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The Emptiness Charge in Kant's Moral Philosophy

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## LIST OF ABBREVIATIONS

### Works by Kant:

All page references to Kant's works are to the Royal Prussian Academy Edition of Kant's *Gesammelte Schriften*. The abbreviations for the English translations are as follows:

- B Observations on the Feeling of the Beautiful and Sublime, translated by J. Goldthwait (Berkeley: University of California Press, 1960)
- C Correspondence, translated and edited by A. Zweig (Cambridge: Cambridge University Press, 1999)
- Gr Groundwork of the Metaphysics of Morals, translated by M.J. Gregor in *Practical Philosophy* (Cambridge: Cambridge University Press, 1996)
- KPV Critique of Practical Reason, translated by M.J. Gregor (Cambridge: Cambridge University Press, 1996)
- KRV Critique of Pure Reason, translated by P. Guyer and A. Wood (Cambridge: Cambridge University Press, 1997)
- KU Critique of the Power of Judgment, translated by P. Guyer and E. Matthews (Cambridge: Cambridge University Press, 2000)
- LE Lectures on Ethics, translated by Louis Infield (New York: Harper, 1963)
- MS Metaphysics of Morals, translated by M.J. Gregor in *Practical Philosophy* (Cambridge: Cambridge University Press, 1996)
- P Inquiry Concerning the Distinctness of the Principles of Natural Theology and Morals, translated by L.W. Beck in *Kant: Selections* (New York: MacMillan
- R Religion within the Limits of Reason Alone, translated by T. Greene and H. Hudson (New York: Harper Row, 1960)
- TP On the Common Saying: That May Be True in Theory, But It Is of No Use in Practice, translated by M.J. Gregor in *Practical Philosophy* (Cambridge: Cambridge University Press, 1996)

## Table of Contents

Introduction	
Categorical Imperative and the Emptiness Charge in Kant's Moral Philosophy	3
Chapter One	
The Formalistic Expressions in Kant's Writings	26
1.1 Groundwork of the Metaphysics of Morals-The Equivalence Thesis	27
1.2 The Critique of Practical Reason-The Universal Will	40
Chapter Two	
Kant's Formalism and Its Emptiness Charge	45
2.1 Hegel's Empty Formalism Objection	47
2.1.1 A Restatement of Categorical Imperative	49
2.1.2 The Limited Interpretation of Hegel's Emptiness Charge	54
2.1.3 The Systematic Interpretation of Emptiness Charge	58
2.2 Mill's Utilitarianism Charge	61
2.2.1 Mill's Utilitarianism	62
2.2.2 Mill's Consequentialism	63
Summary	67
Chapter Three	
Rethinking the Emptiness Charge-the Formalists Reconstruction	68
3.1 Silber's Procedural Formalism	71
3.2 Two Kantian Constructivism	80
3.2.1 Rawlsian Constructivism	80
3.2.2 O'Neill's Constructivism	87
Conclusion	96
Chapter Four	
The Inspired Kantian Non-Formalism	98
4.1 Dietrichson's 'Typic'- Mediation-Principle	98
4.1.1 Acting from Duty	99
4.1.2 Mediation Principle-Typic	100
4.1.3 Dietrichson's Objection to Empty Formalism	101
4.2 Steinberger- When a Maxim is not Universalizable	106
Conclusion	111
Chapter Five	
The Non-Formalistic Expressions in Kant's Writings	113
5.1 The Pre-Critical Period: A Tendency toward Anti-Formalism	114
5.2 The Critique of Pure Reason-Kant's Moral Platonism as Anti-Formalism	125

5.3 The Metaphysics of Morals- Non-Formalistic Moral Law	133
Chapter Six	
From Kantian Value Realism to Non-Formal Values: A Kantian Strategy Answering the Emptiness Problem	140
6.1 Problems for Kantian Formalism	142
6.2 The Broad Emptiness Charge	143
6.3 Kantian Value Realism	146
6.3.1 The Evidence for Kantian Value Realism	147
6.3.2 Alison Hill's Kantian Value Realism	150
6.4 Value of Humanity, Non-Formal Aspects of Values in Kant's Moral Philosophy	153
6.4.1 The Non-Formal Value of Impartiality	153
6.4.1.1 Logical Consistency: The Narrow Emptiness Charge to Impartiality	154
6.4.1.2 The Non-Formal Value of Impartiality	157
6.4.1.3 Two Broad Emptiness Charges to Impartiality	160
6.4.2 The Non-Formal Value of Autonomy	164
6.4.2.1 The Original Emptiness Charge on Autonomy	167
6.4.2.2 The Broad Emptiness Charge on Autonomy	168
6.4.3 The Non-Formal Value of Dignity	171
6.4.3.1 A Formalistic Explanation of Dignity	171
6.4.3.2 A Non-Formal Explanation of Dignity	173
Summary	176
Conclusion: The Content of Moral Law	178
Bibliography	178
VITA	184

## **Introduction**

# **Categorical Imperative and the Emptiness Charge in Kant's Moral Philosophy<sup>1</sup>**

Immanuel Kant's moral philosophy is mostly remembered for its central thesis, the Categorical Imperative (CI). According to Kant, rational beings experience the moral law as a Categorical Imperative. The Categorical Imperative commands universally and unconditionally, from which all duties are derived. Kant articulates the Categorical Imperative through several formulations. The most prominent formulations of the Categorical Imperative are known as the Formula of Universal Law (CI1), the Humanity Formulation (CI2) and the Kingdom of Ends Formulation (CI3). The general thought of CI1 demands that one act only on the basis of maxims that one can will as universal laws. CI2 commands respect for rational agents as ends in themselves. CI3 follows from the first two, namely, to act according to maxims of a universally legislating member of a merely possible kingdom of ends. The Categorical Imperative is considered a strong principle in formal philosophy. As a formal principle, the Kantian moral law provides the necessary path to moral action.

However, the debates on emptiness emerge, around the questions of how the Categorical Imperative could reach the moral conduct, whether one can will a candidate maxim as a universal law without this generating a contradiction through CI1, or how moral law commands respect for rational agents as ends in themselves through CI2.

There have been numerous critiques of Kantian moral philosophy on the basis of emptiness. These critiques come from a variety of thinkers, Hegel and Mill for example, and from many different schools of thought. The best-known Hegelian objection

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<sup>1</sup> Although in Kant's writings, he constantly talks about the issues of formalism, but he does not use the term emptiness. Commentators have used the terms emptiness of formalism or empty formalism in describing the abstract and hallow nature of the Kantian ethics. Ping-Cheng Lo, Robert M. Wallace, Allen W. Wood, Sally Sedgwick adopt the former while Stephen Houlgate, Michael Baur, F. Freyenhagen would prefer the latter. Here I may refer to some, but not all.

against Kant's practical philosophy is the charge that the categorical imperative is an 'empty formalism'. Given his historical significance, Hegel admits the "merit of Kant's moral philosophy and its loftiness of outlook".

Before Kant, moral philosophy was dominated by Crusius' sense of divine morality which stipulates that the will of a person has to be in accordance with the will of God. Wolff's notion of moral perfection adds that we should strive to procedurally achieve our sense of moral obligation to the degree that the ends or effects of a particular action are based on our ability to accomplish perfection. Kant concludes that Wolff's postulations are virtually impossible in attaining perfection in his *Prize Essay* in 1764. Crusius and Wolff's arguments essentially appeal to the un-provable teleological assumptions of harmony, perfection, and divine will, whereas Kant's view is particularly significant because it subverts the tradition that linked the divine will with anthropological considerations. For Kant, act that accords with his notion of law originates in a form of maxim. In other words, the agent's subjective intention forms a maxim which is generalized in terms of being formulated as a general maxim for all similar situations. A maxim is a subjective principle of action or rule upon which one intentionally acts. The nature of the maxim upon which an action is based is the manner in which intentions are expressed. A maxim includes the action, the circumstances attending the action and the end or purpose of the action, i.e. the motive. For example, "When I am bored, I will do something different." To do so, my maxim might be exploiting people at work which includes abusing them physically, verbally and harassing them sexually.

However, the real maxim Kant gives is, when maxims pass the test of an objective moral law then and only then can the maxim be considered morally permissible. In this case, the morally permissible maxim should be "I am never to take the life of another human for my subjective motive because it may degrade humanity." With this permission, the subjective maxim can be instantiated and established by considering the clause 'doing unto others', rather than the Golden Rule 'do unto others as you would

have them do unto you'.<sup>2</sup>

In this thesis, the content of moral law is taken to be a necessary step toward discussing the emptiness charge. If Kant's project is to succeed, then, it must be possible to derive an action guiding formulation of the moral law. In the process of examining the emptiness charge and its relation to Kant's moral philosophy, it became very clear that certain issues concerning the grounding and domain of Kantian formalism remain unresolved along with a serious misunderstanding of the purpose of the Kantian proposed CI. These issues need to be addressed before any credible approach to the original question (What is the content of Kant's moral law?) is possible. Kant is one of the promoters of ethical formalism. Kant's formalism is ethical universalism leading to absolute moral laws. But these absolutes are based on a consideration of others as well as originating from the self. Kant's focus on an anthropocentric viewpoint connects moral necessity with all rational beings and humanity. Humanity must be identified with the good will, that is, the will of an agent who is committed to choosing in accordance with the moral law, and whose supreme commitment is to the moral law. (Gr 4:393)

Good will includes several features: it is neither merely designed to make us happy, nor does it rely on the consequences of an act or unconditional good. Hegel proposed doubts about the good will by pronouncing that "the truth of the intention is just the deed itself" and "what the subject is, is the series of his actions" (Hegel PR 124). Hegel criticized Kant attached independent value (intentions or maxims) to the will, which apart from results, and especially apart from whether they are carried out in the actions of those who adopt them, a gap might exist between maxims and their execution in action. Hegel developed an emptiness charge by attributing Kant firmly committed the good will as an unhealthy idea-the good will. It acts solely from duty, the possibility of a morality is based on the good yielding contentful principles from which a doctrine of duties might be derived. As Wood has argued, this seems to be the emptiness charge in the weak form, which says only that morality cannot provide an

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<sup>2</sup> I will consider this distinction more thoroughly when discussing Kant's pre-critical writings in 5.1.



“adequate doctrine of duties”. (Hegel PR 148R, Wood 172)<sup>3</sup>

This weak form of emptiness charge fails, according to Wood, for it does not distinguish between acting with duty and acting from duty. Kant explains that as phenomenal beings, we not only have inclinations, but also the rational capability that can surpass mere inclinations. Therefore, we express good will when and only when we act from duty, which necessarily means that we act in accord with the notion of law, which sets forth an ought not an is, even though this law does not bind us physically. Even though at times our inclinations may conflict with this concept of law, we possess the rational capacity to act not merely according to law, but in harmony with the larger ideal of law, which Kant abstracts to create the widely known Categorical Imperative (CI). CI results in an agent acting not only in accordance with duty, but also from duty if the action shall be considered to be fully moral, and, thereby, at the same time, ensures that the moral law is also kept. There are three main formulations of CI.<sup>4</sup>

The first formulation of the moral law (CI1) in Kant's *Groundwork of Metaphysics of Morals* is “so act that you can will the maxim of your action to be a universal law” (Gr 421/39). Kant’s first formulation of the CI is also named universalizability, that is, all moral maxims must be universalizable. According to Kant, it is not rational to choose a world in which you cannot will the maxim of your action to be a universal law. This is where CI (moral maxims apply to everyone, for example, if you expect other people to keep their promises, then you are obligated to keep your own promises) are different from merely hypothetical ones which command conditionally on your having a relevant desire, an example would be an ‘ought’ statement of the form, ‘if you want A, then you ought to do B’. This is a hypothetical imperative, such as ‘Jack sees a cake, Jack ought not to eat it, as it is a means to keep healthy’. Such thinking appeals to our rationality and can be found in every major world religion most typically

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<sup>3</sup> Wood, A. (1990). *Hegel's Ethical Thought*. Cambridge: Cambridge University Press.

<sup>4</sup> Regarding to the numbers of Categorical Imperative, many Kantians make the response, for example, Nuyen supports the most widely accepted Paton’s view: there are five or more formulations. In my thesis, I will mainly analyze three main formulations and talk about formulation of autonomy in the last chapter. See A. T. Nuyen *Counting the Formulas of the Categorical Imperative: One Plus Three Makes Four of Formulation*

summarized in ‘The Golden Rule’ – treat other people as you want to be treated. Since the golden rule does not actually specify what we should do, the vagueness of the golden rule points to the reciprocity of considering people. For example, it would also not make sense for me to criticize someone else for, say, breaking the speed limit if I broke it myself. For Kant, it is a sure sign of its subjectivism. Subjectivism has subjective ends, but for an end to be objective, such as ‘If you don’t want tooth decay, then you ought to brush your teeth twice a day’. It must be necessary that we pursue that end. Subjectivism does not indicate the essence or the content of morality, therefore it is inadequate as a foundation of moral philosophy.

Besides, there is a derivative formulation from CII, CIIA “Act as if the maxim of your action were to become through your will a universal law of nature” (Gr421), this formulation is seen as the universal law of nature formulation.<sup>5</sup>

The second formulation(CI2): Act in such a way that you treat humanity, no matter in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end. (Gr429) The second formulation is also often seen as the humanity formulation. It states that we treat humanity as acting in such a way that, as an end in itself, never as a means only. This humanity formulation introduces the idea of ‘respect’ for persons, which is essential to our humanity. Using the same illustration, Jack sees a cake, Jack has an appetite for cake, but this cake is Tom’s; Jack is then faced with multiple and varied options. Perhaps Jack will take the cake from Tom to satisfy his appetite. As well as acting according to rational principles, we must also consider the end of our actions rather than hypothetical imperatives. Living in such hypothetical imperatives, Jack undermines himself and would deny the possibility of humanity or ends. In this case, contradicting CI2 also contradicts CII since Tom would also in turn to steal, then there is no universalizable maxim. We must therefore never merely use a person as a means to an end, but always consider them as ends in themselves.

CI3, the third formulation states: “always act as though you are a legislating

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<sup>5</sup> The further discussion on the relation between CII and CIIA please see 3.1

member in the universal kingdom of ends”. (Gr439) This formulation is named kingdom of ends formulation, it introduces the idea of “free will”. Rational action results from a free will – if we were to subvert the autonomous will by using humanity as a means to an end. For example, returning to the matter of stealing cake, Jack could acknowledge that rather than stealing from Tom, he has other choices in accordance with the moral law. While he may realize that in accordance with the causal law<sup>6</sup> as the descriptive laws in the actual world, he will ultimately face the effect of his theft. Only via a normative determination will he experience practical freedom, I will analyze Kant’s notion of freedom in the last chapter.

Besides, there is also Autonomy Formulation seen as CI3. “Thus, the third practical principle follows (from the first two) as the ultimate condition of their harmony with practical reason: the idea of the will of every rational being as a universally legislating will”. (Gr4:443) I will also differentiate CI3 and autonomy formulation in the freedom section in the last chapter.

The moral law receives three formations in the *Groundwork*, but it is still a matter of some obscurity how these formations relate to each other and to the moral law itself. There is an equivalence thesis here, Kant generally claims that all formulations are equivalent, in section two of Kant's *Groundwork for the Metaphysics of Morals*, Kant says there is, therefore, only a single CI, namely, to act only according to that maxim through which you can at the same time will that it become a universal law (Gr4:421). Kant defines CI as follows: CI would be the one that represented an action as objectively necessary by itself, without reference to another end (Gr4:414). There are other passages stating that CI1 and CI2 are equivalent, for example, Kant observes that the two are “at bottom only so many formulas of the very same law” and that the principles they express are “basically the same” (im Grunde einerlei) (Gr436, 438).

To make clear the number of formulations of the CI, however, is not the purpose of this thesis, but rather I will discuss the equivalence thesis and distinctions between these formulations are rather vital in order for Kant’s readers to have a view of

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<sup>6</sup> Casual law is in contrast with normative laws in ideal world, I will further explicate this in 2.2.2.

