

Kant's Normative Ethics

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One central moral idea is that your doing some act is morally permissible only if others' doing that act would also be morally permissible. There are a number of different ways of developing this idea. One is the suggestion that, before deciding to do some act, you should ask yourself 'What if everyone did that?' Another central moral idea is that it is immoral to 'use' people.

Kant took himself to have identified a 'Categorical Imperative' that operates as the foundational principle of morality. He formulated his Categorical Imperative in different ways. One of his two main formulations of the Categorical Imperative develops the 'What if everyone did that?' question. The other main formulation of his Categorical Imperative develops the idea that morality does not permit you to use people.

Kant's ethics is grounded in the distinction between hypothetical imperatives and categorical ones.¹ By 'hypothetical imperatives', he means imperatives that tell you what you must do in order to get or do something you happen to desire: for example, 'if you want a good sleep, don't drink a gallon of caffeine at bedtime', or 'if you want to be trusted, always keep your word and tell the truth'.

'Categorical imperatives', on the other hand, tell us what to do regardless of our desires. I'm required to tell the truth even if I don't happen to want to. The same is true of my other moral duties.

But what could bring about intentional human action except desires, preferences, inclinations, and the like? Kant thought that unless there is something that can supply an answer, morality is a sham. He thought we aren't responsible for our desires and preferences. (We couldn't help the dispositions we were born with, nor the training we received in our formative years.) And if these desires, preferences, etc., completely determine our behaviour, then we can't really be held responsible for that behaviour either.

Kant thought that our desires and our beliefs about how to satisfy them are not the only things that could guide our intentional behaviour. We could act from duty. And what determines what duty requires? Kant's answer is: 'Since I have robbed the will of every inducement that might arise for it as a consequence of obeying any particular law, nothing is left but the conformity of actions to universal law as such, that this alone must serve the will as its principle.'²

Kant thinks this brings us to the first of his main two formulations of the Categorical Imperative: 'Act as if the maxim of your action were to become through your will a universal law of nature'.³ A law of nature specifies an absolute regularity. For example, the law that pure water boils under normal atmospheric conditions at 100 degrees centigrade is a law of nature: pure water *always* boils under these conditions. So laws of nature would be laws (a) applying to *everyone* and (b) which everyone *always* follows. To imagine the maxim of my proposed action as a universal law of nature, I imagine that *everyone always* does the kind of act I propose doing when they are in the circumstances I am in.

Let us say that Kant's theory requires a three-step process. First, I formulate the maxim of my action. Second, I 'universalise' this maxim—that is, formulate the universal law of nature corresponding to the maxim of my action. Third, I consider whether I could *will* that the universal law of nature hold.

To see how this theory works, consider Kant's example of the lying promise.⁴ The maxim of the agent's action is: *whenever I need money, I will get it by making a false promise to repay it*. As you can see, maxims state the agent's means and end—i.e., the means employed in the act and the purpose the act is supposed to achieve. The means here is making a false promise to repay money; the end is getting money. The universal law of nature corresponding to this maxim is, to paraphrase Kant: *Whenever anyone needs money, he or she will get it by making a false promise to repay it*.⁵

The Contradiction in Conception Test

Kant distinguishes between two questions.⁶ The first is: Can I even *conceive* of my maxim becoming a universal law of nature? The second is: Assuming I could conceive of its becoming a universal law of nature, can I *will* that it become a universal law of nature?

There are some maxims that it is logically impossible should ever become universal laws of nature. A good example, which I learned from Derek Parfit, is the maxim: *I will give more to charity this year than is the average given in this year*. The corresponding universal law would be: *Everyone will give more to charity this year than is the average given in this year*. This is an impossible state of affairs. So, according to Kant's contradiction in conception test, the maxim *I will give more to charity this year than is the average given in this year* is morally impermissible. But, intuitively, this maxim seems admirable rather than impermissible.

