

Kant's Puzzling Ethics of Maxims

By Jens Timmermann

§1 ACCORDING TO HIS EARLY BIOGRAPHERS, AT A CERTAIN POINT in his life Kant had a 'maxim' not to smoke more than a single pipe a day, tempted though he was. He adhered to this maxim rigorously. After a while, however, he bought a bigger pipe. So, is this what Kantian maxims are all about? Fortunately, the answer is no.

In Kant's philosophy of action, maxims are the freely chosen subjective principles or deeper intentions of all of our conscious actions. They are thus expressive of the stance we take towards our incentives. Maxims determine the extent to which we freely and willingly decide to act on them, that is, to pursue the subjective ends that our incentives suggest to us. According to what Henry Allison has dubbed the "Incorporation Thesis" in his *Kant's Theory of Freedom*, it is the free choice of our maxims in incorporating or approving of the incentives we have that leads to action, constituting our freedom of the faculty of choice (Lat. *arbitrium*, Ger. *Willkür*).

There are two aspects of this freedom: First, our choice of maxim and the actions that result from this choice are negatively free in the sense that they are not determined by natural factors. Incentives merely suggest possible maxims, ends, courses of action, and sometimes

At a certain point in his life Kant had a 'maxim' not to smoke more than a single pipe a day, tempted though he was. He adhered to this maxim rigorously. After a while, however, he bought a bigger pipe. So, is this what Kantian maxims are all about? Fortunately, the answer is no.

vehemently so; but for action they still need our stamp of approval. Secondly, maxims are, as a result of this, subject to the standards of rationality. Even though we often act on maxims that fail to meet these standards, our freedom entails that we always could and therefore ought to have met them. In this sense, the Kantian catchphrase of Ought implies Can can be reversed: Can also implies Ought.

However, the whole picture is still more complicated. One formally has to

Jens Timmermann is a junior research fellow at Keble College, Oxford and currently also holds a Coimbra Research Fellowship at the University of Pavia, Italy. He will be University Lecturer in Moral Philosophy at St. Andrews, Scotland, in the autumn of this year.

distinguish among three distinct types of ‘maxims’.¹

- (i) A maxim is the specific first-order principle of volition and consequently action, variously described in the *Groundwork* as “the subjective principle of willing” (IV:400), “the subjective principle of action,” or “the principle on which a person acts” (IV:420 n).

This most fundamental type of maxim is clearly on the subjective is-side of things and therefore easily contrasted with imperatives, which are prescriptive as well as objective and express an ‘Ought’. Whenever we act in the full sense of the word—that is, when we act on more than a mere reflex or impulse—we act on some maxim of this sort. Because, as we are fundamentally convinced, our will is free, it is not forced upon us by our sensibility (but we need not consciously formulate this subjective principle of our action). Rather, it is the complement to our sensibility required for action, and it is freely chosen because it can conform to the standards of reason. A maxim of this kind is a belief, a ‘*Willensmeinung*’ (V:66), and the choice of this ‘volitional belief’ constitutes our freedom of *Willkür*.

- (ii) A higher-order subjective principle of volition and action, the principle on which maxims of the first kind are chosen is also called a ‘maxim’.

A maxim of this type is still, at a higher level, expressive of one’s actual will. There is rich evidence for Kant’s theory of lower- and higher-order maxims, which ultimately form a hierarchy in his late work on religion. For example, he mentions “the ground of all specific maxims that are morally evil, which is itself a maxim” (VI:20). In terms of the hierarchy of maxims, most of us unfortunately seem to get the most fundamental maxim wrong and put self-regard before morality. That is why in his writings on anthropology and religious belief Kant calls for a radical “revolution of the heart” or a “second birth” (see, e. g., VI:47). We cannot hope to live a truly moral life if we do not put morality and self-love in lexical order. It does not, of course, follow that we may never legitimately pursue our own interests. Rather, we are allowed to pursue our own interests within the broad(ish) limits set by the demands of morality.

It is very difficult, however, to see how exactly higher-order maxims influence the choice of maxims of the lower orders, especially of first-order maxims on which we directly act. Also, there seems to be room for conflicting higher-order maxims as well as for first-order maxims that conflict with some higher-order maxim of ours. It seems most likely that higher-order maxims influence our choice of first-order maxims and therefore our actions by producing incentives such as some inclinations. The latter are, as one should always keep in mind, not raw feelings but rather a product of sensuous preference and habituation (see *Anthropology* VII:251). Moral maxims similarly strengthen the moral incentive of respect for the moral law.