Kantians' strategy in response to the emptiness charge. Kant at various places says that the formulations of CI are equivalent, but he also often treats them as separate principles (referring to my first chapter). However, I will argue that CI1 and CI2 are not actually equivalent. They would not always yield the same moral judgments when applied to cases. There are at least some cases in which they yield conflicting judgments. E.g., the example in the text about killing one prisoner to save others. CI1 says this is permissible, but CI2 says it is impermissible (precisely, I will criticize such act would degrade human dignity and freedom in the last chapter). CI1 and CI2 (as I understand it) could be separate principles. By itself, CI1 does not specify the standards of rational willing that determine whether a person could accept a moral principle or not, it basically requires us to act in ways that are justifiable to others. CI2 is a principle requiring humanity in oneself and others to be treated as an end in itself, which would be the Kant's intention of moral content to refute the emptiness charge.

My discussion of the equivalence thesis and separate principles will be also drawn from Silber's formalist reconstruction (3.1), where I will discuss that many Kantians offered the distinction of formulations in response to emptiness charge. For instance, non-formalists read Kant as departing from formalism due to CI2, given Kant's expression that there must be "something the existence of which in itself has an absolute worth." (Gr82) By a process of elimination, that someone must be persons by virtue of their capacity for rational agency; the absolute worth of persons or rational agents comprises an independent order of value which grounds the moral law. On the other hand, Kant is read as a moral formalist due to CI1 and CI3. In the first case, Kant is understood as saying that there is a procedure for testing maxims to determine their universality thereby constructing rational maxims. Alternatively, according to CI3, Kant is understood as saying that the stance of the members of an ideal kingdom of ends defines what is right. This view holds that "morality consists, then, in the reference of all action to the law giving by which alone a kingdom of ends is possible" (Gr4:435).<sup>7</sup>

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<sup>7</sup> See Paul Formosa, "Is Kant a Moral Constructivist or a Moral Realist?" *European Journal of Philosophy* 21(2). June 2013

However, I will argue in neither case does the content of the moral law itself appear to be the universally valid maxim in C1 or self-legislated in C3. The formalist view does not grasp the essence of Kant's morality, that is, the non-formal components in C2. Although Kant expresses a moral law by which we are bound is a universally valid maxim for C1 and the members of such a merely ideal realm would construct the laws for themselves that ultimately bind all of us for C3, such a kingdom is "admittedly only an ideal" (Gr83/4:433). Kant's moral law is not merely ideal or formal, rather than practical and concrete, disputing Kant's formalism as an empty formalism becomes the most central issue of my thesis.

How explicitly can such formalism direct moral content? This is also the most central point of Hegel's criticism of Kant's CI. Through Kantian morality, is there the possibility of being able to develop a moral guide for action that can actually speak to actions themselves? If the emptiness critique cannot be overcome, however, how can Kantian morality claim to transcend the empty formalism of other formalist articulations of ethics? If this critique cannot be overcome then the entire construction of Kantian morality would be in jeopardy.

In fact, Hegel is not the first philosopher<sup>8</sup> who disagrees with the formal moral law that may extend the moral content, but he indeed held the most influential criticism upon Kant's CI. Critiques of Kantian moral philosophy on the basis of emptiness come from a variety of thinkers and from many different schools of thought. For example, Mill claims that the universal law permits commonly immoral behavior and can only become consistent by resorting to Utilitarianism. "All he shows is that the consequences of their universal adoption would be such as no one would choose to incur" (Mill Uti.162). Mill criticizes Kant for failing to identify "the actual duties of morality" (Mill Uti.162). Mill's critique derives from the Introduction of *Utilitarianism*, where he

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<sup>8</sup> Like the challenge raised by Benjamin Constant in 1797, Kant responded in a short essay *On a Supposed Right to Lie from Philanthropy*. Constant's charge is basically around Kant's moral principle 'duty to tell the truth' would, if taken unconditionally and singly, make any society impossible. The further discussion on Kant's standpoint and strategy please see Helga Varden's "Kant and Lying to the Murderer at the Door... One More Time: Kant's Legal Philosophy and Lies to Murderers and Nazis" *Journal of Social Philosophy* 41 (4):403-4211 (2010).

makes the claim that Kantian ethics, and all *a priori* abstract concept of ethics, derive from first principles (Kant's CI)<sup>9</sup> that go unstated, leaving an actual description of action as elusive, and thus the prescriptive ethical determinations derived from the CI unable to inform action (Mill *Uti*.260).

Hegel's critique is framed as a critique of empty formalism. Hegel claims that CI is assumed in the concept of moral law. This prevents any precise understanding of action from being possible, in turn preventing any direct ethical guidance of action from being derived from the CI. The question on whether the unconditionally absolute law has the content of any specific moral action has become the classic charge against Kant's CI. This is because it mainly criticizes to the first formulation, I name it the narrow emptiness charge in a sense that CI1, CI2 and CI3 are not taken to be equivalent. As Kant states, they are separate principles. The narrow emptiness charge from Hegel is then only directed against CI1. Whether Hegel would admit Kant's equivalence thesis or whether Hegel would regard CI2 and CI3 as empty is hard to determine, because Hegel does not mention CI2 and CI3 in his writings. However, it is clear that Hegel's 'emptiness charge' is directed against CI1, for it somehow exhibits "for itself", "adduces the more concrete representation of a situation", but nonetheless "for itself contains no further principle than the absence of contraction and formal identity" (Hegel PR S135R). My interpretation of CI is not taken CI1, CI2 and CI3 as equivalent, rather they are interpreted differently. I argue that narrow emptiness charge that only amounts to CI1 succeeds, however, the narrow emptiness charge would not be directed

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<sup>9</sup> Precisely, Mill claims the Categorical Imperative, is actually a disguised version of the utilitarian principle, Mill says "This remarkable man... does... lay down a universal first principle as the origin and ground of moral obligation; it is this: 'So act, that the rule on which thou actest would admit of being adopted as a law by all rational beings'. But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the consequences of their universal adoption would be such as no one would choose to incur." (Utilitarianism, Ch. 1). In *The Collected Works of John Stuart Mill*, v. 10. Ed. Robson, J.M. Toronto: University of Toronto Press. 1985.

at CI2 or CI3. Although there is a broad emptiness charge, which attacks CI2 and CI3 as well and independently, arguing that they still remain empty.

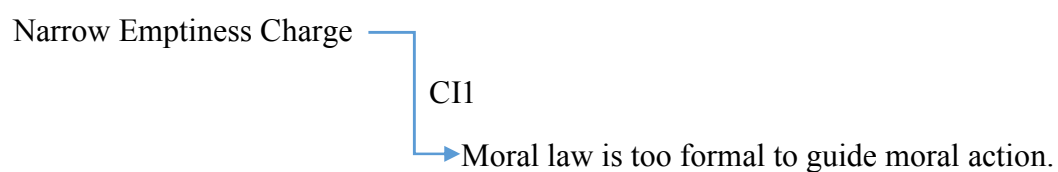
Contemporary debates of the narrow emptiness charge still continue, many of the articulations of the emptiness critique follow a similar argument, but for different philosophical reasons and in different literary contexts. On the one hand, Hegel had criticized Kant mostly for CI1; Hegel's followers tend to propose a broad emptiness charge which argues that moral law based on CI1 is merely abstract, while CI2 and CI3 as well as the autonomy formulation are all too formal to guide moral action.

On the other hand, this criticism has already attracted Kantian defenders' attention, such as, the inspired non-formalism has been reinterpreting Kant's moral law and the moral content by defending the non-formal-components in CI2 whereas formalists are attempting to vindicate CI1 as merely formal formulation thus CI has the practice of morality. For example, Steinberger argues traditional criticisms of the emptiness charge (Onora O'Neill's) prevent one from being able to derive CI through analysis of the maxim, leaving only the possibility of the derivation of hypothetical imperatives. I claim that neither the formalist defense of the narrow emptiness charge nor the inspired Kantians additional evidence in favor of it is convincing. For example, Dietrichson argues that attempts to address the emptiness critique must prove the relevance of the CI to actual action, and this involves understanding the connection between abstract universal morality and particular actions (for details see the chapter on formalist reconstruction).

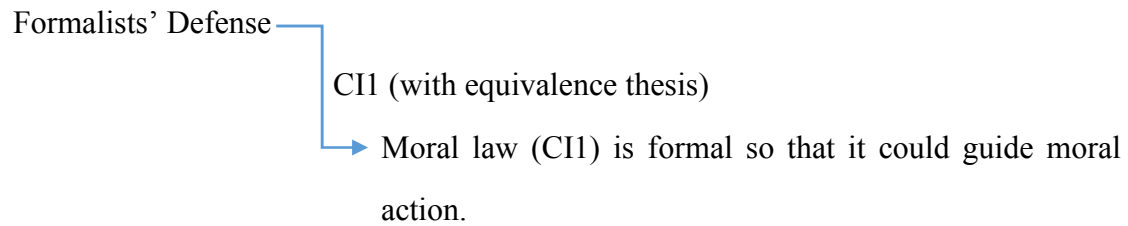
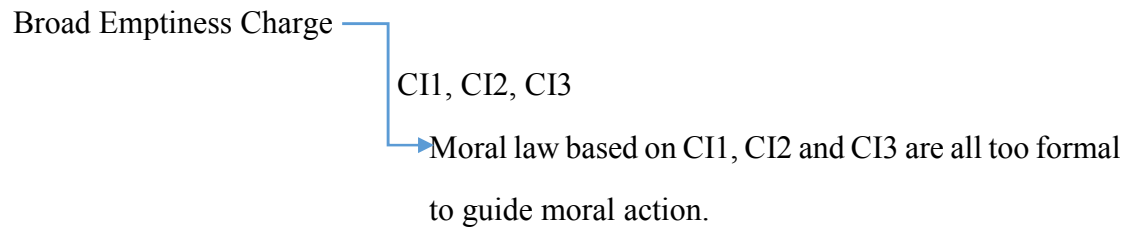
Both the narrow emptiness charge and the broad charge are made towards Kant's moral standpoint. The distinction between 'broad' and 'narrow' is taken by using different formulations. For the broad emptiness charge, moral law based on CI1, CI2 and CI3 are all too formal to guide moral action. For the narrow emptiness charge, the moral law based on CI1 is merely abstract and unable to guide moral action. Kant argued that in order to determine whether an action is right, we should attend to the form of the maxim or principle on which the agent proposes to act; the CI tells us to act only on maxims which can serve as universal laws. To understand Kant's CI and the emptiness charge requires us to read both of them in much detail. For example, Kant's

notion of a maxim in the CI supposes an agent proposes to perform a certain action in order to realize a certain end. We should ask whether everyone with this end could rationally act on this maxim. Some maxims would be contradictory or self-defeating if everyone acted on them, and these are ruled out by morality. Hegel notes that this principle “has constituted the merit of Kant's moral philosophy and its loftiness of outlook.” He critiques Kant’s thought by observing “every action explicitly calls for a particular content and a specific end, while duty as abstraction entails nothing of the kind.” (Hegel Philosophy of Right 134) Hegel contends that the only way Kant can possibly deduce a particular duty is if Kant already accepted certain existing moral opinions or customs as justifiable. For example, it is certainly a contradictory maxim to accept a deposit that is entrusted to me without planning to return it, but it is only contradictory, according to Hegel, if we first accept the notion of property. As regards Kant, he tries to give a pure justification of property, without considering the historical and social circumstances and their possible consequences. Hegel holds that Kant can only presuppose such institutions and customs ‘from the outside’. The ground of morality must lie outside the realm of nature, Kant’s concept of property cannot offer a special theory of civil society as the concept of property’s background. Consequently, Hegel contends that Kant’s principle of morality remains merely formal because it has not justified the required content for instantiating the CI.

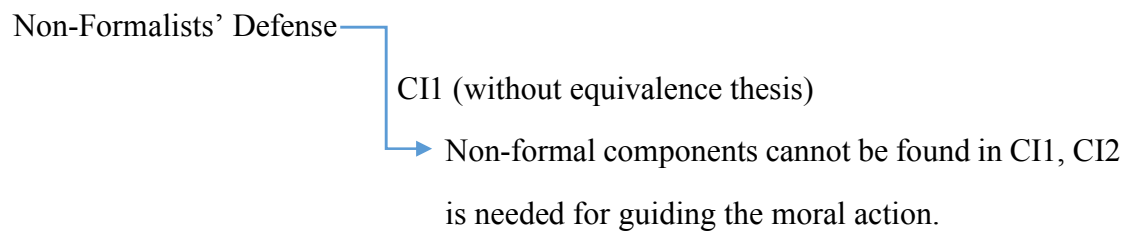
Facing the narrow emptiness charge and broad emptiness charge, Kant’s defenders have clarified the validity of Kant’s morality by using different approaches by Kantian formalists and Kantian inspired non-formalists. The formalists defend a version of interpretation that holds that the moral law (mostly CI1) consists in formal and universally valid principles, which have their basis in rationality. The non-formalist interpretation contends that moral law does not merely encompass formal components, but also non-formal effective procedures and therefore it is able to guide moral action. For a better review, those relations can be structured as the map shown:



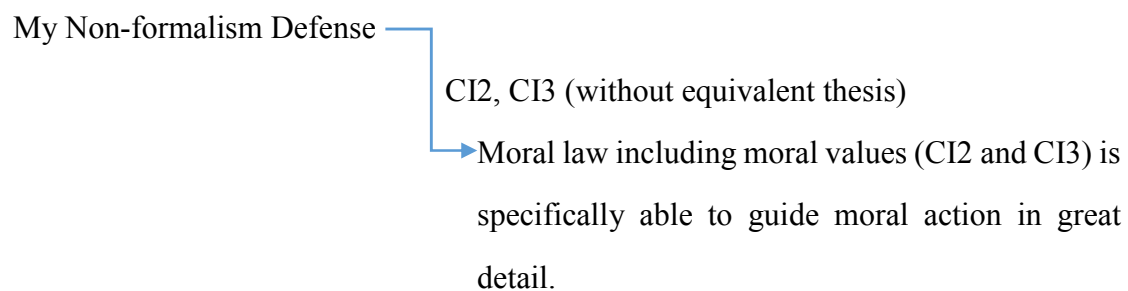




**My assessment:** Formalist reconstructions of the formal character of CI1 is close to Kant's original writings, however, CI1 for its only formal character cannot guide moral action.



**My assessment:** Non-Formalists' defense points out the non-equivalence thesis, CI2 express the moral content rather than CI1, however, there is no further explication for the possibility of concrete values as the moral content in CI2.



The question of the emptiness charge is also a question of whether Kant's

formalism dispenses with content altogether. There is no doubt that Kant's Formalism is ethical universalism made into laws that are absolute. But there is doubt whether the content of any specific moral action has real meaning. If a universal law says 'do not cheat', then under no circumstances is cheating permissible. In Kant's view, no ethical theory can worry about the actual content of specific moral acts--it must make rules based exclusively on the constitution of the human will itself. This suggests that human beings will can apply rules to all situations. The CI in my view begins from the point of view of humanity and resolves itself to the idea that only universal laws decided upon in freedom can contain anything moral.

There are ways to dispute the emptiness charge, interpretably or contextually. Interpretation is a way to clarify the specific terms in the CI, such as how to understand a maxim, good will, means and ends or the role of universal procedure with either formalist or non-formalist defending Kant in favour of their approach. The other is a rather analytic way of understanding the specific context where Hegel's emptiness charge is made, the latter might require much more effects in some sense that the researchers not only focus on Kant's whole philosophical system but also Hegel's. I will therefore mainly conduct an investigation of the former. The formalist seems to admit the equivalence thesis, but merely regard CI1 as the formal moral law to guidance the moral action. I would suggest Hegel's criticisms and the formalists' defences are taken simply as an attack or defence on CI1, however, overlook CI2 and CI3.

