would this claim be true?

Again, it is hard to tell. To assess the truth status of that claim, we would need to know first what things are conducive to the flourishing of individuals as reflectively rational agents, and what things a given group of relevant, morally competent people refers to as moral–and how these sets of things relate to each other. It may or may not turn out that what these people refer to as moral is (always, non-contingently) conducive to such flourishing. And, of course, it may or may not turn out that what these people refer to as moral is something that *you and I* should regard as right, or good, or as meriting endorsement. In any case, the following is plain: by itself, the fact (i) that Schmidtz's moral recognition rules adequately reconstruct the moral practices or the considered judgements of relevant people could not establish (ii) that when such people refer to φ as moral, then φ *really is* conducive to the flourishing of individuals as reflectively rational agents (as reconstructed by RRP and RRI). (i) simply is the wrong kind of evidence to appeal to in order to establish (ii). Maybe (i) establishes that participants in the relevant practice believe, or are committed to accept, that (ii) is true–e.g., they might adopt a conception of human flourishing such that when φ is moral, φ is conducive to human flourishing. But in more ways than one, this does not mean that (ii) *is* true. Of course, saying this does not deny that (ii) is true. Maybe it is. But if it is, then this is so not in virtue of the fact that Schmidtz's moral recognition rules are reconstructively adequate (if this is a fact–and I suggested above that it is not).

The general point: if Schmidtz wants to make an ontological point of the overall sort just considered, then it cannot be made by way of arriving at reconstructively adequate moral recognition rules.

4.

Let me round things up with an observation on the normative dependence of the value of reflective rationality, and the subject matter of Schmidtz's moral recognition rules. Thus, what value, if any, would we attach to the presence in an agent of a reflectively rational character where we take the agent to be devoted to ends, concerns, preferences, and so on, that we *disapprove* of as mistaken, unreasonable, or wrong? At least at first pass, reflective rationality is a bit like a secondary virtue: its value depends on, and can vary with, the value of the things that instantiate it. Accordingly, practices that are conducive to the flourishing of people as reflectively rational agents may or may not also instantiate some property that constitutes reason for endorsement. E.g., maybe Jihadi John's public killings were, and were meant to be, conducive to the development of a character in him and some others that embraces what, *by his lights*, are important other-regarding ends, ends that are worth living (or dying) for, and that is devoted to the satisfaction of preferences that are worthy. But this does not render his killings any less abhorrent.

Of course, Schmidtz can agree. He might reply that Jihadi John's killings where not

"moral, period" as they violated constraints on personal conduct that are impartially conducive to the flourishing of people in general as reflectively rational agents. This reply might work–albeit I doubt it captures the nature of the moral wrong done to the victims of Jihadi John. And what this reply would bring out is that the value of φ's conduciveness to the flourishing of individuals as reflectively rational agents depends on whether φ meets the constraints of morality's interpersonal strand. Prior to knowing what these constraints are we do not know whether φ instantiates anything that constitutes reason for endorsement–that is to say, even if φ is conducive to the flourishing of individuals as reflectively rational agents on *some* understanding of that might take (e.g., Jihadi John's).

What are these constraints? RRI suggests a partial answer: constraints on individual conduct that are impartially conducive to the flourishing of human beings in general as reflectively rational agents merit endorsement. For this answer to be useful, then, we would need to know what the idea of flourishing as a reflectively rational agent *may be taken to require*, or what content we *may put into it*, for the purposes of specifying constrains on people's conduct. After all, not all instantiations of (conduciveness to) reflective rationality will be of equal value, and not all are morally permissible. Thus: what ends, concerns, or purposes, and so on, are such that characters that are suitably dedicated to them count as reflectively rational in the *right* way, or in a way that *does* have value, *does* merit approval, or is, or should be taken to be, tolerable or morally permissible? And on what grounds, if any, may we impose on other people constraints that aim to promote human flourishing *as we at the time understand it*–though perhaps not them? Can there be any "higher-order impartial,"[12] widely accessible and acceptable conception of the paths, concerns and aims of human flourishing that is rich enough in normative content to non-arbitrarily ground such constraints?

Such questions point us beyond the normative space mapped by Schmidtz's moral recognition rules. It seems that we cannot answer them unless we draw on prior, more fundamental views of what is right or wrong, just or unjust, or good or bad–and, accordingly, unless we have and employ some conception of what justification threshold(s) interpersonal constraints must meet in order to properly respect others who may deeply disagree with us and our conceptions of human flourishing. And, I submit, *these* are the kind of views that are at the core of interpersonal morality, and that a moral recognition rule for morality's interpersonal strand has reasons to reconstruct.

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[12] See Thomas Nagel, "Moral Conflict and Political Legitimacy," *Philosophy and Public Affairs* Vol. 16/3 (1987), pp. 215-40.