If this picture is correct, another point crucial for Kant’s moral psychology becomes apparent: as at a given moment we can act only from the incentives we happen to have, our choice of maxims will always be severely limited. It is indeed difficult to think of incentives other than the moral motives of respect, long-term

prudence, and immediate inclination. This has very important consequences. For instance, fiddling about with the formulation of maxims turns out to be merely verbal. We simply cannot make our maxims fit the categorical imperative in this way. We act on the maxim that incorporates an objective suggested by an incentive, not on the maxim on which we fancy ourselves to be acting.²

Given only definitions (i) and (ii), our conception of maxims is still very 'thin': These maxims do not as such have to be particularly robust or characteristic to deserve their name. Acting on maxims (on any old maxims) does not impose uniformity of behavior (even though Kant seems to think that as a matter of fact there is generally not too much variation in the life or principles of most people). Maxims as such do not require a firm resolution nor do they have to be morally worthy. Rather, they might be hollow so as always to let whims and inclinations have their way. We read of a person with such a maxim in the third example illustrating the law-of-nature formula in the *Groundwork*, where the maxim of neglecting one's talents is shown to conflict with this version of the categorical imperative (IV:422 f.). Even careless behavior like that requires a 'thin' maxim as its underlying subjective principle. This is the defining mark of an action that would not otherwise count as free and responsible.

(iii) A higher-order subjective principle that is particularly characteristic or vigorous is called a 'maxim'.

Clearly, this is a 'principle' of action in a more elevated sense of the word, a kind of 'life rule'.³ Consider, for instance, the maxim referred to in the example of the deposit that Kant describes in the *Second Critique*: "I have made it my maxim to increase my wealth by all secure means" (V:27), which seems to rest on some kind of resolution. Also, Kant has obviously such firm and characteristic principles of willing and acting in mind when in the *Lectures on Ethics* he says that it is "worse to do evil from maxims than from inclination; good deeds must be done from maxims" (XXVII:1502). Not all actions per se rest on maxims in this sense, in which "from inclination" and "from maxims" are, all of a sudden, opposite (rather than complementary) types of willing and acting.⁴ Again, Can—in conjunction with the categorical imperative—implies Ought. We have the radical capacity freely to choose the principles of our action. Consequently, we have the obligation to get them invariably right.

§2 BEARING THIS THREEFOLD CLASSIFICATION IN MIND, WE CAN resolve some disputed issues about the consciousness and the validity of maxims. First, as far as the former is concerned, it is quite clear that according to Kant's philosophy of moral action we are not always fully aware of the 'thin' maxim—in the second and especially the first sense—on which we act. We may not be conscious of the underlying end we pursue with our action and therefore may not know whether an action that is in accordance with duty is also done from duty. On the other hand, we have an obligation consciously to form and to develop good 'life rules', i. e. 'thick' maxims of the third kind.

Secondly, and relatedly, we form maxims of the 'thin' first and second type 'autonomously' in the weak sense that they are not forced upon us by nature. We

are fully responsible for our actions and the principles from which they spring because they are freely chosen in this sense and can therefore be made to conform to the commands of reason. (For Kant, Reason and Nature seem to be the only factors that try to determine the will. There is no third one.) This means that we have the opportunity, and indeed the obligation, to order and perfect our first-order principles of action, to be achieved by the conscious cultivation of 'thick' higher-order maxims or 'life rules'.

Thirdly, do we always act on maxims? As we have seen, all actions properly so called proceed from a specific first-order maxim, which in turn is influenced by some higher-order maxim. On the other hand, we can easily breach 'thick' maxims or 'life rules', or possibly do without them altogether. In his treatise *Religion within the Limits of Reason Alone*, Kant speaks of a "huge gap between the maxim and the deed" (VI:46). It is evident that the maxim in question cannot be a maxim of the broad first type; nor is it very likely that it should be a maxim of the second type, which is still too close to "the deed."⁵ 'Maxim' cannot here be "the principle on/in accordance with which the subject acts" (IV:420). If there is to be a "huge gap," the maxim is most likely to be a characteristic subjective resolution, a 'thick' maxim of the third type. Considered in terms of the process of deliberation, maxims of the 'thin' first kind are meant to be adopted after—and hopefully as the result of—deliberation, the higher-order maxims we have may enter deliberation indirectly by conditioning inclinations, and 'life rules'—if consciously formed and formulated—can presumably also serve as a guideline in the deliberative process. However, one should always keep in mind that imperatives alone are the legitimate standards of rational action. The distinction between maxims (subjective principles) and imperatives (objective principles) must not be blurred.