Let us move on to one of Kant's own examples. Kant thinks that the universal law of nature corresponding to the maxim of the lying promise is logically impossible. He writes,

I then become aware at once that I can indeed will to lie, but I can by no means will a universal law of lying; for by such a law there could properly be no promises at all, since it would be futile to profess a will for future action to others who would not believe my profession...⁷

Kant must be *assuming* that if everyone followed the principle of making false promises in order to get money, then everyone would *know* that everyone was doing this. Well, we can reasonably assume that, at least in most cases, if everyone is behaving in a certain way, then awareness that this behaviour is widespread will become widespread.

But it is possible that everyone could be *acting* in a certain way without everyone's *being aware* that everyone was acting in this way. Here are some examples. When I started as an undergraduate at an American university, all the students I met told me that they were studying virtually every minute of sixteen hours a day. I was overwhelmed until, about six months later, I realised everyone was hugely

exaggerating. Another example is that when I came to the UK to do a further degree, I attended a university where the fashion was exactly the opposite: all students hugely understated how hard they were working. By this point, I was not quite so stupid. So this time it took me only about three months to figure out that everyone was misrepresenting the truth. One more example: I grew up in a culture in which pretty much every male overstated certain things, but I didn't realise that at the time.

So we do need to distinguish between *everyone's acting* in a certain way and *everyone's knowing* everyone acts in that way. It is possible for these to part company. And this distinction is important in our discussion of Kant because what would make it impossible to get money through false promises of repayment would *not (necessarily)* be *everyone's making these false promises*. What would make it impossible to get money through false promises of repayment would instead be *everyone's knowing* that everyone makes these false promises.

Many modern philosophers have said explicitly that there are two distinct requirements which principles must pass if they are to qualify as moral principles. The first is that moral principles must be capable of being *universally followed*.⁸ The second is that they must be such that they can be *universally known* to be universally followed.⁹ This second requirement is often called the *publicity principle*.

The Contradiction in the Will Test

In the question 'Can I *will* that my maxim be a universal law of nature?' what does Kant mean by 'will'? Our first guess might be 'choose' or 'endorse'. But what determines what I choose? The answer that first springs to mind is: my all-things-considered wants or desires. Yet we should be far from confident that this answer is correct—for this answer creates severe problems in interpreting other claims of Kant's, such as the claim that moral duty in no way depends on contingent human desires. On the other hand, what besides 'all-things-considered desire' could 'will' really be? So let us suppose 'will' means 'all-things-considered desire'.

Then, Kant's question 'Can I will that my maxim be a universal law of nature?' would seem to amount to 'All things considered, do I really desire my maxim to become a universal law of nature?' But when Kant tries to illustrate how his question works, what he gives us is the question 'Could I, in *every* situation, accept this maxim as law?'

Kant asks us to think about the case of a well-off person considering not coming to the aid of others in distress.¹⁰ Kant asks whether this well-off person could will it to be the case that everyone ignores the cries of others in need. Kant says the answer is No, and the reason he gives is that on other occasions the previously well-off person may herself be in dire need of help from others. In giving this reason Kant suggests that one cannot will that some way of acting (such as denying aid to those in need) becomes universal practice if one might under certain conditions will that someone not act in this way. His remark suggests that I cannot *now* will that people universally refuse to aid those in need if it is the case that, were *I* (now or later) in need, I *would then* will that others help me.

But that suggestion seems inadequate, because it rules out too much. Just as I would if I were stuck in a ditch want others to come to my aid, I would if I were convicted want the judge not to punish me. If the former desire's existence in the hypothetical case rules out the maxim allowing everyone to ignore cries for help, the latter desire's existence in the hypothetical case rules out the maxim enjoining judges to punish convicts. How can Kant claim that it matters what I would will when I need help but it doesn't matter what I would will when I am facing the judge?

Let me put this argument against Kant in a slightly different way. Kant is advancing the following principle:

- (1) If I would, were I in another person's predicament, not want a certain maxim followed, that maxim is not morally sound.