As described, the way to respond to the emptiness charge is to focus on the CI2 and CI3 in a non-equivalence thesis sense. For example, one of understandings of a maxim, according to the emptiness charge or Kant's framed empty formalism presented specifically as a criticism of Kantian ethics, is that the test proposed by the CI draws no real distinction between maxims. From one point of view, all maxims pass the test, whereas from another any maxim fails it. Kant's formalism, then does not yield a positive meaning of ethical formalism, but merely a negative meaning of empty formalism. The CI is not able to be a guide for actions, and there is no moral content according to Kant's absolute moral law. Disputing the emptiness charge by re-interpreting maxim has been the major effects among Kantians. Marcus Singer found

criteria for arriving at a unique correct description of actions for the purposes of moral evaluation.<sup>10</sup> Harrison made a major contribution to the discussion of criteria for action in the context of utilitarianism.<sup>11</sup> Onora O’Neill paid considerable attention to the formulation of maxims.<sup>12</sup> Potter Jr. concludes with the Kantian concept of maxims primarily in relation to applications of the CI in deriving specific conclusions about the rightness and wrongness of particular kinds of actions.<sup>13</sup>

This is just one aspect of the term like maxim discussed in Kant’s CI. Apart from Hegel’s original emptiness charge and the broad emptiness charge, there have also been various ways Kantian defenders dispute the emptiness critique.

In *Kant's Formulas of Universal Law*, Korsgaard attempts to address the emptiness critique through a discussion of the different ways of thinking about the connection of rationality to moral law and different understandings of the role and structure of contradiction in the analysis of maxims.<sup>14</sup> She begins her discussion by categorizing the attempt to address the emptiness critique into three general categories, the Logical Contradiction Interpretation, the Teleological Contradiction Interpretation and the Practical Contradiction Interpretation. The Logical Contradiction is logically inconceivable that one will the maxim in a world in which the maxim is a universal law. The Teleological Contradiction is a contradiction in willing the maxim as a universal teleological law; making the maxim a universal law violates the very purpose that the maxim was supposed to serve. In the Practical Contradiction, if the maxim were a universal law, the maxim’s ability to achieve a desired purpose would be undermined; it would no longer serve your ends to act on such a maxim. I will discuss these

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<sup>10</sup> In his discussion of Kant in the later chapters of *Generalization in Ethics*, Singer concentrated his attention on Kant's account of maxims. See Marcus G. Singer, “*Generalization in Ethics. An Essay in the Logic of Ethics with the Rudiments of a System of Moral Philosophy*”, New York: Atheneum, 1961.

<sup>11</sup> Jonathan Harrison, “Kant's Examples of the first Formulation of the Categorical Imperative”, *The Philosophical Quarterly*, Volume 7, Issue 26, 1 January 1957.

<sup>12</sup> Onora Nell, *Acting on Principle*. New York, Columbia University Press, 1975.

<sup>13</sup> See Nelson T. Potter Jr. “Maxims in Kant's Moral Philosophy”, *Philosophia*, 23(1-4): 59-90, 1994.

<sup>14</sup> Korsgaard Christine. “Kant’s Formula of Universal law”, *Pacific Philosophical Quarterly*, v.66, January 1985.

interpretations individually and discuss the critiques that Korsgaard levies against the Logical Contradiction Interpretation as well as the Teleological Contradiction Interpretation. Finally, I intend to discuss the Practical Contradiction Interpretation and the claim Korsgaard makes regarding the connection of the Practical Contradiction Interpretation to actual actions, and how this can address some of the aspects of the critique of emptiness.

In *Consistency in Action*, O'Neill argues that the attempt to base the content of the CI purely on a formal analysis of maxims, without taking into account the full implications of will, fails to take into account the possibility of the manifestation of the maxims in the material world. As such, she constructs a process of analysis that is based on two different, yet connected frameworks, conceptual and volitional contradictions. Conceptual contradictions note that the maxims in reference to the contradictions tend to ignore the core of the maxim, that it is a principle of action, or a principle that we will. Much like Korsgaard's Logical Contradiction Interpretation, the conceptual contradiction is based on analyzing whether the unsuccessful universalization of the maxim leading to a contradiction would fundamentally prevent the intent of the maxim from being realized. For example, if one posits the maxim that 'one should break promises', the universalization of this maxim would eliminate the practice of promises, preventing one from breaking promises. To this she adds a concept of volitional contradiction, volitional contradictions can be based on conceptually consistent maxims, but only if these maxims ignore the fundamental importance of willing. To will is to intend to make something occur, rather than just wishing it were the case, in which one analyzes whether the means, components and consequences of the universalization of the maxim would fundamentally prevent the intention behind the maxim from being realized. This constructs a much more comprehensive attempt to address the emptiness critique, through incorporating both formal and practical concerns into the analysis of the maxim.

Steinberger, in his essay *The Standard View of the Categorical Imperative*, argues

that O'Neill's approach posits conditions<sup>15</sup> to the analysis of the maxim in the CI. This prevents one from being able to derive CI through analysis of the maxim, leaving only the possibility of the derivation of hypothetical imperatives, conditioned on the assumed content of moral law. What O'Neill asserts is normal and predictable circumstances: This yields only hypothetical imperatives which function to the degree that we assume normal and predictable circumstances or assume the moral primacy of a systemic harmony of purpose. Steinberger himself ends the essay by admitting that he fails utterly to establish a categorical basis for the Kantian project, a basis that is essential to overcome the emptiness critique; this potentially leaves the attempt to address the emptiness critique at an impasse.

Dietrichson argues that the traditional reading of the CI leaves out a series of important aspects of Kant's thought. Primarily, Dietrichson argues that the traditional reading of the CI is primarily based on a narrative of contradiction, which fails to take into account that maxims are principles of action. The attempt to speak of the emptiness critique is not to posit a conceptually consistent concept of the CI. Specifically, to address the emptiness critique involves returning to Kant's attempts to posit relevant content to the CI. Dietrichson argues that attempts to address the emptiness critique must show the relevance of the CI to actual action, and this involves understanding the connection between abstract universal morality and particular actions. To bridge this gap, Dietrichson proposes the concept of the *typic*, a 'mediation-principle' (Dietrichson 151) which attempts to create a conceptual bridge between abstract, formal, moral law and concrete, particular actions symbolized in the maxim. In this process, moral law is approximated in a concrete sense, while the possible action is abstracted into the maxim, providing a point of convergence in which they can be analyzed together. This posits, both the possibility of an adherence to moral duty as well as a concrete existence

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<sup>15</sup> O'Neill argues that the consistency test, within the universality test, is the forcible content in the Categorical Imperative. By basing the discourse in consistency, and creating a space for volitional consistency, O'Neill claims that this moves away from either emptiness or formalism; in opening this volitional space there is a space to discuss the maxim within the particular situation in which it is intended to manifest, and the conditions of that manifestation.

to moral law.

All of the above-mentioned approaches to the emptiness critique present problems that need to be resolved. For example, Korsgaard points out that connection of rationality to moral law and Practical Contradiction Interpretation to actual actions. But the question about how or why Practical Contradiction could dispute the emptiness charge has not clearly answered. O'Neill's volitional contradiction is in some sense appealing, because it reminds us the significance of moral guidance is derived from CII, this still requires another moral requirement for although I have clarified my action into a maxim; the moral content is still vague and uncertain. Steinberger and Dietrichson have contributed to the crisis of emptiness, even though some questions remain. For example, Dietrichson succeeds in grounding his narrative in Kant's text by introducing a discussion of the typic, this approach comes at the cost of potentially sacrificing adherence to the universal moral law. Steinberger's successfully postulates a strong position drawing directly on Kant regarding the limitations of CI, but Steinberger fails to establish a categorical basis for Kantian ethics resulting in constraints when applied to a metaphysical scenario.

There are also a series of other approaches that have not been mentioned here that must be analyzed and discussed. For example, critics lodge formalism and emptiness arguments against Kant's CI since they read relevant texts in Kant's writings that can be read as merely formalistic expressions. However, this is misunderstanding of Kant's thought. His thought, during his pre-critical period as well as during his mature critical periods along with writings published after his death, indicate Kant's philosophical search arrives at his conception of moral law moving from the theoretical basis to the practical approach, not the practical approach to a theoretical basis. In the pre-critical period, Kant seeks to realize a path that enables humans to pursue a necessary end or harmony with the universal will, rather than Wolff's moral perfectionism which includes a too 'formal' procedure. In the *Critique of Pure Reason*, there are many formalistic expressions within for this reason readers may label Kant's ethics highly formalistic, for Kantian morality is based on the mere formalistic concept of law. However, Kant does not fail in empty formalism, on one hand, he offers a

competing and certainly non-formalistic moral Platonism in the latter half of the *Critique of Pure Reason* and implies a way out of empty formalism and into greater clarity in the *Groundwork*. In the *Groundwork*, Kant provides teleology of ends which may be also termed the ‘material’ humanity formulation. In the *Critique of Practical Reason*, he strives to ‘seek out’ the foundational principle of a ‘metaphysics of morals’, which Kant understands as a system of a priori moral principles that apply the CI to human persons in all times and cultures. In this sense, Kant’s mature writings should not be labeled empty formalism, his ethics would offer us practical guidance.

In undertaking this project, I intend to engage in research on three levels. Firstly, I will be going back to the original text, including Mill's *Utilitarianism*, Hegel's *Philosophy of Right* and *The Scientific Ways of Treating Natural Law*, and Kant's *Groundwork of the Metaphysics of Morals*, the *Critique of Practical Reason* and the *Metaphysics of Morals*, among others, to discuss the roots of the emptiness critique, the various formulations of the critique and what they refer to in Kant's writings directly. In this return to the primary text, I intend to clarify the emptiness critique as well as provide a basis for the textual analysis of approaches to the critique in secondary literature. Secondly, I intend to organize the secondary literature through mapping the claims and critiques to address the emptiness critique. This process will help in working through some of the confusion of the discourse as it exists currently, and will serve to organize the information contained in the secondary literature in order to discuss the material in the most comprehensive way possible. For example, Kantian supporters and critics, who rely on varying rationales, conclude that Kant’s moral theory stands or falls with the question of formalism. To this point, I will contend that the formalist reconstructions are unable to resolve the emptiness problem since formalists appeal to a range of background theories based on common-sense rules. These rules are called, variously, postulates of rationality by Silber, constraining principles of empirical practical reason by Rawls, and principles of rational intending by O’Neill. On the other hand, the non-formalists address the formalism in Kant’s ethics by insisting on a methodology that encompasses both parity and plurality that might be seen by Kantian critics to provide additional understanding of morality. Regardless of the various extant

interpretations of Kant's work, the larger issue, for me and many others, is the content of morality, which, in my view is inherently connected to the value. That is, the value of the moral law is not, as some scholars hold, merely abstract notions, but, rather the concrete direction it provides for human thought and behaviour.<sup>16</sup> By assuming this concrete, practical approach, we will, I contend, see the enduring value of Kant's CI and, on a larger scale, his moral philosophy.

Thirdly, I intend on working from this point to develop the analysis that will be presented in this thesis. From the previous research and clarification, I intend on deriving an analysis of the emptiness critique and the various ways that it has been addressed. Specifically, I intend on analyzing the problematic aspects of other attempts and where we may be able to construct a less problematic approach to addressing the source of the emptiness critique. I hold that Kant has served as a compelling interlocutor in moral matters. Still further, my purpose here is to offer a better interpretation of Kantian thought than that offered by the both the formalist and non-formalists, I present a perspective that gives due credence to Kantian central texts and at the same time offers an alternative reading that is philosophically, morally, and psychologically plausible and powerful. I would consider my approach to be non-formal as well. My, my defense against the emptiness charge, in a non-equivalence thesis sense, does not refer to logical consistency of CI1, but considers the non-formal nature of humanity in CI2 and CI3, by relying on the deep sense of moral value, namely, the non-formal notions of impartiality, autonomy and dignity. Because Kant implied values of impartiality, autonomy, and dignity as the content of moral law in his mature critical writings. While many formalists would agree that these three values, impartiality, autonomy, and dignity are referred to in Kant's ethics, none would agree that these independent values are central in Kant's system since formalists consider impartiality, freedom, and dignity

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<sup>16</sup> There are two value levels in play here: 1) morality is connected to values, i.e. morality is about taking into account certain values; 2) morality, and more specifically, the moral law is itself of value. I would defend the former. Morality in itself does not prescribe any specific substantive ends. Our value and specific substantive ends are leading to the value of humanity, including non-formal value of impartiality, dignity and freedom. I would like to thank for Prof. Kühler's comments here.



the products of the will and not values. At the same time, for formalists these three values do not determine the will but, rather, are determined by the will. In conclusion, I will thoroughly clarify my objection to a formalist interpretation by demonstrating that impartiality, autonomy, and dignity are non-formal, independent values of Kant's ethics which are worthy of moral practice.

In this introductory chapter, I explain my intention to defend Kantian morality against an interrelated set of emptiness arguments promulgated by the most influential contemporary opponents of Kant's moral theory. Primary to this argument is whether the CI may serve a guide for actions which represents as the universalizability test for maxims.

Six additional chapters which follow the introduction constitute the remainder of this thesis. The first chapter reviews the different standards of emptiness charge by looking into Kant's formalistic writings, which have been pointed out mostly in *Groundwork* and the *Second Critique*. In this section, I will focus on how formal elements or expressions in Kant's ethics can be related, although these instances are considerably complicated. This review will provide a comprehensive contextual understanding, revealing why critics lodge formalism and emptiness arguments against Kant's CI. I argue that the ambivalences associated with formalists expressions are generally found in the first and second formulations of CI. Although Kant's later ethical writings introduce tension to the sustained ambivalence of his views, I will demonstrate that via an extended philosophical search, Kant abandoned the mere formalistic expressions.

In the second chapter, I will review the well-established emptiness arguments as represented in the thought of Hegel and Mill, who are widely considered astute philosophers. Hegel's objection to CI labeled empty formalism is the most well-known. However, I argue Hegel's criticisms of Kant are quoted by others without sufficient deliberate consideration. Hegel's criticism of Kant is not so much directed toward Kant's formalism, as it is directed toward what Hegel takes to be Kant's 'absolutization' of the formal perspective. When we read Hegel's criticism we should therefore not overlook the fact that Hegel integrates Kant's principle into his own thinking.

Specifically, if we look deeply at Kant's writing along with considering Hegel's *Philosophy of Right*, it is feasible to argue that both Hegel's criticism of CI and Kantian ethics, which employs the notion of empty formalism, and Mill's Utilitarianism makes an appropriate argument against CI1. However, if we mistakenly extend the narrow emptiness charge to the complete Kant's morality, then it does not succeed, as I establish in the thesis, there are non-formal components in the CI2 and CI3 in Kant's morality.

In the third and fourth chapters of this thesis, I dedicate separate chapters to the formalist and non-formalist rereading of Kant's ethics by examining whether CI is indeed formal. First in relying on the formalist<sup>17</sup> reconstruction, many modern commentators have attempted to resolve the inherent tensions linked to the charge of emptiness in favor of the formalist interpretation. In order to understand this perspective, three representative formalist reconstruction explanations will be investigated, including Silber's Procedural Formalism, Rawlsian Constructivism and O'Neill's Constructivism. These positions share a similar strategy by proposing that one can judge right or wrong based on a universal law. While all three share the same end, they differ on how to arrive at the eventual juncture. After providing this important background, I will point out the limits of each of these views, particularly noting how formalists rely on various moral necessities derived from common sense, rationality and socio-politics and thereby create an undue burden for Kant's ethics to bear.