Finally, do maxims admit of exceptions? Again, the answer is quite complex. De facto, as we have just seen, first-order maxims do not admit of exceptions. They are precisely the subjective principles on which we act when we act at all.

Maxims have an inherent claim to objective normativity because they are grounded in reason, but are not de facto objectively normative.

There is more room for variation in the case of higher-order maxims, and characteristic principles ('life rules') de facto certainly do admit of exceptions in the sense that we can fail to act on them. On the other hand, maxims of either

kind de iure do not at all admit of exceptions. Maxims as such claim that there should be no exceptions because they are, or at any rate ought to be, rational: as rational beings we have to act on an appropriate maxim in every relevant situation. Also, the same subjective principles should be rationally adopted by other people in situations that are relevantly similar—but they are universally valid only in the sense that if we adopt a maxim we must, if it is to stand any chance of being a rational principle, admit that we ourselves, as well as other people, could adopt this maxim in all relevantly similar circumstances. Put somewhat differently, maxims have an inherent claim to objective normativity because they are grounded in reason, but

they are not de facto objectively normative.

As maxims as such are fundamentally subjective principles that specify what an agent considers practically good, the ends he or she pursues, in short: what he or she wills can receive objective value, if at all, only by virtue of conforming to objective commands of reason. It seems to me that the categorical imperative and the assertoric variant of the hypothetical imperative are primarily concerned with maxims of the first kind, i. e. with the specific first-order principle of volition and action on which we are about to act in any given situation. It is therefore not correct to say, as proponents of a Kantian “Ethic of Maxims” such as Rüdiger Bittner, Michael Albrecht, and Otfried Höffe have done, that the categorical imperative tells us to act according to maxims in the first place. (These would at any rate have to be ‘thick’ maxims.) The categorical imperative commands us to act “on that maxim through which you can at the same time will that it become a universal law” or “as if the maxim of your action were to become, by your will, a universal law of nature” (IV:421). The very formulation of the imperative presupposes that we always act on ‘thin’ maxims. Only if we consciously labor to make them invariably conform to rational standards do we act on solid ‘thick’ principles or ‘life rules’, which, to be sure, we have an obligation to cultivate and to develop. However, that is a topic in moral anthropology and theory of education, not in fundamental ethical theory.

§3 AT THIS POINT WE SHOULD NOTE A REVEALING PARALLEL: it is no accident that we find the same ambiguity between a broad and a restrictive meaning in our use of the word ‘character’. On the one hand, all qualities of a person or thing taken collectively are said to constitute its ‘character’; on the other hand, we consider only the qualities that mark it out from other items of the same sort as ‘characteristic’. It is therefore highly significant that in Kant’s philosophy ‘character’ and ‘maxims’ are intimately linked: our subjective principles of action constitute our character, that is, to be precise, they constitute our freely chosen intelligible (our noumenal) character, which finds its expression in a phenomenal character in the shape of actions and the corresponding bodily movements.

Kant therefore accepts Hume’s fundamental point that we could not blame persons if their ‘free’ actions came about as a mere matter of chance. We blame people for actions that proceed from their character and can be explained as such. However, for Kant a person’s character is not entirely a matter of naturalistic formation. Nature herself is thought to be within our control as far as our actions are concerned. We are thus fully responsible even for our character; our freedom consists in being able to act on maxims that are both firm and rational.

To sum up, according to the formal characterization, (i) the principles of first-order volition, (ii) the principles of higher-order volition, and (iii) specific, characteristic principles of higher-order volition that we have an obligation to cultivate are ambiguously called ‘maxims’ in Kant’s moral philosophy. They have in common that they are expressive of what the agent, at some level of willing, wants. They are expressive of the agent’s ends. In contrast, imperatives tell the agent to act in accordance with certain standards of rationality. We then have a duty to make rational resolutions and to cultivate good characteristic principles.

§4 THERE IS MORE TO BE SAID ABOUT MAXIMS FROM THE POINT of view of their matter. Although maxims specify what we will, they do not specify what we will instrumentally as a mere means. I must intend this or that to put my maxim into practice, but the means intended are not thereby included in my maxim. Means do not matter, ends do; maxims specify the ends of actions. On the other hand, rules, which according to § 1 of the *Critique of Practical Reason* are subordinate to maxims, do not. They are merely technical and specify the means we have to intend to realize our ends. I hope the distinction between maxims and rules, ends and means, will become sufficiently clear in what follows.