But just as it is an empirical fact that if I were stuck in the ditch I would not want others to act on the maxim allowing everyone to ignore cries for help, it is an empirical fact that

- (2) If I were in the convict's predicament, I would not want to be followed the maxim enjoining judges to sentence convicts to punishment.

So, on Kant's principle,

- (3) The maxim enjoining judges to sentence convicts to punishment is not morally sound.

But surely the maxim enjoining judges to sentence convicts to punishment is morally sound. Indeed, Kant himself would say that judges should punish convicts even though this conflicts with the desires of the convicts.¹¹ The reasoning leading to (3) is logically valid. So, since (3) is clearly mistaken, an assumption must be false. And the false assumption appears to be (1). By rejecting (1), we are rejecting the idea that it is a *necessary* condition of a principle's being morally sound that there be no circumstances in which agents might find themselves where they would not want that principle followed. Now let us turn to the idea that it is a *sufficient* condition of a principle's being morally sound that there be no circumstances in which agents might find themselves where they would not want that principle followed.

This idea is often attacked with the following counter-example. Die-hard Nazis propose to kill Jews in order to 'purify the human species'. Critics of Kant's first formulation of the Categorical Imperative say the Categorical Imperative on this formulation will not be able to show (at least some kinds of) Nazis that killing the Jews in order to 'purify the species' is wrong, since die-hard Nazis would will it to be a universal law that the Jews be killed. That is, there is no occasion on which die-hard Nazis would not will that the Jews be killed. Were these Nazis to find out they themselves were Jewish, *even then* would they will that the Jews (themselves included) be killed. Such killing is nevertheless clearly morally wrong. Therefore, the case of the diehard Nazis seems to constitute a powerful counter-example to the idea that the first formulation of the Categorical Imperative gives us a sufficient criterion of right and wrong.

I should mention one other standard criticism of Kant. He insisted on considering only very general maxims (rules), and confused a rule's being categorical in the sense of not making exceptions to satisfy the agent's wishes, with its being categorical in the sense that it neither makes exceptions nor gets outweighed by other moral considerations. The rule requiring me to tell the truth does not make an exception for cases in which I don't feel like telling the truth. But it might make exceptions for cases in which my telling the truth would endanger the lives of innocent people. Turn now to the other of Kant's two main formulations of the categorical imperative—the injunction never to treat rational agents merely as means but rather always to treat them as ends in themselves.

The most inviting way of interpreting this injunction is that it requires us to treat people in a way they can consent to. We might think that the focus on consent rules out deception. The thought is that, on careful reflection, you can't actually consent to my deceiving you. For if you're agreeing to let me lie to you, then I'm not really deceiving you, since you know not to trust what I say. Likewise, you can't really consent to my coercing you. For if you consent to what I do to you, I'm not really *coercing* you. We might even make this claim about assault. To do so, we'd have to define 'assault' as intentionally physically harming someone *without that person's rational consent*. If you rationally consent to my physically harming you, what I do isn't assault.

There is a question about whether the focus here should be on what you *really do* consent to, or merely on what you *could* consent to. Suppose you want me to repay the loan I borrowed from you. You *could* rationally consent to my not repaying the loan to you. If the focus is on what you *could* consent to (whether or not you actually do), then is my not paying the loan permitted? If so, then the categorical imperative seems to be going wrong.

A far more natural reading of 'treat people always as ends in themselves and never merely as means' is as requiring us to treat people in ways that they actually do consent to, or would consent to under appropriate conditions. This idea is developed within what has become known as contractarian, or contractualist, ethics.¹² Contractualism is in many ways the successor theory to Kant's.