In the fourth chapter, I will introduce two non-formalist defenses of Kantian moral philosophy offered by Steinberger and Dietrichson regarding the issue of emptiness, which I contend, provide sound rebuttals to the emptiness argument, even though some questions remain. For example, Dietrichson succeeds in grounding his narrative in Kant's text, thereby eliminating extant misreading of Kant typically found in secondary literature. By introducing a discussion of the topic, although Dietrichson ably constructs content relevant to CI, this approach comes at the cost of potentially sacrificing

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<sup>17</sup> Many Kantians offer this distinction. While there might be different divisions among the formalist and non-formalist, in my thesis, I will argue that Kant is read as a moral formalist due to CI1 and CI3. Non-formalists read Kant as departing from formalism due to CI2. See my footnote 64.

adherence to the universal moral law. If duty is only an approximation, and moral law always must be modified to be relevant, then one can never hope to attain actual morality in some direct and total sense nor actually grasp universality.

Steinberger's critique of O'Neill's explanation of a 'normal and predictable' circumstance and the subsequent limits of CI successfully postulate a strong position drawing directly on Kant regarding the limitations of CI. However, like O'Neill and Paton's early thought, Steinberger fails to establish a categorical basis for Kantian ethics resulting in constraints when applied to a metaphysical scenario. Finally, while the non-formalists have effectively criticized the formalist reconstruction, they are unable to make additional philosophical progress.

The fifth chapter will explore the non-formalism elements in Kant's relevant texts, namely the pre-critical period, *Critique of Pure Reason*, and *Metaphysics of Morals*. This chapter has two parts, firstly, I will argue that Kant's comments during this Pre-Critical Period may be interpreted as a tendency toward anti-formalism, the second part will review the *Critique of Pure Reason*, and *Metaphysics of Morals* in order to argue for a non-formal interpretation of CI and of Kant's ethics in general. My argument is, although the emptiness charge against CI1 is, indeed, successful, but Kant's later thoughts has implied his departure from mere formalism and complement CI2 and CI3 with value realism, which can already be found in Kant's earlier writings.

In the last chapter of this work, I summarize the various versions of the charge of emptiness lodged against Kant, including 'a converted narrow emptiness charge' or what I term a broad emptiness argument that to date has not yet gained sufficient attention among Kantian scholars. This largely unexamined position argues that the most distinctive and important feature in Kant's ethics is not his claims about the particular ethical duties that we owe to each other, but his views about the nature of value. In my view, moral action exists deeply within humans rather than elsewhere, our value and specific substantive ends are leading to the value of humanity, including non-formal value of impartiality, dignity and autonomy. The broad emptiness charge treats these values as merely abstract values, which constitutes merely formal understandings of Kantian CI which Kant would probably not accept. Central to this thesis is the

argument that a Kantian ethics obviates the need for Kant's formalistic (and unconvincing) answer to the problem of universalization as explained in the first two Critiques, because he implied values of impartiality, autonomy, and dignity as the content of moral law in his mature critical writings (the *Groundwork*, the *Critique of Practical Reason* and the *Metaphysics of Morals*).

## Chapter One

### The Formalistic Expressions in Kant's Writings

*Groundwork of the Metaphysics of Morals* and the *Critique of Practical Reason* (the *Second Critique*), are commonly considered to be Kant's "foundational" works in moral philosophy because they together seek to clarify and establish [*Festsetzung*] what Kant calls "the supreme principle of morality" (Gr4:392). Kant's readers are very often introduced to his ethics on the basis of these two texts and Kant's critics have tended to level their criticisms against the views that were expressed in these two texts. While Kant explained that the moral law must be unconditionally practicable and formal, which critics have found fallacious, these criticisms are leveled without adequate consideration of the entire corpus of Kant's thought, which must be investigated systematically.

In this chapter, I will present and examine the central line of argument from Kant's *Groundwork* and his *Second Critique*, I will outline two undebated themes on the equivalence thesis and the universal will in these two works. I will oppose the equivalence thesis since it may cause the emptiness charge, in this sense, CI1 is only a formal formulation and does not guide our concrete action. Likewise, the universal will does not have the non-formal sense merely given by CI1. Rather, it has non-formal sense only through humanity, ends, dignity in CI2.

Kant's *Groundwork* is the principal text for understanding and evaluating Kant's foundational claims about morality. In the following section, I will explain my objection to equivalence thesis in more detail, particularly regarding the explanation of maxims and how the feature within the CI and also with regard to the examples given by Kant and how CI is supposed to work here. Then I will explain how Kant thought CI worked and led to concrete results. After this explanation of Kant's formalistic ethics, in a next chapter I will go on to introduce and explain the emptiness charges brought forward by Hegel and Mill, and I will conclude that CI1, indeed, remains an

empty formalism.

### 1.1 Groundwork of the Metaphysics of Morals-The Equivalence Thesis

The opening sentence of *Groundwork* provides Kant's significant statement: "Es ist überall nichts in der Welt, ja überhaupt auch außer derselben zu denken möglich, was ohne Einschränkung für gut könnte gehalten werden, als allein ein *guter Wille*,"<sup>18</sup> or in English translation: "it is impossible to think of anything at all in the world, or indeed even beyond it, that could be considered good without limitation except a good will". (Gr4:393) After the dissertation of 1770, Kant provides a critical foundation which allows him to focus less on theoretical obscurity and more upon practical issues<sup>19</sup> and leads to the notion of good will.

As already explained in the introduction, the good will includes non-consideration of consequences of an act or unconditional good and the problem is how an agent can embrace goodwill. Kant abstracts it to create the widely known Categorical Imperative (CI). CI1 and CI2 are two equivalent formulations to determine whether an action is morally permissible.

This suggests that an 'operable' ethic resting on sets of rules or laws fails in at least two ways. First, a theory may have two or more rules which yield conflicting answers. Second, the rules or laws may not yield an answer or result. If CI1 and CI2 are both applicable formulations of CI but not equivalent, then Kant's ethics falls prey to the first failure that two or more rules yield conflicting answers. It would be just as untrustworthy as if some univocal rule gave wrong answers. Or we would not know which rule to apply our answers to moral questions. Hence, Kant must assert the

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<sup>18</sup> Kant(1902 ff)Vol.IV.p.393

<sup>19</sup> As Cassier explains it (pp. 237-238), Kant was tempted to take a respite from the decade of work on the First Critique and write the short *Groundwork* but overcame this temptation in part through the strength of his sense of order, but still allowed himself occasional lapses. Dieter Henrich believes, on evidence of a letter to Lambert in 1765, that Kant began work on *Groundwork* some twenty years before its actual publication.

equivalence of CI1 and CI2 if he is to maintain the sound rule and the application of his ethical doctrine.

Also, there are several passages stating that CI1 and CI2 are, indeed, equivalent. As I mentioned in the introductory chapter, Kant says these two formulations are “at bottom only so many formulas of the very same law” and that the principles they express are “basically the same” (im Grund einerlei Gr 436, 438). He further proposes that the two formulations are mutually interchangeable in that both CI1 and CI2 do not accept suicide, indifference to the welfare of others, false promises, and the neglect of one’s talents, although both formulations are independent. This type of practical equivalent thesis is what I term the weak version of equivalence because at first glimpse there is no conceptual relation between the two formulations.

However, Kant goes on to develop another version of equivalence noting a conceptual relation between the two formulations. By unpacking possible translations of the terms, one of the formulations can be seen, although perhaps not at first consideration, as an explication of the other: This I refer to as the strong version of equivalence. This strong version is much closer to complementary Kantian ethics given the theoretical unity that emerges in the *Groundwork*, which practical equivalence does not achieve.<sup>20</sup>

Kant revised the first formula drawing on the notion of *typic* which he termed “the schema of the moral law”.<sup>21</sup> Later Kant proposes a version of CI1, CI1A (‘bare’ CI1) which states: “Act as if the maxim of your action were to become through your will a universal law of nature” (Gr421). Although since Kant sees nature as a set of laws, it seems at first glimpse that this revision is of little worth, especially as Kant uses the

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<sup>20</sup> As I mentioned in the introductory chapter, Kant’s thought is from formal to concrete not from concrete to formal, I will also discuss the relation between Kant’s theoretical unity and practical attention in chapter 4 and 5. I am grateful for my college J. Ndubuisi Edeh for reminding me this.

<sup>21</sup> Although Kant refers to the *typic* as “the schema of the moral law” (KrV 69), his aim here is not to suggest that the *typic* is a product of imagination. The *typic* represents the relationship between the moral law and the will in terms of the law of nature and its object (i.e., objects of experience).

CI1A in illustrations in both the *Second Critique* and the *Metaphysics of Morals*.<sup>22</sup> Why, then, does Kant revise the formulation of the universal law in the *Groundwork*?

He does so because as he relies on CI1A he reuses the analogy with natural law introduced in the *First Critique* as he explores a series of illustrations. In the *Groundwork*, Kant lists four illustrations to show the practical sense of the moral law: Suicide, lying and breaking promises, developing one's talents and helping others:

**Suicide:** A man who wants to commit suicide but questions if this goes against a duty to himself.

**Breaking promises:** A man borrows money knowing he cannot pay it back despite promising to do so.

**Developing one's talents:** A talented man decides to ignore his talent and does nothing to further himself, he also questions whether this is duty to himself

**Helping others:** A man is happy and flourishing in his life but doesn't care about anyone else, he will not offer other people help.

It is important to note that the first and third illustrations concern duties to oneself and depend on Kant's antecedent views, this analogy seems to be problematic. For instance, the first illustration concerns the relationship between suicide and self-love in which Kant claims that the function or purpose of self-love logically leads to self-preservation. Borrowing from the *First Critique*, Kant says,

The merely speculative proof has never been able to exercise any influence upon the ordinary reason of men. It so stands upon the point of a hair, that even the schools preserve it from falling only so long as they keep it unceasingly spinning round like a top; even in their own eyes it yields no abiding foundation upon which anything could be built. The proofs which are serviceable for the world at large all preserve their entire value undiminished, and indeed, upon the surrender of these dogmatic pretensions, gain in clearness and in natural force.....If we judged according to analogy with the nature of living beings in this world, in dealing with which reason must necessarily accept the principle that no

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<sup>22</sup> See for instance Kant's illustration of a duty to relinquish a deposit given by someone who has since died. Here Kant shows that CI1 can yield the desired results without the analogy with nature.



organ, no faculty, no impulse, indeed nothing whatsoever is either superfluous or disproportioned to its use, and that therefore nothing is purposeless, but everything exactly conformed to its destiny in life (KrV B425)<sup>23</sup>.

That is, our feelings of nature are properly designed and therefore ought to be heeded. Kant's belief of ethics might be seen as an over-arching design and order of nature.

The third illustration considers the issue of developing one's talents. Nature endows us with aptitudes that are intended for a given purpose, which Kant implies, are valid in an appropriate system of nature. Like the antecedent moralists, Kant appeals to the teleology of nature. Initially, in the first section of *Groundwork* Kant seems to echo Aristotle, but then takes great care to refute Aristotle's expositions of virtues.

As Kant moves to a discussion of the second and fourth illustrations which concern duties to others, his analogy with nature prevails. Kant draws again on CII and demonstrates the contradictions that arise from indifference towards others and false promises while also reminding us of the issue of stealing grain found in the *Observations on the Feeling of the Beautiful and Sublime*. Aiding others relies on a reciprocal condition founded on teleological presuppositions rather than universalization. Lying is taken to entail a logical contradiction when its maxim is universalized, i.e. lying cannot even be thought of as a universal law. In view of the promises we make among ourselves we assume that as we give aid to others, we will also receive aid from others when we face similar or even worse circumstances.

However, yet another question emerges. If the 'bare' formulation of universal law works perfectly with all of Kant's illustrations, why does he still draw on the analogy with nature since it seems that this revised formulation betrays Kant's previous work of twenty years ago when he addressed formal law?

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<sup>23</sup> But Kant goes on to say that human beings are exceptions from this principle because our moral capacity transcends all benefit and purpose to be gained from it. Hence it is not clear that Kant means to consider the purposiveness of nature. At the least, the move in *Groundwork* is not supported by Kant's earlier argument.

Perhaps by recognizing the weakness of universal law, we can make this problem much clearer. If we alternatively reconsider CII, we find that Kant may indeed reject one kind of agent-centered reciprocity, since CII is not a paraphrase of the proverb ‘Do unto others as you would have them do unto you.’ Agent-centered reciprocity relies on what an agent desires in return and thereby becomes a rational strategy belonging to game theory rather than practical morality.<sup>24</sup> This differs completely from Kant’s principle, which simply put is ‘Do as you would have (all) others do’.

This is putting the wrong way around. Firstly (and always when acting), an agent forms a maxim upon which he acts. This maxim, secondly, is then put to the test whether it can be thought of or willed as serving as a universal law of action. A maxim is a subjective principle of action that includes the action, the circumstances attending the action and the end or purpose of the action, i.e. the motive. When maxims pass the test of an objective moral law (CI) then and only then can the maxim be considered morally permissible. With this permission the subjective maxim can be instantiated and established by considering the clause ‘doing unto others’, rather than the Golden Rule “Do unto others as you would have them do unto you.” The former emphasizes not only the other but also the self; whereas the latter is a rational strategy drawn from game theory, the former, is closer to Kant’s intention, since consideration of others and self has an anthropocentric point, on which Kant insistently concentrates.

However, in the *Groundwork* Kant claims that we know our duty a priori. Our duty in this sense is regarded from rationality rather than human nature since humans have no necessary reference to duty. Hence, non-anthropocentric duties must be based on CII, which explains that humans are to act in the same manner in which they would will all others to act. Therefore, in CII, reciprocity between the self and others is irrelevant; it is agent-neutral.

However, the notion of agent-neutrality retains a primary weakness given by CII that many conceivably acceptable maxims contain some ‘hidden permission’ to

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<sup>24</sup> For helpful discussion of other generalization and universality principles, see Marcus Singer, “Universalizability and the Generation Principle” in *Morality and Universality*, ed. Potter and M. Timmons (Dordrecht: 1985).

immoral actions, which might be universalized. That is, CI1 allows for numerous plausible actions. To illustrate, imagine that an agent who suffers from some mental illness tends to believe (which is very different from most others) that his or her perverse or bizarre desires are universalizable. These ideologues or fanatics<sup>25</sup> constitute ‘special agents’ who assume an individual point of view instead of the universal one so that they fail the test of CI, which critics find problematic. Kant responds by noting that rational choice occurs before the end because this ‘special agent’ acts not only out of moral motives, but also out of self-interest where the end is subjective. However, CI does not merely forbid choosing the subjective means over the objective, but also requires that agents choose morally universalizable ends.

We may still find Kant’s explanation unpersuasive given that human beings are imperfect rational beings who may not appropriately distinguish misguided desires and wants from objectively universalizable ends. In other words, given our individual predilections and interests, we are often mistakenly convinced that subjective ends are objective ends, which lead to the maxims that are ostensibly universalizable. Kant presumes that legitimate ends can result from human choice by relying on universalization and does not elucidate on our capability to distinguish ends as irrational or rational or illegitimate or legitimate, although he does contend that given the universalization procedure of bare CI1 ‘what we do not accept in others, we cannot sincerely accept in ourselves’ thereby employing a kind of psychological reversed expression. This explanation, which permits us to hold expectations of others, is actually the result of a prejudice, hatred or some overwhelming ideology.

Given this background, the debate regarding the formality and emptiness which Hegel began ensues. (For the detailed analysis of Hegel, see 2.1) However, as I will explain in the next chapters, how to understand the equivalence thesis is central here.<sup>26</sup>In my view, equivalence thesis is not correct, the emptiness charge must be tested

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<sup>25</sup> Hare calls this the problems of the ‘fanatic’. See his *Freedom and Reason* (Oxford:1963), p,171ff.