There are two ultimate sources of practical value, morality and prudence. Maxims are therefore chosen because they are morally or prudentially good, i. e. because they are considered to possess absolute moral value or because they are thought to contribute most to the satisfaction of the agent's overall desires. In technical Kantian jargon, the 'categorical' imperative of morality and the 'assertoric' hypothetical imperative of self-love vie for recognition by our highest and most basic subjective principle. (If Kant is right, most people regrettably choose the wrong fundamental maxim, letting the pursuit of morality be restrained by their

Maxims are subject to moral assessment, whereas rules in themselves are instrumental and therefore morally neutral.

natural desires rather than vice versa.) 'Problematic' hypothetical imperatives, on the other hand, just single out rules that serve to put maxims into action. That is why maxims are subject to moral assessment, whereas rules in themselves are instrumental and therefore morally neutral.

For instance, a young academic might have a maxim to live a healthy life, which both prudence and morality's duties towards oneself commend. Living in a small university town, she usually cycles all the way to her office in the morning, which is quite a healthy thing to do. After a while she accepts a professorship at a university in a large city. Now cycling to the department in the morning is no longer feasible, or indeed very healthy. What is she to do? It is important to note that her maxim was one of living a healthy life, not of cycling to her office in the morning. That, as we now see, would not be a sensible maxim at all. As a rational person, she will adapt quickly. She will abandon the old rule of cycling to the office as it no longer serves its purpose, take the underground instead, and choose a means to living a healthy life appropriate under the new circumstances. She might perhaps decide to go to the gym from time to time. Thus 'technical' rules can easily be given up because they are purely conditional on the maxim they are supposed to implement.

By contrast, good maxims ought not to be given up so easily. The ends that maxims contain are truly ends. They can be part of more comprehensive ends, to be sure, and subordinate in this sense, but they still possess independent value and are therefore different from intentions prescribed by purely instrumental rules. If our highest maxim is that of putting morality first, not breaking one's promise or helping people in need is part of what putting this maxim into practice means,

whereas taking the coach to London to meet a friend or signing a check is merely the means to achieving these ends. Similarly, if I have a maxim of leading a good life—within the bounds of morality, of course—leading a healthy life will be part of that. Cycling to work (rather than taking the underground) is not as such a maxim. It is a mere means to living healthily.

Onora O'Neill is therefore entirely correct when, to refute a criticism put forward by Alasdair MacIntyre, she strictly identifies maxims with the 'underlying principles' that are the locus of moral worth—pace Allison.⁶ MacIntyre argues that Kant was concerned with an ethic of universal rules:

Reason....lays down principles which are universal, categorical and internally consistent. Hence a rational morality will lay down principles which both can and ought to be held by all men, independent of the circumstances and conditions, and which could consistently be obeyed by every rational agent on every occasion. (Alasdair MacIntyre, *After Virtue*, p. 43)

MacIntyre takes these "Kantian" principles to be quite specific in the sense that they proscribe specific acts. It is indeed apparent that no set of such principles can be found because the range of possible acts open to an agent significantly depends on the time and place in which he or she lives. However, as O'Neill convincingly points out, there is little evidence that Kantian imperatives command us to do specific acts. Rather, specific intentions have to be coordinated by more general underlying principles, maxims. These are situated at a higher level of abstraction—if they are good principles. MacIntyre is wrong to suppose Kant's ethics to be concerned with the specific rules of human action, which do indeed vary from age to age and from place to place: it is concerned with rational standards for the deeper principles and ends of moral action that, one might reasonably hope, could be universally valid (cf. Onora O'Neill, *Constructions of Reason*, pp. 148 ff.). This makes the project of ethics as "universal, categorical and internally consistent" look considerably less absurd.⁷

§5 THESE CLARIFICATIONS PUT US IN A POSITION TO DEAL WITH the vexed topic of 'puzzle maxims'. Such 'maxims' do not make good maxims; they are, at best, rules that can serve to implement legitimate maxims. However, if you adopt a 'puzzle maxim' as a maxim or subjective principle, you get your priorities wrong. It might be perfectly decent as a technical rule under an appropriate maxim, but it just does not make a good maxim. You commit yourself to low-level ends (mere means or intentions), which ought to be totally conditional on ends proper. Mere means specified by technical rules do not rationally qualify as ends.