Robert Audi, however, attempts a different interpretation of Kant's principle about treating others as ends.¹³ Audi takes the idea of treating someone as a means as pointing to 'the idea of using something merely as an instrument: it matters only in getting the job done; *it may be damaged in the process and trashed thereafter*.'¹⁴ And Audi writes, 'from our understanding of instrumental relations, we have a sense of what it is to treat someone merely as a means. We regularly use tools and far too often similarly use other people. Here, *what happens to the tool is of no concern* - unless we may need it for another job or happen to like it for its own sake.'¹⁵

So Audi's suggestion is that treating someone as a means consists in treating that person *as if his or her well-being doesn't in itself matter at all*. There is nothing in this suggestion about *lack of consent*. Audi's interpretation thus contrasts sharply with the usual interpretation of Kant's prohibition on treating rational agents as means.

The suggestion that morality requires us to treat people as if their wellbeing matters in itself is fairly empty until some indication is given of how much weight we must attach to a person's well-being. After all, I might treat you appallingly though I attach some minimal weight to your wellbeing. Suppose that, though I treat you as if your well-being matters in itself, the minimal weight I attach to your well-being is .000001 of the weight I attach to anyone else's wellbeing. Clearly, if I treated you that way, I wouldn't be treating you rightly. What is needed is *not* just that I treat you as if your well-being matters in itself *to some degree*, but that I treat you as if your well-being matters in itself *a lot*. Now the question is, how much is *enough* to count in this context as *a lot*? The idea of treating others as ends rather than means seems not to tell us how much more than minimal importance we must attach to the well-being of others.

Whatever the implications of Kant's moral theory, what is the right answer to the question of how much weight to attach to the well-being of others? Intuitively, some degree of partiality is morally required. In your day-to-day decision making, you to be somewhat more concerned about the well-being of your family and friends than you are about the well-being of others. But the requirement to be partial might itself be impartially justifiable. Indeed, we might expect that *every* defensible moral requirement is impartially justifiable. What is this impartial justification? The most natural answer is that, when we impartially assess any possible set of moral requirements, we should accord the same importance to benefits or harms to any one person as we do to the same size benefits or harms to anyone else. This line of thought, however, is not Kantian; it is rule-utilitarian.

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¹ Kant's *Groundwork of the Metaphysics of Morals* was translated by H. J. Paton and published as *The Moral Law* (London: Hutchinson, 1948). My references to Kant will be to the 1969 reprint of Paton's translation. For the distinction between categorical and hypothetical imperatives, see pp. 78–80.

² Kant, p. 67.

³ Kant, p. 84.

⁴ Kant, pp. 67–8.

⁵ The easy way to get from the maxim of the action to the corresponding universal law of nature is to substitute indefinite pronouns ('everyone', 'anyone') for the first of the first person pronouns in the maxim and then to substitute 'he or she', or 'him or her', for the later first person pronouns, and then alter the verbs so that they agree with the new subjects. For example, in the text above I substituted '**anyone**' for the first 'I' and '**he or she**' for the second 'I'.

⁶ Kant, pp. 86–7.

⁷ Kant, p. 68.

⁸ This first requirement would rule out the principle that one ought to give more to charity than is the average this year.

⁹ This second requirement would rule out the principle that one ought to get money by making false promises to repay it.

¹⁰ Kant, p. 86.

¹¹ Kant, p. 92 fn.

¹² For an overview, see Geoffrey Sayre-McCord's 'Contractarianism', in H. LaFollette (ed.) *Blackwell's Guide to Ethical Theory* (Cambridge, Mass.: Blackwell Publishers, 2000) pp. 247–67. A contractualist theory can be found in T. M. Scanlon's *What We Owe Each Other* (Cambridge, Mass.: Harvard University Press, 1998). I briefly discuss contractualism in my *Ideal Code, Real World: A Rule-consequentialist Theory of Morality* (Oxford: Oxford University Press, 2000), pp. 6–8, 66–70.

¹³ Audi, 'A Kantian Intuitionism', *Mind* 110, pp. 601–35.

¹⁴ Audi, p. 612, italics added.

¹⁵ Audi, p. 623, italics added.