<sup>26</sup> In my thesis, the equivalence thesis is central at least for two aspects. First of all, it is, indeed, central when it comes to the argument of using CI2 and CI3 to back up CI1.as I will argue there are non-formalism expression of Kant in chapter five. Secondly, it is also central when it comes to assessing

and rejected with the other formulations. CI2 cannot be used to support CI1 in dealing with the emptiness charge and, ultimately, as I argue that CI1 remains an empty formalism. Specifically, we must consider the second formulation, or the notion of the End-In-Itself to answer the emptiness of formalism charge. Kant tells us that CI1 is formal and CI2 is the essence of CI. While we may see CI1 and CI2 as elements, this is not Kant's idea; rather he claims that CI1 and CI2 are complementary. By proposing the equivalence thesis, Kant clearly takes issue with the traditional form/matter distinction of Aristotelianism since complementary concepts cannot be also strictly equivalent. By further exploring Kant's formulations and their complementariness and interchangeability, we will gain a keener insight. To review:

First Formulation: Act only according to that maxim whereby you can at the same time will that it should become a universal law without contradiction.

Second Formulation: Act in such a way that you treat humanity, no matter in your own person or in the person of any other, never merely as a means to an end, but always at the same time as an end.

In this second formulation Kant provides teleology of ends which may be also termed the 'material' humanity formulation. A hierarchy exists in Kant's notion of ends which ranks the relative value of means to achieve ends; both Aristotle and Kant consider these provisional. While certain ends can be treated as means because they yield an even higher end, there must be a connection between the means and the higher end which has intrinsic value. Therefore, in the second formulation, humans are not to be treated only as a means to an end, but also as an end in and of themselves because they have intrinsic value.

Consequently, while all ends may have value, however, it is important to note, ends are not essentially conflicted with means; according to Kant, we are still allowed

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CI2 and CI3 in conjunction with CI1 in general, as I will also point out my objection to broad emptiness charge in chapter six.

to use each other as means to further our own ends, but only if we at the same time respect each other as ends. We should note that at this point Kant seems to equate the terms subjective and objective with the distinction between intrinsic and instrumental. The following explanation should further clarify these ideas.

Ends are things that have value, whether they are food, goods, books, exercise, etc. These ends are featured in maxims about which we make objective choices, either implicitly or explicitly. So, while I may value food, someone else may value books or dogs, for example. These values are chosen subjectively because there is no mandatory rationality to regulate our preferences. However, the second formulation directs us to treat ourselves and others (humanity) as not merely subjective ends rather than objective ends. However, how are we capable of valuing this necessary end? I will respond to this question in the fifth chapter, regarding the necessity of ends Kant claimed some twenty years earlier in the *Prize Essay*: Moral obligation makes sense only if the end is necessary in itself. In the fifth chapter, I will lead my constructive argument by referring to Kant's pre-critical writings to support it, accompanied by a value realist interpretation of CI2.

Although Kant informs us that the end must be objective and intrinsic to justify moral obligation, he did not tell us how to recognize such an end. Nevertheless, the implied answer to this problem is found in one simple sentence in the *Groundwork*: "rational nature exists as an end in itself. Man necessarily thinks of his own existence in this way; thus far it is a subjective principle of action". (Gr420) Thus, the universal will is able to omnisciently originate maxims and would, therefore, never fail to value the rational nature in human beings.

To value humanity means that we treat one another not merely as tools, means or subjective ends, but rather that we intrinsically value each other. If we treat humanity only as means or as subjective ends as we do with other things such as books or money, we would essentially categorize humans as we would any other end; CI2 completely disallows such a position. Even though agents may prefer subjective ends, the intrinsic value of humanity serves as the 'supreme constraint condition' to pursuing those ends.

I am not rather inclined to argue that the emptiness charge on CI1 is unsuccessful, at least concerning CI1 is formal while CI2 is in a different matter.

We turn now to a discussion of the third formulation of CI which is a synthesis of form (CI1) and matter (CI2). CI3 directs us to act as self-legislating members of a kingdom of ends. In the second section of *Groundwork*, Kant explains this idea:

Now, according to CI, I treat everyone as an end without a doubt, I also must be able to treat the self of agents as the legislator of universal law in respect of any law, whichever may be subjected, precisely, fitting of my maxim is to legislate universal law so that it marks me out as an end in myself. Hence, the dignity of his above all the things of nature is reciprocal with the necessity of always choosing my maxims from the view of myself and every other one as well, as the legislators of law and it is why we are called persons a world. In this way, the rational beings are possible to embrace a world as a kingdom of ends. In such kingdom, that is possible through the making of their laws by all persons as its members. (Gr438)

This part of the passage makes the weak equivalence thesis a bit more understandable. Because a strict translation of the terms from CI1 to CI2 needs further clarification, Kant provides a loosely plausible explication of weak equivalence by introducing the terms of CI3, i.e., the synthesis of autonomy. The weakness of CI1 is therefore shored up by defining the rational being as an ideal legislator of laws.

The outcome of this synthesis can be called synthesized or thick CI. This version of CI which combines the condition of universality with all of the material elements of CI2 and CI3 represents the fullest expression of CI or perfect duty which Kant terms the principle of autonomy. Thick CI may be explained as follows: Firstly, agents are restricted in what they can universalize by the rule governing the treatment of persons who are afforded a kind of reverential status because they have dignity. Secondly, agents gain dignity, not through some static existential position as ends, but rather as self-legislating beings, i.e. as agents whose maxims are fit to be the universal law. Thirdly, the making of universal law takes place in an ideal context, that is, not the actual world of nature and imperfect society, but rather a possible community of self-

legislators in an analogous 'kingdom of nature'. The normative laws in this ideal world function just like the descriptive causal laws in the actual world.

Thus, Kant completes a full circle by re-emphasizing two fundamental ideas in his earlier ethics. The procedure of universalization in CI1 adopts Rousseau's universal will in the sense of Rousseau's democratic community. More significantly, the obscurity of freedom gives way to the relative clarity of self-legislation. By establishing practical autonomy in the *Groundwork*, Kant spells out the steps needed to obtain freedom and further explains that the agent must act under the direction of a composite or thick CI upon obtaining this freedom. Therefore, formal and material elements are included in this thick CI.

But some may challenge this interpretation by holding to the idea that the moral law is formal, although the unity of three formulations in CI tends to obviate this claim. CI, then, is not merely equivalent to CI1. In Kant's view universality as a syntactic aspect of every permissible, universalized maxim is a formally structured maxim. I would argue that such a syntactic interpretation does not suffice because if universality has practical meaning, it must refer to values, ends or materials, in a context of moral evaluation such as we find in Kant's explication of CI2 and CI3 since both refer to the end and treat it in as an end. For all rational beings, these ends are applicable and objective. In my later discussion, I will reject the equivalence thesis and introduce value realism as a way to interpret CI2 where these ends are clearly non-formal and, thus, finally to reject the emptiness charge in a non-formal way. To explain this more explicitly, I need to reject an unificationist position. One may argue that these principles are unified in but subsidiary to CI1 and as such we are allowed to talk about the ends without introducing content and hence without endangering the claim to pure formality. Kant would seem to suggest this interpretation when, at Gr436 (principles they express are "basically the same" (im Grunde einerlei)) and shortly after the 'synthesis', he recommends the 'strict method' of the first formulation. If CI1 is not practically workable, i.e. the requisite judgment about a maxim cannot be done without the introduction of CI2 or CI3, effectively without talk of ends, then the 'unificationist' position 'fixes' CI1 at the expense of making Kant's ethic 'material' and hence is

heteronomous. For this reason, the unificationist position is not really a formalist interpretation.

But observing this, raises to questions: Does 'thick' CI still have a formal ground of the will? Or, is it possible to find a material objective principle of morality in formal ethics? The answer might be hinted at in Kant's crucial distinction between objectivity/subjectivity and matter/form in the *First Critique* where these two distinctions (see my discussion in 5.2) emerge as a result of the four combinations in the *Groundwork*. However, Kant does not seem to recall these boundaries. Rather, Kant accounts for these two distinctions by transferring CI1 to the CI2 in this important section:

Now, what serves the will as the objective ground of its self-determination is an end, and this, if it is given by reason alone, must hold equally for all rational beings. What, on the other hand, contains merely the ground of the possibility of an action the effect of which is an end is called a *means*. The subjective ground of desire is an *incentive*, the objective ground of volition is a *motive*; hence the distinction between subjective ends, which rest on incentives. Objective ends depend on motives valid for every rational being. Practical principles are formal if they abstract from all subjective ends; they are material, however, when they are grounded upon these subjective ends, and thereby upon certain incentives. The ends which a rational being arbitrarily progresses to himself as effects of his action (material ends), are altogether only relative, or only their mere relation to a specially constituted faculty of desire on the part of the subject gives them their worth, which can therefore furnish no universal principles ( Gr427).

It seems that Kant mistakenly mixes these two distinctions. One may argue that such a mistake leads him to unnecessarily revoke the possibility of a material-objective principle in ethics. This may confuse Kant's intention. For Kant, the material content that is required for objective reference is not a specific object of the will but rather the determination to produce an object. In the present context, Kant initially applies this conception of purpose to how material objects display means-ends relationships among themselves. It is true that the will cannot act to produce an object unless it has a determinate object as its goal. It is important to notice here the determination of a



specific object is a later question, and the objective reality of practical concepts is determined by the possibility or impossibility of willing the action. As Kant says “thus where not merely the cognition of an object but the object itself (the form or existence of the object) as an effect is thought of as possible only through a concept of the object, there one thinks of a purposes.” (Gr 167)

It can be further explained that Kant did not make a careless error by mixing these two distinctions, because he considerably changed his views seen in the *First Critique* where his formality ethics is founded. He had indeed been trying to explain conditions for a practical principle in the *First Critique* regardless of whether they were material or formal. Kant avoids the alluded argument that a principle with absolute ends is an objective one, or a principle with relative ends is a subjective one. Rather, Kant would concede that the formal principle of a maxim is an end. That is, if the will is to effect an action, it must have an end. Kant is not going to risk introducing heteronomy again into the discussion of will, especially when he abstracts the good into universal goodness in the *Groundwork*. The end must be absolutely purified. Immediately, he makes a good reversion after the mixture:

We assume that we have something that shows the existence of a fact in ourselves, has in itself. These existences as an end in self can be a ground of obligation of the laws. Hence, it would be of the possible CI, i.e., of the practical law. (Gr427)

Kant explains further:

Because their very nature points them out as ends in themselves, that is, as something which must not be used merely as means, and so far therefore restricts freedom of action (and is an object of respect). Persons are, therefore, not merely subjective ends, whose existence as an effect of our actions has a value for us; but such beings are objective ends, i.e., exist as ends in themselves. Such an end is one for which there can be substituted no other end to which such beings should serve merely as means. For otherwise nothing at all of absolute value would be found anywhere, if all worth were conditioned and therefore contingent, then there would be no supreme practical principle of reason whatever. (Gr427)

Accordingly, the outcome of the formula of the end-in-itself is an objective and material principle. I assume that contemporary commentators possibly do not agree with this explanation. They might suggest that a person's existence does not imply a value or an absolute value. It is difficult to find where Kant argued that persons possess absolute value. Instances of this argument are found in earlier discussions where he clearly expressed that the existence of intrinsic values determines instrumental values, although how intrinsic values determine absolute value remains problematic. In response to this problem, I will dedicate it in the chapter six to defend a material objective ethics. However, at this point, I have offered a rather minimal treatment of the objective and material principles found in Kant's framework, although the explanation is logical since the formal principle is not automatically accepted with the objective and the material principle is not automatically accepted with the subjective.

This problem became the one of the essences of the *Groundwork*. As Thomas Hills argues that Kant's aims in the *Groundwork* are not primarily to illustrate how to apply his formulas to particular problems, but to the basic presuppositions of practical reason, or to transform his philosophical interests from *First Critique* to *Second Critique*. Since the question of the emptiness charge must be addressed with practical responses, it seems to me Kant has undoubtedly realized this and attempted to mingle the theoretical and practical issues in the *Groundwork*. For example, in order to disentangle practical and transcendental freedom, Kant introduces another doctrine in the third section of *Groundwork*. This doctrine is essentially the same as one finds in the *First Critique*: morality is conceivable on the assumption of the dual observation of a person, which is, depending on the synthesized practical freedom and transcendental freedom. Kant admits that the dual distinction of freedom is not explicable. At the end of *Groundwork* Kant says:

And thus, while we do not comprehend the practical unconditional necessity of the moral imperative, we do comprehend its incomprehensibility. This is all that can fairly be asked of a philosophy which presses forward in its principles to the very limit of human reason (Gr463).

## 1.2 The Critique of Practical Reason-The Universal Will

In the *Critique of Practical Reason*, there are also formalistic expressions that may lead Kant's readers astray. The most formalistic expression is around Kant's interpretation of law-giving force of the moral law that must stem from its mere form, if its universalizability stemmed from the content, the law could only hold for that content and not universally. For example, "for which the mere lawgiving form of a maxim can alone serve as a law is a free will", the law giving form of a maxim is "the only thing that can constitute a determining ground of the will". "The most common understanding can distinguish without instruction what form of a maxim makes it fit for a giving of universal law and what does not" (KpV5:27). "Now, all that remains of a law if one separates from it everything material, that is, every object of the will is the mere form of giving universal law" (KpV5: 27).

In Kant's moral philosophy, the will must be acting on a law and cannot be acting merely randomly. Law-giving force is reciprocal with moral law in the part one of his book, *Analytic of Pure Practical Reason*, when one is following the moral will, one is acting independently of one's contingent desires, that is, freely. Kant's view of this law-giving force is influenced by David Hume. Hume's notion of freedom was impossible, for if we are not determined, then we are acting randomly, which is out of our control, or if we are determined then we are un-freely following our predetermined sequence of actions. Kant's notion of freedom is not like Hume's because the moral worth of an action in Kant's view is not based on its effects, but rather on *why* the agent performed it. In this sense, Kant designs his ethical formalism as a Copernican revolution,<sup>27</sup> it inverts the 'ought and is' problem and tells us concretely about what a person should do, as opposed to *how* he should do things. Like the common sense, people have just even acted may not know what his inner maxim was.

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<sup>27</sup> This view is shared by Thomas K. Seung in 'Intuition and Construction' (1993) and John Silber in 'The Copernican Revolution in Ethics (2009)'. See my further discussions on the Copernican Revolution in Ethics and 'Ought and Is Problem' in 5.1 and 5.2.

This might be problematic. If I act on the maxim of going to be a driver (this case I will constantly talk about in O’Neil’s formalist reconstruction), I cannot universalize that, for if everyone is going to be a driver then there might be no commuters. Still, many harmless actions like close the door when you leave can lead to such problems. It might seem that my performed actions have only to do with irrelevant features. According to Kant, the person who acts morally because the acts is accorded from a maxim of duty. A person has a kind heart is apprised, but he is morally virtuous only when he is doing to performing his duty.

Kant discusses a case of a man who comes into possession of a deposit for which there is no proof. Hegel holds that Kant’s principle of morality remains merely formal because it has not justified what the content is required for instantiating CI. Hegel provides the following formation of the CI: the “maxim of your will must at the same time be valid as a principle of universal legislation” (Hegel 436” (Hegel436:76). A maxim is: we act only on those maxims that could be willed by all rational agents. Hegel charges that this principle lacks sufficient content to adequately distinguish morally permissible from morally impermissible maxims. Hegel does not think that transcendental freedom is required for ethical action for its failure of distinguishing the between the motivational conditions of freedom.

As I understand, critics like Hegel misunderstood Kant’s intention in the *First Critique* find problems with the idea of transcendental freedom. Hegel’s emptiness charge is that Kant’s moral law is merely empty. I am inclined to accept that the emptiness charge could apply to CI1, but CI2 and CI3 are non-formal and thus Kant’s moral law is not empty. Before actually addressing these issues, Kant wishes to consider in the *Critique of Practical Reason*, he first must clarify the theoretical problems found in the *First Critique* and even his early writings.