Four examples, which have caused much controversy in the literature, may serve to illustrate the way in which the categorical imperative is primarily a criterion of balancing means and ends:

The first 'puzzle maxim' is that of dining at your friends' place on Mondays (see Bittner "Maxims"). Obviously, a 'maxim' of "I want to dine at a friend's place on Mondays" cannot be universalized if we presuppose that the friend in question has to be there at the time to fulfill his responsibilities as host. Does that mean that there is something morally wrong with dining at a friend's place as a matter of principle? Bittner does not seem to think so. He wants to deal with the prob-

lem by classifying the said maxim not as a maxim but rather as a mere intention because it lacks the generality that, he contends, characterizes maxims as 'life rules'. This classificatory move is completely ad hoc. Moreover, it is rather dubious as an interpretation of Kant's theory, as a glance at the examples of maxims Kant himself gives in his ethical writings shows. Does, for example, the potential suicide's maxim quoted in the *Groundwork*, "to shorten my life when its longer duration is likely to bring more pain than satisfaction" for reasons of self-love (IV:422), count as a 'life rule'? Apart from the paradox involved it is certainly too specific to count as a 'life rule' in Bittner's sense.

More importantly, Bittner is here confusing 'is' and 'ought'. Indeed, highly specific maxims, though good as rules, ought not to be adopted as maxims because, as we shall shortly see, they fail the test of the categorical imperative. It is true that the principle of dining with friends on Monday evenings ought to be merely a means to realize a maxim specified by a rule, but that does not mean that the specific rule could not, in principle, be a maxim at all. If you have a strong inclination in favor of dining with friends on Monday nights as such, you might adopt it as a maxim. However, this sort of maxim would not only be very odd indeed. It would be a mistake to make this your end. One could argue that dining with friends on Mondays as a matter of 'principle', however thinly construed, is morally dubious because it suggests that you treat their place as a restaurant—where presumably you do not even have to pay. But a bad maxim can be a good rule: there is nothing wrong with dining at a friend's place if the ulterior end is, for example, one of cultivating one's friendships, which one would do in some other way if dining at one's friend's place turned out no longer to be appropriate as a means.

Secondly, there seems to be a problem with a maxim of shopping for Christmas presents in late December and early January, as Tim Scanlon has pointed out:

A acts on a maxim of saving money by shopping in this year's after-Christmas sales for next year's Christmas presents. If everyone acted as A does, the practice of Christmas sales would die out, and A would not be able to pursue his economies as he now does. What makes A's maxim rational is plainly his knowledge that others do not act as he does. (Scanlon's example, referred to by Barbara Herman, 'Moral Deliberation and the Derivation of Duties', p. 138)

Actually, I am not quite sure whether a maxim of "saving money by shopping in this year's after-Christmas sales for next year's Christmas presents" would lead to the end of after-Christmas sales if universally adopted. They could become a booming business if shop owners learned to count on their customers' shopping for Christmas in late December and early January. But for the sake of the argument we shall accept the example as it is. However, the 'maxim' referred to here is, again, not a good maxim. What a sensible person really wants is not to pay for his Christmas presents more than is necessary, or, generally, to use his limited financial means ("to pursue his economies") in the best possible way. A's tenet of "I consider it sensible to save money by shopping in this year's after-Christmas sales for next year's Christmas presents" can be a good rule if it stands under the appropriate

maxim. However, this rule A will gladly give up if it no longer serves his purposes. It is a mere means. It would be exceedingly awkward as a subjective principle of action (maxim, 'thin' or 'thick'). Really committing oneself to such an end—and that is what having it as a maxim implies—might possibly be thought to be immoral because it does not take other people's interests into account.

Thirdly, a similar difficulty arises with a maxim of "playing tennis on Sunday morning." This is another of Scanlon's examples quoted by Barbara Herman:

B knows that the best time to play tennis is Sunday morning when her neighbors are in church. At all other times the courts are crowded. B acts on a maxim of playing tennis Sundays at 10:00. If everyone acted as B does, the courts would be crowded Sunday mornings as well as all other times. What makes B's maxim rational is her knowledge that others can be counted on not to act on the same maxim. (ibid.)

A sensible maxim, which might lead to playing tennis on Sunday mornings, is one of avoiding unnecessary queues. Again, this kind of maxim gives the person in question some more flexibility. B would perhaps start playing tennis at 10:00 p.m. if church attendance went down and numbers on the tennis courts at 10:00 a.m. went up. A maxim of "playing tennis Sundays at 10:00" (which, incidentally, is most likely to lead to empty tennis courts at all other times) would not only be silly. It may very well be seen as indicating a lack of respect for the religious practices of one's neighbors. On the other hand, a maxim of avoiding unnecessary queues and generally of making good use of one's time seems quite in line with the categorical commands of morality. It might even be considered a maxim of some moral worth.

Fourthly, Franz Brentano objected to Kant's ethics that a civil servant's maxim of rejecting bribes would be immoral because we can argue along the lines of the example of telling a lie or making a false promise that this maxim, if universally adopted, would render itself impossible. As nobody could hope to obtain a loan by a false promise if false promises were universal, similarly, no sensible person would venture to offer a bribe if turning down bribes were universally adopted as a maxim. Neither the false promise nor the bribe could possibly do what it is supposed to do. Does this mean that turning down bribes is morally bad for the reason that it renders the institution of bribery impossible? Certainly not.