With the pure practical faculty of reason, the reality of transcendental freedom is also confirmed. For speculative reason, the concept of freedom was problematic, but not impossible. That is to say, speculative reason could think of freedom without contradiction, but it could not assure any objective reality to it...Freedom, however, among all the ideas of speculative reason is

the only one whose possibility we know a priori. We do not understand it, but we know it as the condition of the moral law which we do know ( KpV3-4).

With a completely different strategy in the *First Critique* where freedom was explicated in order to confirm the possibility of morality,<sup>28</sup> Kant reverses this doctrine by noting that the moral law is the grounding of the possibility of transcendental freedom. Kant reverses the doctrine of the *First Critique*, i.e., freedom is possible only under the conceivability of acting in accordance with moral law when he writes:

For had not the moral law already been distinctly thought in our reason, we would never have been justified in assuming anything like freedom... But if there were no freedom, the moral law would never have been encountered in us ( KpV4 n.1).

Here it seems that Kant does not give a further distinction between freedom and moral law. In order to exclude this obscurity hidden in the issue of freedom in the *First and Second Critique*, Kant turns to a formal solution, which associates freedom with the abstract formal notion of moral law thereby reducing freedom.

Therefore, in the *Critique of Practical Reason* Kant employs a formalistic understanding to address erroneous notions found in the *Groundwork*. For example, he writes:

If a rational being can think of its maxims as practical universal laws, he can do so only but considering them as principles which contain the determining grounds of the will because of their form and not because of their matter ( KpV 26-27).

This is just one of the formal expressions in the *Second Critique*. Kant consistently insists that CI does not involve maxims and that the ends mentioned in CI2 and the realm of ends in CI3 confront the formalist assertions in the *Second Critique*. Therefore, Kant's *Second Critique* attempts to repair the theory and eliminate the problems of his

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<sup>28</sup> I will explicate this further in 5.2-The Non-Formalistic Expressions in Kant's Writings, *The Critique of Pure Reason* implies Kant's Moral Platonism as Anti-Formalism.

pre-critical writings by introducing a formalistic approach, as I will explicate this part in 5.1, where Kant's earlier writings concentrated on the notion of the good, either psychologically as seen in the *Prize Essay*, or as unconditional good and the associate necessary ends in his later essays (e.g., the *Second Sensation in the Canon of Pure Reason*). In the *Groundwork*, Kant attaches the good with the willing and associates it with the moral law. Then, he gradually relies on the notion of moral law instead of the notion of the good. In the *Groundwork*, the notion of the good does not rely on feeling or sensation; rather than it derives from the rational directly. Kant points out that every motive has an intended effect on the world. When desire drives us, we first examine the possibilities that the world leaves open to us, selecting some effect at which we wish to aim. But, if we act in accordance with practical moral law, we encounter a significant difference since the only possible object of the practical law is the Good, since the Good is always an appropriate object for the practical law. Viewing the Good as rational consolidates Kant's previous doctrines in the *First Critique* and *Groundwork*. Reason has its univocal definition, although the law constrains us in a formal way, it remains in all rational agents.

In the *Second Critique*, it is noteworthy that CI and its alternative formulas are nearly altogether absent. Perhaps such absence is for some purpose. Considering that Kant's initial concern is to clarify the problems of freedom rather than the particularities of the moral law, perhaps, given the synthesis of the three formulations in the second section of the *Groundwork*, Kant might consider it unnecessary to modify CI yet again. By the time of the *Second Critique*, he engages in a rather careful explication of the moral law in which he does not offer a clear definition of the moral law, since it appears that providing the theoretical ground for the moral law is sufficient.

The above clue might be the reason that Kant leaves the safety of the theoretical ground untouched then turns his writing interests to political and social issues in the twilight of his career, we also get some clues to the reasoning that leads Hegel to empty formalism is on a passage from the *Second Critique*. But this is not the course Kant takes in the *Metaphysics of Morals* (See 5.3). The most basic aim of moral philosophy in the *Second Critique* and, and so also of the *Groundwork*, is, in Kant's view, to 'seek

out' the foundational principle of a 'metaphysics of morals', which Kant understands as a system of a priori moral principles that apply the CI to human persons in all times and cultures. In this sense, if Kant's mature writings are labeled empty formalism, his ethics would not offer us any practical guidance. Rather, Kant tests these moral concerns in practice and in doing so we discover that the charge of empty formalism does not withstand careful scrutiny. I agree with the emptiness charge states that the moral law based on CI1 is merely abstract and unable to guide moral action, but I disagree neither the equivalence thesis nor the emptiness charge could apply to CI2 and CI3, where non-formalistic value theory states that moral law is specifically able to guide moral action in great detail. In the third and fourth chapter, I will explicitly show how both formalist and non-formalist want to prove that CI1 has the practical guidance but indeed unsuccessful; the formalist interpretation attempts to state that moral law is a formal acknowledgement that is able to guide moral action, and the non-formalist interpretation contends that moral law does not merely encompass formal components, but also non-formal effective procedures and therefore it is able to guide moral action. In the fifth chapter, I will explore the non-formalistic elements even in Kant's pre-critical period (5.1), the *First Critique* (5.2) and his last complete work the *Metaphysics of Morals* (5.3). Kant engaged an arduous and lengthy philosophical search to arrive at his conception of moral law moving from the formal/theoretical basis to concrete/practical approach, not the concrete/practical approach to the formal/theoretical basis, as I establish in this thesis.

Now I will turn to the Kant's formalism and Hegel's emptiness charge.

## **Chapter Two**

### **Kant's Formalism and Its Emptiness Charge**

While Kant's ethics have been one of the most influential moral philosophy theories in history, Kant himself says that the CII is purely formal. The claims associated with Kant's formalistic view have also generated widespread criticisms and comments since these challengers read relevant texts in Kant's writings that can be read as merely formalistic expressions.

Given Kant's complex writings, the reasons to reject the readings of Kant's argument as merely formalistic expressions, I will now offer in this chapter, are fundamental enough that we do not need to go into details about how exactly the emptiness charge suggest that we understand Hegel's or Mill's systematical philosophy. All we need to know for our purposes is that these writers think that Kant places the formalistic moral law at the basis of his argument, that Kant thinks that the moral conduct of each person is committed to this formalistic moral law, the universal law formula (CII) is a principle that says to universalize all our actions. In this thesis, I mainly address issues related to the emptiness charge, we must lay aside entirely the consideration whether the Kantian discussions on concepts of formal are fighting for the right or for the wrong side, for the true or for the false. This is actually a very important point for my line of argument, for adopting this claim would make it plausible not to discuss Hegel's own philosophy in more detail. It would then, indeed, suffice to cite Hegel's critical remarks and discuss them solely against the background of Kant's ethics (while ignoring the wider background of Hegel's philosophy). It has to be discussed solely on the basis of Kant's ethics, and not already presupposing Hegel's philosophy (which then had to be discussed critically on its own accord as well).

As my original question goes to the content of moral law in response to Hegel's empty formalism charge and its derivative form of empty formalism charge. Prior



thought, most famously Hegel and Mill, have confirmed that Kant does not merely make mistakes in the *Critique of Pure Reason* and the *Critique of Practical Reason*, but also in the *Groundwork* and the *Metaphysics of Morals* in which Hegel criticizes Kant's CI as too formal to direct moral content and the duty to keep promises could not be guided by the first formulation. Hegel contends that the only way Kant can possibly deduce a particular duty is if Kant already accepted certain existing moral opinions or customs as justifiable. Mill argues that CI cannot do the work it is meant to do – show us which specific rules of conduct are impermissible and which are permissible – because its test for contradictoriness (of rational willing) is useless. We now turn to a discussion of the charge of empty formalism.

## 2. 1 Hegel's Empty Formalism Objection

Hegel is often credited with having formulated the formalism objection in the most influential way. Hegel criticizes the formula of universal law (CI1), calling it “an empty formalism.” In his *Philosophy of Right*, Hegel summarizes Kant by referring to “the supreme principle of morality” or the “the ultimate norm for correct moral judgment.”<sup>29</sup> Which is namely, “Act only on that maxim through which you can at the same time will that it should become a universal law.” (Gr4:421/52) CI1 “is criticized as an empty formula which gives no concrete direction for human conduct”. Hegel criticizes the possibility of the universal law to “justify any wrong or immoral mode of action”, exists only “if a duty is to be willed merely as a duty and not because of its content, it is a formal identity which necessarily excludes every content and determination.” Kant preaches “duty for duty's sake.” This duty is a mere Kant's insistence on this point as a “preaching” rather than a “science of morals”, because “from this point of view, no immanent doctrine of duties is possible”, Kant defines duty “as absence of contradiction, as formal correspondence with itself.” “Every action explicitly calls for

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<sup>29</sup> GR. W. F. Hegel, *Hegel's Philosophy of Right*, trans. with notes by T. M. Knox (Oxford: Clarendon Press, 1952), par. 135, p. 90, p.134, p. 89.

a particular content and a specific end, while duty as an abstraction entails nothing of the kind.” Hegel thinks that we need to “bring in material from outside and thereby arrive at particular duties.” (Hegel Philosophy of Right 89). For example, to condemn theft or murder, we need to establish the idea that “property and human life should exist and be respected.” According to Hegel, “a contradiction must be a contradiction with something, that is, with a content which is already fundamentally present as an established principle.” (Hegel Philosophy of Right 135)

While this brief line Hegel criticizes Kant for emptiness, of course, there are other texts that explicitly or implicitly indicate Hegel’s criticism of Kant. My research on Hegel’s empty formalism objection is based on current debates that the foregoing Kantian scholars raised serious questions concerning the emptiness charge still does not clearly work within the Kantian tradition, this lack of clarity presents a real problem in spelling out the content condition for Kant’s moral theory.

In response to these criticisms, in this section, my discussion of this problem will unfold as follows. In Part 1, I will introduce the ground notion of the CI which Hegel mostly criticizes (2.1.1 A Restatement of Categorical Imperative). In Part 2, I will set up the problem and the issues we will deal with concerning Hegel’s emptiness charge. I will discuss Hegel’s Emptiness Charge in depth as expressed in Hegel’s essay and lay out his argument for the idea that duty as an abstraction entails nothing of the kind. Then, I will discuss some of the most prominent literature on the subject of Hegel’s emptiness charge as Two Interpretations of Emptiness Charge. I will begin with the limited interpretation (2.1.2 The Limited Interpretation of Emptiness Charge) where Ido Geiger in *The Founding Act of Modern Ethical Life: Hegel's Critique of Kant's Moral and Political Theory* claims that the emptiness charge is primarily concerned with making actual Kantian morality and not with its lack of conceptual content. Jeffrey A. Gauthier in *Hegel's View of Kant's Moral Theory* proposes Kant sets the satisfaction of a formula as its role basis for determining the goodness of our actions’. This formula is inadequate because it does not consider the person in her social context.

I will then turn to the more mainstream Kantians who discuss the emptiness charge systemically (2.1.3 The Systematic Interpretation of Emptiness Charge). I will mainly

discuss Freyenhagen's argument that emptiness charge as a non-self-standing philosophical problem, irrespective of its historical context or systematic place in Hegel's theory. Freyenhagen argues Hegel does not adjudicate those replies of emptiness charge (like Empty, Useless, and Dangerous). The most accurate interpretation of Kant's texts is neither to trace the particular historical context in which Hegel takes up Kant's ethics, nor the way the Empty Formalism Objection fits into Hegel's wider system.

As I mentioned, the foregoing moral theorists, though still clearly working within the Kantian tradition, raise serious questions concerning the CI and how we should think about it. In my view, Kant's theory is unique for it gives answers to the questions: Is there moral content? Is the most general maxim that covers the action the only one we should be testing? Does the actual maxim that the agent acts upon have any bearing on this, or is it just the category the maxim can be classified under that is important? Kant gives us the differences between moral laws and rules and how we might think of them within the CI. We have to face the problem squarely and find a solution. It certainly seems that thinking about the generalities of morality and differentiating these from the specifics has to be a part of that. Hegel musings about the universal law formula gives us something to go on ultimately in Hegel's view so that Kant in his analysis of the CI draws, "the loftiness of its outlook", "Every action calls for a particular content, while an abstract duty entails nothing of the kind". (Hegel Philosophy of Right 133)

It seems to me that Hegel would almost have us abandon the strictness and abstractness of the CI altogether. Pushing most of the abstractness of the Imperative's requirements to the side, ends are too general and vague to get to the kind of specific duties and guidance that would be required for actual ethical practice. Hegel or most Hegelians accept for argument's sake that some ends can be derived from fairly minimal premises within Kant's ethics. To Hegel's mind, Kant's morality becomes a morality of angels that we cannot live up to (and in fact should not try) in our average everyday dealings with people (at least to the extent that we are trying to move towards the establishment of these principles in the broad historical context). But it simply

cannot be that Kant was that blind about things. He must have intended (and he seems to) that his morality applies to our average everyday activities. It is hard for me to tell whether it is Hegel or Hegelians who have offered a more persuasive interpretation of what Kant is supposed to be doing.

It is clear that we must return to ground, to the original notions in the CI, to sort out what is plausible under Kant's conception of morality and what is not. We must get clear in our own minds the definitions and distinctions, the use and methods, of Kant's phenomenology of morality. We must understand what a maxim is and how it is supposed to interface with the CI to provide us with moral guidance. We must clarify the role of the different formulas and their relationships with each other. We must comprehend what it means to 'universalize' a maxim. We need to understand what 'dignity' and 'autonomy' mean in relation to a person. We need to be able to find out where the map the Kingdom of Ends is, and we need to discern who are its citizens as well as who – if any – are not. With those goals in mind, we go into the context of CI.

### **2.1.1 A Restatement of Categorical Imperative**

It is important before we begin that we understand the basic structure of morality from the Kantian perspective. In the *Groundwork*, Kant claims there are two kinds of rational knowledge and divides ethics neatly into two parts, a rational part and an empirical part:

Material knowledge, which concerns some object, formal knowledge, which pays no attention to differences between objects, and is concerned only with the form of understanding and of reason, and with the universal rules of thinking. Formal philosophy is called 'logic'. Material philosophy -having to do with definite objects and the laws that govern them - is divided into two parts, depending on whether the laws in question are laws of nature or laws of freedom. Knowledge of laws of the former kind is called 'natural science, knowledge of laws of the latter kind is called 'ethics'. The two are also called 'theory of nature' and 'theory of morals' respectively. (Gr 4:388)

The empirical part is formed from the shared and particular faculties of our

common and individual existences. These facilities give morality its content. These facilities permit us to form maxims and understand our particular vulnerabilities that give meaning to concepts like ‘lying’ and ‘killing’. The rational part, on the other hand, is the very structure with which we relate to this empirical content so that what comes about is a particularized morality. That structure is one of law. One way of thinking about this structure is to say that morality for Kant has the form of law itself. Hence “nothing other than the representation of the law itself, which can of course occur only in a rational human being ...can constitute the preeminent good we call moral” (Gr 4:401) .

However, both parts of morality are necessary. This rational structure of morality gives us only its form. The empirical part of morality is needed to give us its substance. Together, these two parts give us our particular moral laws and rules that would constitute morality for human beings, our particularized ethics. There are, of course, necessary and inherent features to the very concept (representation) of law and lawgiving that make morality what it is. The first would have to be the concept of being subject to law. Another way of putting this is to say that law has its subjects, those who are commanded by and recognized under the law. This would be moral personhood. For Kant, persons are rational beings, capable of rational thought and of guiding their actions by means of rational principles (Gr4:408). Persons are both subject to the law and the subject of the law. This means that moral law both constrains and concerns persons. But the way that persons are constrained is peculiar. Persons are constrained by the moral law because they themselves are the lawgivers (Gr4:431-33). In a sense, the only constraint on a person is the law he gives of himself as a part of his own rational nature. It is only right and fit to be constrained by the very law one pronounces for oneself. In fact, it is practically analytic.