As Günther Patzig stressed as early as 1956 in "Der Gedanke eines Kategorischen Imperativs," the civil servant's maxim cannot, strictly speaking, be one of turning down bribes. Such a maxim, if universalized, would be self-defeating in the manner just described. Turning down bribes is a means to a proper end, but it should not itself be considered an end. The civil servant's maxim rather has to be a maxim of honesty. In this case, he would of course be perfectly happy with a world in which nobody ventured to offer bribes, as that is precisely what he is trying to bring about when he turns them down. We may add that a maxim of turning down bribes for the pleasure of doing just that smacks of self-righteousness and is therefore morally dubious. The Kantian reason for this is precisely that such a maxim cannot even be thought a universal law.⁸

In all these cases, rules that as rules might be useful receive the status of

maxims: what is suitable as a mere means is turned into the end pursued by an agent, something that he or she wants as such, on principle, not as a mere means; this is just what is morally questionable about them. Thus Kantian morality turns out to revolve around getting right the balance of practical means and ends. In fact, the categorical imperative as a principle of universalization seems to serve this purpose rather well. As so often, Kant's theory has turned out to be much better than we initially thought. However, this account creates new problems as well.

§6 THE FIRST DIFFICULTY IS CONNECTED WITH THE CATEGORICAL nature of moral commands in Kant. As we have seen, maxims can be either acceptable from a moral point of view or not, and if in a given situation there is only one maxim on which we are morally allowed to act, it is our moral duty to realize the end specified in it by taking appropriate action. In other words, as far as morality is concerned, maxims are either absolutely good or bad, whereas actions are obligatory, permissible, or forbidden.

It follows that as a principle of going shopping after Christmas or rejecting bribes as such is as absolutely wrong in moral terms as a maxim to betray your best friends when convenient or a maxim to hurt other people when you take pleasure in it. The commands of morality do not admit of a more or a less. (Incidentally, this is the reason why there is no room for supererogatory actions in Kant's ethics. There is no such thing as an action that is 'good but not required'.) Moral commands are absolutely necessary and universal, which is an inevitable corollary of the categorical nature of the moral imperative.⁹

Also, the categorical nature of Kantian ethics makes it difficult to give a realistic account of moral dilemmas where a basic intuition tells us to compare the respective strength of conflicting duties. Kant tries to tackle this problem by stating that the grounds of obligations can be weighed prior to moral judgment (*Metaphysics of Morals* VI:224), whereas 'obligation' and 'duty' should strictly speaking be used in the singular only. A single—categorical!—duty remains in the end when the conflict of grounds of obligations has been resolved, which somewhat implausibly means that all other actions are equally bad. We would have to jettison the thesis that the demands of morality are categorical to avoid this conclusion.

§7 THE DISTINCTION BETWEEN MAXIMS AND SPECIFIC RULES AND acts, useful as it may be, raises some important questions as well. Consider the following quotation from the *Metaphysics of Morals*:

The conformity of an action to the law of duty constitutes its legality; the conformity of the maxim of the action with the law constitutes its morality (VI:225).

This is a clear statement of the thesis that moral philosophy is not concerned with acts per se, taken in isolation, but with the ends pursued in or realized by the actions. It is therefore often difficult to see whether an isolated act is permissible or not; its permissibility very much depends on the end we pursue with this action, i.e. on its maxim. In many cases, there will paradoxically seem to be acts that are morally wrong if they result from one maxim but morally obligatory if they result from

another.

For example, in the *Metaphysics of Morals* we read of possible cases of suicide that are not 'self-murder' and consequently do not fall under the absolute prohibition of murder in general and self-murder in particular. Kant seems to be undecided about many of these 'casuistic questions', one of which is whether Frederick the Great might have been morally justified in poisoning himself if in a war he had fallen into the hands of the enemy (VI:423). The rightness or wrongness of this action entirely depends on the maxim of the agent. Had Frederick killed himself for fear of pain and torture, he would have committed 'self-murder', which in the *Groundwork* is shown to be strictly prohibited (IV:421); had he killed himself to save the Prussian state from the perils likely to result from his captivity, he might have committed an act of 'self-killing' that was permissible at least, and arguably even morally obligatory. Thus even perfect duties, where the end is not to be pursued but consists in the action itself, command actions only in the sense that they prohibit 'self-murder', which is already a morally charged term, and there is no prohibition to be had of 'suicide' or 'self-killing', to use morally neutral terms. All depends on the matter of the maxim as assessed by the purely formal criterion of the categorical imperative.