This brings us to the second concept inherent in the form of law, that of equality before the law. This is a foundational concept that cannot be divorced from the very idea of law; equality before the law is inherent in the concept of the identity of persons. The law applies equally to all persons and all persons are equally the makers of the law (Gr4:433). This is because on the level of personhood, individuals are indistinguishable.

Persons are equally protected and constrained by law, unless and until a rational justification can be made for a deviation.

### **The maxim**

In Kant's CI, a maxim is a high level proposition determining an agent's will. The maxim an agent adopts will govern and inform other more specific decisions and aspects of his or her action or attitudes. For example, anybody who has adopted a maxim of not deceiving others is likely to express it in refraining from lying, in restraint in gossip, in care about checking facts and many other ways. The so-called emptiness problem as explicated by Hegel is that CI1 merely express a principle of consistency and therefore as a test of moral permissibility is only able to examine maxims for logical errors. For example, CI1 is clearly able to see the apparent fallacy in a statement such as 'I want to stay dry by walking naked in the rain.'

In the first chapter, I have briefly discussed the four illustrations where the maxim in CI1A and CI1 to highlight the flaws the equivalent thesis. In this section, I will revisit these examples and point out the various starting points of different and competing interpretations of what it means to form and act on a maxim and how specific a maxim would have to be formulated, this not only helps us to understand more clearly how the idea of a maxim works, but also to understand some important ground for the (formal and non-formal) reconstructions of Kant's CI in later chapters.

**1. Suicide.** Kant asks us to imagine someone "weary of life because of a series of ills that has grown to the point of hopelessness" who asks himself if whether it is "contrary to duty" to take his own life (Gr4:422), his maxim of suicide is formulated as follows: "from self-love I make it my principle to shorten my life if, when protracted any longer, it threatens more ill than it promises agreeableness" (Gr4:422). Kant claims that this maxim could become a universal law of nature, because "a nature whose law it were to destroy life itself by means of the same sensation the function of which it is to impel towards the advancement of life, would contradict itself and thus not subsist in nature" (Gr4:422). In the first chapter we discussed Kant presupposes a law of nature

which destroys life from self-love contradict itself. In the *Groundwork*, Kant argues that “in the natural predispositions of an organized being, i.e., one arranged purposively for life, we assume as a principle that no organ will be found in it for any end that is not also the most fitting for it and the most suitable” (Gr 4:395). The contradiction arises, for Kant, when self-love is used to shorten life when it “threatens more ill than it promises agreeableness.” But as we will later discuss, this became Hegel’s emptiness charge on Kant, because Kant presupposes the property like self-perseveration nor self-love.

**2. False Promises.** His maxim reads: “when I believe myself in need of money, I shall borrow money, and promise to repay it, even though I know it will never happen” (Gr4:422). Kant argues that the maxim would contradict itself if universalized since “it would make the promise and the end one may pursue with it itself impossible, as no one would believe he was being promised anything, but would laugh about such an utterance, as a vain pretense” (Gr4:422). The question, once again, is what is the nature of the contradiction that arises?

**3. Developing one’s Talents.** A man harbors a certain talent by which he could make himself “a useful human being in all sorts of respects”, but prefers to give himself up to gratification and idle amusement rather than cultivate his talent (Gr4:423). He asks himself whether this “agrees with what one calls duty” (G4:423). Kant doesn’t formulate his maxim specifically but we can imagine it being as follows: I will ignore my natural gifts in order to pursue a life devoted to idleness, amusement and pleasure. Kant’s offers us this pithy explanation in defense of his conclusion: “For as a rational being he [the agent of the maxim] necessarily wills that all his capacities in him be developed, because they serve him and are given to him for all sorts of purposes” (Gr4:423). If we focus solely on the last clause, the spectra of natural teleology rear its head, and we can, once again, question Kant’s telic assumptions. But this is not the same argument that Kant appealed to in his suicide example. His main point is rather that a rational being cannot universally will the neglect of her rational capacities and talents in order to live a life of idle pleasure. The question is why?

**4. Helping Others.** In Kant’s fourth example, a person who is prospering while

others struggle, thinks to himself, “What’s it to me?”(Gr4:423). His maxim reads: “May everyone be as happy as heaven wills, or as he can make himself, I shall take nothing from him, not even envy him; I just [will not contribute]...anything to his well-being, or his assistance in need!” (Gr4:423). Like the previous example, Kant argues that universalizing the former results in a contradiction in willing, not conception (since we can conceive of a world in which no one helped another, yet not will to live in such a world). Kant explains: “[For] many cases can yet come to pass in which one needs the love and compassion of others, and in which, by such a law of nature sprung from his own will, he would rob himself of all hope of the assistance he wishes for himself” (Gr4:423).

As we discussed in the first chapter, applying CII and CIIA to guide the practice of morality does not succeed (mostly in the first and third illustration), for example, Kant presupposes self-love or self-preservation then the nature of contradiction arises. But, why should we accept this assumption? However, my claim is, using the maxims adopted by me for my own purposes, I then need to test these private principles of action with the CI. This still requires another moral requirement for although I have clarified my action into a maxim; it is unclear whether my maxim passes the test of the CI procedure. How do I know if my maxim can take on the form of law? This is the first formulation of the CI that enables us to see how a maxim can or cannot be a true law of action. What Kant gives us is the closest in pure structure to the form of law, the Formula of Universal Law.

This characterization of the form of law, which has been simplified here, nevertheless, is confronted with Hegel’s criticism. Hegel thinks that a moral principle needs content in order to choose between two different concrete states of affairs or between different systems of property. But it is clear that the CI is a supreme moral principle not limited by or to any particular world, but instead covers all possible worlds. “It must hold not only for human beings but for all rational beings as such, not merely under contingent conditions and with exceptions but with absolute necessity” (Gr4:408).

It has often been pointed out by Kant’s defenders that there is far more to his moral



theory than simply satisfying this formula. In fact, Kant offers several different versions of this formula to help draw our consideration of morality away from an empty formalism charge. Kantian defenders propose their interpretations to show that these analyses are flawed. This discussion of interpretations of the emptiness charge will be divided two parts, the limited interpretation of Hegel's emptiness charge and the systematical interpretation.

### **2.1.2 The Limited Interpretation of Hegel's Emptiness Charge**

In *The Founding Act of Modern Ethical Life: Hegel's Critique of Kant's Moral and Political Theory*, Ido Geiger claims that the emptiness charge is primarily concerned with making actual Kantian morality and not with its lack of conceptual content. Hegel, in early letters to Schelling, says that he “took up again the study of Kantian philosophy to learn how to apply its important results to many an idea still current among us, or to elaborate such ideas according to those results” (L end of January, 1795), and, “from the Kantian system and its highest completion I expect a revolution in Germany” (L April 1, 1795). In Hegel's early writings we also shall see clearly in the second part of the book *Philosophy of Right* that Hegel makes Kantian morality the task he sets for his own times. The Kantian standpoint of morality is characterized as the opposition between the mere idea of the good and the external world; this has been the way Hegel understands the historical-political plight of his own times in the letters on the philosophy of history.

Geiger explains that there are two senses in Hegel's understanding of the moral content in Kant's CI, Hegel treats universal form of the law as it ‘cancels’ the content of morality (Hegel NL123), it is impossible to make a transition from its form to its content (Hegel PRS135R), then Hegel's emptiness charge in Geiger's view has double standpoints regarding to form and content.

The first sense of ‘empty’, empty is interpreted in term of including both of form and content., this interpretation is given from his Hegel's lectures on the Encyclopedia Logic, where Hegel describes “ there are two senses, the categorical are empty (leer) is

unfounded because they have a content (Inhalt), in any case, just being determinate (bestimmt)...it must also be remarked that the assertion that the categories by themselves are empty (leer) is certainly correct in the sense that we ought not to rest content with them and the totality which they form (the logical idea), but to advance to the real domains of nature and spirit. This advance however, should not be interpreted as meaning that the logical idea comes to receive an alien content (Inhalt) that stems from outside it; on the contrary, it is the proper activity of the logical idea to determine itself further and to unfold itself into nature and spirit” (Hegel EL43).

The second sense of ‘empty’ is the ‘determining’. To lack all determination is to have no conceptual content. Geiger claims when Hegel turns to Kant’s practical philosophy and says that the good is “an abstraction lacking all determination” (bestimmunglosen abstraktum) (Hegel EL60). Hegel, however, immediately corrects himself and adds that “more precisely” the problem is that the good is “what only ought to be; i.e. what does not at the same time have reality” (Hegel EL60). This passage then offers one more piece of evidence that Hegel’s concern is the question of making actual Kantian morality.

The evidence Geiger gives suggests that Hegel fails to distinguish consistently these two senses and in this way makes the task of interpreting the emptiness charge especially difficult. Therefore, Hegel’s use of ‘empty’ means something like ‘having no reality.’ I do not mean to imply that Hegel’s criticisms of Kant is not closely related to the equivalence of form and content. Geiger suggested reading Hegel as concerned primarily with the problem of making actual Kantian practical philosophy will reveal in what sense Hegel thinks CI is empty. My critical point on Hegel’s emptiness charge here would be that only CI1 is concerned, but not CI2. CI2 can no longer be interpreted as being equivalent with CI1, as Kant expresses the formulations are “basically the same” (im Grund einerlei Gr 436, 438). I argue it is mere a weak version of equivalence because there is no conceptual relation between the two formulation. In my view, Kant seems to propose the version of CI which combines the condition of universality with all of the matter of humanity of CI2 and CI3 represents the fullest expression of CI or perfect duty which Kant terms the principle of autonomy. I would address, for our

purposes here, all we need to know is what exactly Kant means by ‘humanity’ in CI2 and CI3. As Kant uses it in the Groundwork, there is indeed much more moral content as Kant suggests.

Jeffrey A. Gauthier in *Hegel’s View of Kant’s Moral Theory* proposes the role of formula of CI is interpreted in term of determining the goodness of our actions. This formula is inadequate because it does not consider the person in her social context. Gauthier claims much of Hegel’s critique is far from a decisive case against Kant. Hegel’s criticism is that the formula of the universal law calls on the agent to inspect the uncivilized form of her maxim and then to judge whether or not the maxim contradicts itself in that form. Gauthier interprets Hegel’s interpretation that how deposit example might be failing in Kant’s universalization, i.e. when the agent may attempt to steal a deposit, it may imply a contradiction of willing arises.

Gauthier says formula of the universal law cannot, by itself, offer any guidance for the moral agent. As Hegel argues, Kant’s procedure is devoid of content when properly applied. The immorality of the abolition of deposits or of the system of private property derives not from any deliverance of the CI, but from the fact that it is implicitly assumed in advance that deposits and the property system ought not to be destroyed. Gauthier claims Hegel’s charge for CI is it presupposes the rightness or wrongness of particular actions or practices, ‘anything specific can be made into a duty’ (Hegel Philosophy of Right 438)

Gauthier points out in response to Kantian critics that what is critically at issue is whether or not an agent can simultaneously will her maxim and its universalization (Kant 1785:422). It is when the agent who would steal a deposit attempts such a willing that a contradiction seems to arise. A practice such as charity toward the poor, though apparently moral when engaged in by particular individuals or groups of individuals, will in fact prove to be immoral when thought of as universal. Hegel argues:

The maxim, ‘help the poor’, expresses the supersession of the specific thing, poverty. The maxim, ‘help the poor’, tested by being evaluated into a principle of universal legislation, will prove to be false because it annihilates itself.... either they are no poor left or there is nothing but poor; in the latter

event no one is left to help them. In both cases the help disappears. Thus the maxim, universalized, cancels itself (1802-1803:80).

Gauthier summarizes that the conflict in the agent's will derives not from any independent normative judgments about either deposits or the property system, but from the agent implicit willing. 'Implicit willing' in Hegel's views supposes no way compel the agent to will the existence of the particular practice in which she is engaged, it is impossible to apply the test of the CI without consideration of the particular circumstance. It is hard to see what force this is supposed to have against the test of the CI, given the impossibility of determining the morality of one's action in the absence of the agent's particular purpose.

Gauthier at the end points out: "though this kind of criticism does not render judgments based on a 'formal' standard such as the CI entirely insignificant, it does call attention to important limitations of such judgments. While the CI may prove a most useful tool in grasping why a particular course of action involves a social unacceptable violation of my own agency or that another, it remains tied to the perspective of a given social order in this formulation of principles of the will."(Gauthier 16)

It seems to me Gauthier also adopts a dismissive manner. On the one hand, he admits that the particular content of the agents' maxim cannot be specified as narrowly as Kant held. However, the range of potentially universalizable action may be far wider than he thought it be. But on the other hand, Gauthier's conclusion that CI remains tied to a social order leaving the free will as heteronomous capability.

In summary, some of Hegel's followers have objected that Kant's argument that the Universal Law Formulation (CI1) is a formulation of the CI relies on an invalid inference. While many commentators would oppose Hegel's or Hegelian criticism of Kant, commentators assume different standpoints to dispute the emptiness charge. Geiger and Gauthier took a similar approach to interpret emptiness charge by dismissing it in Hegel's complicated wirings. The grounding question (whether moral content is in the CI) has not been adequately distinguished from the limited interpretation of emptiness charge (i.e. whether the form of morality and content are

distinct, overlapping, or coextensive). Of course, these two issues are very much connected; it is therefore somewhat artificial to separate them. On the other hand, failure to distinguish emptiness issues in the relation between moral law and morality can result in equivocation and oversimplification that obscures the true nature of this relation.

### 2.1.3 The Systematic Interpretation of Emptiness Charge<sup>30</sup>

In the limited interpretation of the emptiness charge, we discussed how the emptiness charge is dismissed in a loose way. I argue that Hegel and others criticized Kant without much deliberate consideration, and the defenses of Kant should be introduced in an explicit way. Recently, Kantian scholars, like Geiger and Gauthier offer limited interpretation mainly on the first formulation. In my view, the equivalence thesis is given only in the weaker sense, in this thesis, my stance is that all formulas are not actually equivalent, at least in the conceptual sense. I would suggest, in order to reject emptiness charge, all we need to know is the following: ‘humanity’, if we look at the second formulation, the interpretation of emptiness charge could be discussed systematically. And if we carefully examine Kant’s writings with Hegel’s criticism of Kant found in the *Philosophy of Right*,<sup>31</sup> we are able to discern that the inappropriateness of Hegel’s charge that CI and Kant’s ethics are formalistic.

Consider for example, Hegel’s remark in §135, which begins with his critique of

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<sup>30</sup> Due to the limit of content, I will mainly introduce interpretations of Ido Geiger and Jeffrey A. Gauthier here, there are other Kantians working on this area. For example, John Mc Cumber in *Hegel’s Critics of Kant’s Theory* claims Hegel does not make the emptiness charge against the first formulation as Wood, Hegel explicitly concedes that the formula of universal law has content; Hegel’s charge against Kant lies in the dualism. And Allen Wood makes the remarkable distinction in his book *Hegel’s Thought and the Emptiness of the Moral Law*, Wood spent one chapter on discussing the emptiness charge, he argued Hegel’s basic criticism of Kant is not that the universal law formula is empty of content, but that if Kant begins with conception of moral worth as acting from duty, then no content-full moral principle is available to Kant.

<sup>31</sup> In fact, Hegel goes on to point to the *Phenomenology of Spirit* for a discussion of further antinomies to which the Kantian position gives rise.

Kant's moral philosophy.

From this point of view, no imminent doctrine of duties [Pflichtenlehre] is possible. One might indeed bring in material from outside and thereby arrive at particular duties, then it is a contradiction to commit theft or murder; [...]. But if a duty is to be willed merely as a duty and not because of its content, it is a formal identity which necessarily excludes every content and determination. (PR 135R)

Hegel, then, condemns Kant's philosophy for offering us, an "empty formalism" and an "empty rhetoric of duty for duty's sake." However, Hegel's criticism of Kant is not so much directed toward Kant's formalism, as I will explain more thoroughly in the subsequent chapter, as it is directed toward what Hegel takes to be Kant's 'absolutization' of the formal perspective. When we read Hegel's criticism we should therefore not overlook the fact that Hegel integrates Kant's principle of autonomy into his own thinking.<sup>32</sup> Hegel by no means rejects the view that "duty ought to be done for duty's sake."<sup>33</sup> In his *Rechtsphilosophie*, Hegel's complaint is that Kant's thinking 'clings to a mere moral [Moralität] point of view' and therefore cannot deduce a determinate content that could instantiate the concrete duties of ethical life [Sittlichkeit]. In other words, one cannot simply will "duty for duty's sake," one must somehow be able to will something in particular as dutiful.