Kant does not deal with the many 'casuistic questions' he mentions in detail, no doubt because he saw the difficulties involved. However, they suffice to draw any simple and easy-to-follow rules of morality (such as "Do not kill yourself") into doubt. On the other hand, the application of morally laden rules such as "Do not commit self-murder" already presupposes morality and therefore does not

The categorical imperative turns out to be much less useful as a decision procedure for armchair ethics than commonly conceived because it does not, in abstracto, produce any hard and fast rules that are easy to follow.

guide action easily. Thus MacIntyre is not merely deceived when he considers Kant's ethics to be primarily concerned with specific universal rules; Kant's moral philosophy does not even allow of such rules, at least if they are to be simple, unequivocal, informative, easy to apply, and stated in morally neutral language. This puts a lot of weight on moral judgment.

§8 SURPRISINGLY, KANTIAN ETHICS AND THE ROMAN CATHOLIC 'doctrine of double effect', which has received much attention in discussions of applied ethics and is usually considered consequentialist, face similar problems. According to this doctrine, it is morally permissible to perform an act that is itself good or morally neutral knowing that bad consequences will occur, whereas it is always impermissible to do something that is in itself bad for the sake of the good consequences likely to ensue. For example, in the case of "indirect" euthanasia it is

permissible to administer pain-relieving drugs even though as a side effect it is likely to hasten the patient's death if the death of the patient is not directly intended by the action. According to this doctrine as well as according to Kantian ethics, the moral permissibility of an act depends on the ends the agent is trying to realize. This implies, however, that we can say on neither theory that administering pain-killers is either permissible or impermissible in itself. At the very most we can say that an act is legally permissible (abstracting from the ends and motives) if we can conceive of a permissible motive that the agent might have had. Where does the redeeming power of the good will end, though? Surely some consequences are so bad that no end can justify them if we can foresee them, no matter what we intend to do and what we regard as the side effect? Unlike Kantianism, the doctrine of double effect does not have a moral psychology to support it, which would have to

MacIntyre is not merely deceived when he considers Kant's ethics to be primarily concerned with specific universal rules; Kant's moral philosophy does not even allow of such rules.

teach us how to tell possible intentions from those we merely think we have. This alone would forestall cases of self-deception. As things stand, the doctrine of double effect cannot serve as a standard to determine the moral rightness of specific acts, which has to be presupposed, nor can the categorical imperative.

Consequently, the categorical imperative turns out to be much less useful as a decision procedure for armchair ethics than commonly conceived because it does not, in abstracto, produce any hard and fast rules that are easy to follow. It is much rather a procedure that we, consciously or unconsciously, apply to the principles on which we propose to act in ethical practice. Only then can we see which actions are morally right and which are morally wrong. It seems that, paradoxically, not even Kant's moral philosophy in the end qualifies as an 'ethical theory' in the slightly pejorative sense this term has acquired over the past twenty years. The question is, I suppose, whether that counts against Kant's ethical 'theory'.¹⁰ ¶

Notes

¹Please note that maxims, as *subjective* principles, always refer to what the agent *wills* in the first person singular: I will/it is my principle to do this and that. It is a common mistake to think that maxims command you to do this or that. They do not. Here lies an important distinction. Maxims are not *objective, prescriptive* principles, i. e. imperatives, and should not be expressed in an imperative manner. Unfortunately, Kant often fails to indicate whether he is concerned with subjective practical principles (maxims) or objective practical principles (imperatives). The ambiguity of the word 'principle' has led Paton to distinguish between two kinds of maxims, formal and material (*The Categorical Imperative* 61). A careful reading of the passage in question, however, reveals that this distinction is unwarranted. The human will is said to 'stand between its a priori principle, which

is formal, and its a posteriori incentive, which is material, as at a crossroads' (IV:400). It seems clear that, pace Paton, the 'a priori principle' must be an *objective* principle, i. e., in the language of *Groundwork II*, an imperative, not a subjective maxim, the choice of which decides which way of the crossroads we take. Our subjective principles will, of course, be in line with a priori objective principles if we are moral persons and act from duty. Moreover, the end of the most fundamental maxim will be entirely formal: always to put the categorical commands of morality before one's own interests. The categorical imperative, as Kant sometimes puts it, has to become our highest maxim. But this does not mean that we have to draw a distinction between formal, as opposed to material, maxims. Even moral maxims contain a 'matter' in the sense that they specify the *end* that the agent pursues, which of course ought to be in line with objective and formal principles.

²This opens up numerous possibilities of self-deception and quibbling with the strict requirements of morality, cf. *Groundwork* IV:404 f.

³'Prinzip' or 'Grundsatz' ('principle') are good candidates for the most ambiguous words in Kantian ethics, for the subjective-objective ambiguity is not the only difficulty readers have to grapple with. In addition, maxims are subjective 'principles' in the weaker first and second senses as well as in the more solemn third sense. The fact Kant calls maxims 'principles' throughout seems to have contributed to the mistaken restriction of maxims to 'life rules', which feature in his writings on anthropology and education but do not have much of a place in his philosophy of rational action. Maxims of the former kind are principles almost in the sense in which there are 'principles' of motion in physics, but are, of course, freely chosen. They are not solemn resolutions; rather, the free, unnecessitated choice of these 'weak' or 'thin' maxims is the precondition of our ability to act on firm and rational principles.

⁴Proponents of Kant's "Ethic of Maxims" or principles, which has been very popular in Germany for more a quarter of a century, mostly rely on this third conception of 'thick' maxims as characteristic 'life rules'. They consequently neglect or even deny the crucial role 'thin' maxims play in Kant's theory of rational agency. 'Thin' maxims have been most popular with Anglo-American scholars such as Paton and Allison. One might therefore put the distinction in terms of 'Anglo-American' vs. 'German', rather than 'thin' vs. 'thick', maxims.

⁵It is conceivable that we could snub our selfish higher-order principles for the sake of morality, though, and act on a first-order maxim that conforms with the categorical imperative. As Ought implies Can, this must always be a realistic possibility, no matter how improbable the force of our immoral higher-order maxims may make it seem. We would of course be better off with moral higher-order principles.

⁶I find Allison's claim that "Kant's agnosticism regarding the real morality of our actions need *not* be taken as an agnosticism about our maxims" but rather about the "ultimate subjective ground" of the adoption of the maxim utterly baffling; cf. Allison, *Kant's Theory of Freedom*, 93 f. The two cannot be separated. Allison fails to pay due attention to the fact that maxims specify moral, prudential—or indeed irrational—*ends*. One can act in mere accordance with duty for morally dubious reasons, but one cannot adopt a morally worthy end for the sake of something immoral.

⁷It is also rather questionable whether reason can be said to "lay down" these principles. This is not how Kantian ethics works. We shall return to this question later on.

⁸Similarly, something is fundamentally wrong with a pacifist who pursues pacifism for its own sake,

rather than for the sake of peace. To such a person, pacifism might seem to be an activity concerned per se with organizing demonstrations and the like, whereas in fact the end of pacifism has to be peace. Demonstrations are just a means to securing or restoring peace; they are not the be-all and end-all of pacifism.

⁹The distinction between maxims that involve a contradiction in conception and those that involve a contradiction in the will does little to remedy this fault because it cuts across the division of good vs. bad.

¹⁰I should like to thank audiences in Göttingen, Oxford, and Lund for their perceptive comments.

References

- Immanuel Kant, *Grundlegung zur Metaphysik der Sitten* (*Groundwork to the Metaphysics of Morals*), 1758.
Kritik der praktischen Vernunft (*Critique of Practical Reason*), 1788.
Die Metaphysik der Sitten (*Metaphysics of Morals*), 1797.
Die Religion innerhalb der Grenzen der blossen Vernunft (*Religion within the Limits of Reason Alone*), 1788.
- All translations by Jens Timmermann.
- Albrecht, Michael. "Kants Maximenethik und ihre Begründung." *Kant-Studien* 85 (1994): 129 – 146.
- Allison, Henry E. *Kant's Theory of Freedom*. Cambridge, UK: Cambridge University Press, 1990.
- Bittner, Rüdiger. "Maximen." *Akten des 4. Internationalen Kant-Kongresses*. ed. Funke, Berlin, 1974, 485 – 498.
- Barbara Herman, *The Practice of Moral Judgment*. Cambridge, MA: Harvard University Press, 1993.
- Höffe, Otfried. "Kants kategorischer Imperativ als Kriterium des Sittlichen" in *Ethik und Politik*, Frankfurt am Main: Suhrkamp, 1979), 84–119.
- O'Neill, Onora. *Constructions of Reason*. Cambridge, UK: Cambridge University Press, 1989.
- Paton, H. J. *The Categorical Imperative*, (London and New York: Hutchinson), 1947.
- Patzig, Günther. "Der Gedanke eines Kategorischen Imperativs" in *Archiv für Philosophie* 6 (1956), 82–96.