These passages remind us in some places Hegel asserts that Kantian morality is empty, but also in some places Hegel implies different assertions. This shall supply us with very good reason to try to read the emptiness charge differently. Hegel appears to read Kant's CI solely in terms of a principle of non-contradiction; he does not think that Kant's principle can tell us what one ought to will in particular because Kant's principle, according to Hegel cannot properly specify differences between good or bad maxims. As Hegel puts it:

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<sup>32</sup> See p.135. Hegel acknowledges that 'the pure and unconditional self-determination of the will' lies at the root of moral duty.

<sup>33</sup> See p.133, for instance, Hegel accepts this very formulation.

If a particular content for action is taken into consideration, there is no criterion within that principle for deciding whether or not this content is a duty. On the contrary, it is possible to justify any wrong or immoral code of action by this means. (Hegel 162)

Hegel contends that the only way Kant can possibly deduce a particular duty is if Kant already accepted certain existing moral opinions or customs as justifiable. For example, it is certainly a contradictory maxim to accept a deposit that is entrusted to me without planning to return it, but it is only contradictory, according to Hegel, if we first accept the notion of property.<sup>34</sup> Hegel holds that Kant can only presuppose such institutions and customs “from the outside” (Hegel 162). He contends that Kant’s principle of morality remains merely formal because it has not justified what the content is required for instantiating CI.

This objection tends to hinge on the accusation that Kant confuses, on the one hand, the question of what is rational for an agent to will for himself, and on the other hand, the question of what is rational for an agent to will for everyone. I believe, however, that by distinguishing carefully between what Kant wants to accomplish in the universal law formulation and what he wants to accomplish in the Humanity Formulation (CI2), I would claim and argue that they are not conceptually equivalent. Hegel’s narrow emptiness charge is made against CI1, we can interpret Kant in such a way that he does not make the mistake these commentators attribute to him. I will argue

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<sup>34</sup> This is Hegel’s first example to oppose Kant. Hegel adduces Kant’s example of appropriating a deposit with which one has been entrusted, into the event the owner of the deposit dies without leaving a record of it. Kant argues that such a maxim, if universalized, would contradict itself, because no deposits would then exist. ‘But,’ Hegel asks, ‘where is the contradiction if there were no deposits?’ The non-existence of deposits is no more contradictory than these existences. Kant’s formula of universal law is ultimately incapable of saying anything about the substantive issue of whether there should or shouldn’t be deposits, whether there should or shouldn’t be property. It issues only in the tautology that, if there is property, then there should be property. But any specific thing may be justified by such tautologous legislation—both ‘property and property’. This is the reason that Hegel maintains that Kant’s formula of universal law turns into a principle of immorality. The second point of Hegel’s critique of Kant’s first formulation of the Categorical Imperative argues that, when applied, it is self-contradictory. Hegel also presents the example: Help the poor and observes, ‘This injunction, when universalized, annihilates itself. If everyone helped the poor, there would be no poor left to help.’

that Kant does not expect the general point of view, as expressed in the universal law formulation, alone to pick out all and only worthy maxims. Instead, we must also rely on a universal end—humanity. Kant expresses this insight in the humanity formulation. In the end, I hope we will be able to say that for Kant, the general point of view (as expressed in the universal law formulation) is a way of capturing universality, which is essential for any proper system of morals.

For example, as Freyenhagen argues, there is neither a particular historical context between the formalism objection and Hegel’s aim, nor the way the Empty Formalism Objection fits into Hegel’s wider system.<sup>35</sup> Freyenhagen concludes the dilemma as many of the contemporary Kantian scholars do by observing that the most appropriate course is to treat the Empty Formalism Objections as a self-standing philosophical problem, irrespective of its historical context or systematic place in Hegel’s theory. Hence, for argument’s sake the legitimacy of such a non-contextual approach, presents significant difficulties<sup>36</sup> and as a result the Formalism Objections remain.

## 2.2 Mill’s Utilitarianism Charge

In this section, I will begin with a brief overview of Mill’s view, focusing mainly on the elements that will be relevant for Mill and Kant’s ethics. I will discuss how Kant’s ethics, for its both emphasis of the consciousness and reason, is not constrained by the limit of Mill’s Utilitarianism. I would only focus on Mill’s charge of Kant’s

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<sup>35</sup> Fabian Freyenhagen, “Empty, Useless, and Dangerous? Recent Kantian Replies to the Empty Formalism Objection”, *Bulletin of the Hegel Society of Great Britain* 2011(63) 95-118.

<sup>36</sup> For further details see Freyenhagen’s paper where he concludes: Firstly, if Kant’s optimism is indeed unfounded and has to be given up... the issue of culpability becomes much trickier, since now luck plays a much bigger role in whether or not the individual is fully capable of describing the situation and using the Categorical Imperative correctly. There are related repercussions, such as the fact that the alleged advantage of the Categorical Imperative over the counsels of prudence Secondly, one other important lesson from this discussion is that the earlier Kantian argument that the Categorical Imperative (or the objective end of humanity) could and should be used to test for the permissibility of social practices is now shown to rest on presuppositions that call the viability of its employment for this purpose into question. Finally, if the social world contains some non-corrupted normative resources and upbringing after all, then no appeal to context-transcendent standards will be required



moral law. Because it might be superfluous for my purpose to discuss Mill's utilitarianism on its own accord, much like discussing Hegel's own philosophy in the earlier section.

### **2.2.1 Mill's Utilitarianism**

Mill's critique of Kant derives from the philosophical perspective of Utilitarianism. In the Introduction of his book, *Utilitarianism*, Mill remarks that it is rare that moral thinkers do not provide a list of a priori principles or offer a guiding first principle or an area of common ground. In *Utilitarianism*, Mill's view is that right actions are the intention of promoting happiness while wrong actions are the products of the reverse of happiness. Happiness for Mill is a positive balance of pleasure over pain; in contrast, unhappiness is a positive balance of pain over pleasure. Mill's focus of happiness is to point out that happiness is an end of human action. Happiness is the only thing desirable; all other things being only desirable are means to that end. The utilitarian doctrine then holds that happiness is the only desirable end, and actions are right in terms of the promotion of happiness. In Mill's argument, the moral agent is to promote 'general happiness' as the ultimate end of human action:

Pleasure and freedom from pain are the only things desirable as ends, and that all desirable things are desirable either for pleasure inherent in themselves or as means to the promotion of pleasure and the prevention of pain.<sup>37</sup>

Mill regards the correctness of a moral system is quite different with what causes us to act morally. Utilitarianism may be true or another moral theory may be true, but there is seldom ethical theory could make progress on these two trends. However, as Kant achieved both of these expected trends in developing his ethics, Kant goes further to explain there might be something within our consciousness. That is there might be

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<sup>37</sup> Thomas K. Hearn Jr. *Studies in Utilitarianism*, Appleton-century crofts, New York, 1971; p.45.

some reason that motivates us to do what we take to be right. The point here is that the obligation of particular moral systems is, not our motivation to be moral, but for our reason to be moral. Kant's theory has the significant part for the consciousness and reason;<sup>38</sup> Mill's criticism of Kant is not directed here. Rather, Mill recognized Kant as a member of a rare class of moral thinkers. Mill's criticism is rather this:

When he [Kant] begins to deduce from this precept [i.e. CI] any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the consequences of their universal adoption would be such as no one would choose to incur.<sup>39</sup>

Here Mill considers the consequences of moral action. In the *Groundwork*, Kant explicitly dismisses (actual) consequences when it comes to ethics. The good will is good regardless of consequences. As we will see, Mill's consequentialism rather than Utilitarianism is the direct charge made against Kant. These two notions are not same, the Utilitarian principle is seeking happiness and avoiding pain, and therefore moral action should maximize happiness and minimize pain for the greatest number of people. Actually, Mill did not use Utilitarian principle as a direct threat to Kant's ethics, rather shares the insight of the utility of golden rule.<sup>40</sup> I will further claim vagueness of the golden rule does not actually specify what we should do in 5.1.

### **2.2.2 Mill's Consequentialism**

As Mill is one of the influential Utilitarian philosophers, he is also an influential

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<sup>38</sup> As Kant is regarded as a rationalist philosopher, we discuss reason in different aspects in this thesis. I will describe the consciousness in moral autonomy in last chapter.

<sup>39</sup> Mill, John Stuart. *Utilitarianism*. In *The Collected Works of John Stuart Mill*, Volume 10. Editor Robson, J.M. University of Toronto Press. 1985. P 162.

<sup>40</sup> "In the golden rule of Jesus of Nazareth, we read the complete spirit of the ethics of utility. To do as you would be done by, and to love your neighbor as yourself, constitute the ideal perfection of utilitarian morality" (Mill. Uti 24).

Consequentialism philosopher. According to Consequentialism, moral action depends on the potential or realized costs and benefits of a moral belief or action. Mill claims the universal law permits commonly moral behavior and can only become consistent by resorting to Utilitarianism. “All he shows is that the consequences of their universal adoption would be such as no one would choose to incur” (Mill Uti.162). Mill criticizes Kant for failing to “the actual duties of morality” (Mill Uti.162). Mill consequentialism constitute the greatest threat to Kant’s ethics since it criticizes Kant for appealing to unfortunate consequences, such as indolence, false promises, and indifference to others, in a purely formal manner.

Mill argues that CI cannot do the work it is meant to do – show us which specific rules of conduct are impermissible and which are permissible – because its test for contradictoriness (of rational willing) is useless. Like Hegel, Mill criticizes Kant for failing to “the actual duties of morality.”<sup>41</sup> Mill means to answer questions about what makes right and not to answer questions about what reason or motivation we have to perform right acts. As we have just seen, Mill has been quite careful to distinguish what he takes to be the criteria informing the reason to obey morality. Mill intends to discover the essence of a moral principle that is the principle according to which our actions are properly judged right or wrong (the *summum bonum*, as he says). He repeatedly emphasizes that he intends to discover the ‘criteria of morality,’ and this should be contrasted with any reasons we have for acting morally. Consider the following passage,

They say it is exacting too much to require that people shall always act from the inducement of promoting the general interest of society. But this is to mistake the very meaning of a standard of morals and confound the rule of action with the motive of it. It is the business of ethics to tell us what are our

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<sup>41</sup> Hegel also explains in his 1821 *Elements of the Philosophy of Right* that it is impossible to make the transition to the determination of particular duties from the above determination of duty as absence of contradiction, as formal correspondence with itself...and even if such a particular content for action is taken into consideration, there is no criterion within that principle for deciding whether or not this content is a duty. On the contrary, it is possible to justify any wrong or immoral code of action by this means. See p.137

duties, or by what test we may know them; but no system of ethics requires that the sole motive of all we do shall be a feeling of duty (Mill.Uti.18).

Mill makes the claim that Kantian ethics, and all a priori abstract concept of ethics, derive from first principles (Kant's CI) that go unstated. This positing of initial premises exercises a "tacit influence" framing the entire concept of ethics and the process of their derivation. (Mill Uti.260) Therefore, Mill claims that CI cannot provide moral guidance, but rather essentially sanctions any action that one would be willing to see universalized regardless of the effects that occur (Mill Uti.261).

However, in my view, although the universal law of nature does allow for the consideration of consequences, Kant's ethics does not fall to Mill's consequentialism charge; in this regard, Silber's defense is "Kant insists that it is our duty to consider what the willed consequences of our action are. And we determine the willed consequences of our action by projecting in imagination the sort of world that would come into existence were the maxim of our act to become a universal law of nature" (see also my discussion of Silber's proceduralism in 3.1).

Mill's consequentialism is a misunderstanding of Kant's ethics, in fact, there is some consequence consideration in Kant's expression. The crucial question is, which type of consequences we are talking about. One might say that contradictions in universalization can be regarded simply as *logical* consequences, while Mill is mainly concerned with "physical" consequences in terms of feelings of happiness. If so, the consequentialism (as such) charge loses its edge because Kant would appear to be a *logical* consequentialist all along. Of course, the important point of criticism would now be that taking into account merely logical consequences is simply insufficient for determining right and wrong, which is why Kant's CII remains empty. However, Kantian consequentialism does not concern the actual consequence of an action but rather the willed consequences. When agents act as the result of an imaginary law, expected or intended consequences of an act result. The nature of Kantian consequentialism is particularly counter-factual or more precisely what may be called subjunctive consequentialism, as Silber says:

What would be the consequences of an act if the act were universalized and became a causal law in an imaginary world (the kingdom of ends)? The inhabitants of which all acted on maxims which were analyzed according to the subjunctive consequences of the action as spelled out in this sentence.<sup>42</sup>

However, how do agents following subjectively casual laws achieve objective self-reference? To answer this, Silber points out that in the Kantian kingdom agents are all good-natured and well-behaved. We may then, appropriately ask: are these characteristics additional premises or simply the result of agents acting under the moral law? Only the latter would be true to Kant's ethics.<sup>43</sup> I think Silber's interpretation is essentially close to Kant's perspective in so far as maxims derive from moral propriety such as self-preservation or security, rather than moral goodness.

As I will discuss above in the section of Silber's proceduralism (3.1), although Silber has defended Kant's ethics against the charge of consequentialism to some degree, he has not done so in an essential way. Kantian consequentialism or specifically subjunctive consequentialism still seems unable to inform a permissible or impermissible maxim. If the subjunctive consequences possess no moral weight, Kant will be no better off than a Utilitarian who contends that Kant's ethics is completely formal. Utilitarianism straightforwardly holds that the consequences of an act compromise the moral weight in the procedure, as, for example, when an agent prefers satisfaction or happiness. However, why is happiness held as the final end by which one justifies consequences or maximized good, rather than suffering? Utilitarianism does not pretend to give a purely formal answer. Likewise, Kant must assign some moral content to subjunctive consequences. While much detail may exist in these consequences through the type (the nature of law) and while all possibilities of the kingdom of ends might be specified and imagined, the permissibility of maxims is still undecided.

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<sup>42</sup> Cf. Silber's simpler but less precise formulation: "the moral man considers what other men would have to do if his maxim were a universal law", Silber John R. *Procedural Formalism in Kant's ethics*, *Review of Metaphysics* v.28, 1974. p.213.

<sup>43</sup> I would once again thank to Prof. Michael Kühler for reminding me of this point.

At this point, I will suggest that we would be better served by CI2 since CI2 includes moral concerns and specifically stresses the concept of treating humanity not merely as means but as ends. My further interpretation will be given in the discussion of Silber.

## **Summary**

Hegel and Mill's charges of emptiness take issue with the abstract and seemingly detached nature of Kantian ethics contending that Kant's supreme principle of morality is too abstract and general to tell us what we ought to actually do in a particular situation. Hegel contends that Kant's principle of morality remains merely formal because it has not justified what the content is required for instantiating CI. Mill makes the claim that Kantian ethics, and all a priori abstract concept of ethics, derive from first principles (Kant's CI) that go unstated. My point would be that both (Hegel and Mill) actually have a critical point and that the emptiness charge, indeed, carries weight against (at least) CI1. This is precisely why formal and then non-formal reconstructions will come into play in the third and fourth chapter.

## Chapter Three

### Rethinking the Emptiness Charge-the Formalists Reconstruction

In the first chapter, we examined the formalistic ideas found in Kant's work. Given the depth of thought reflected in Kant's moral philosophy, his writings are not easily understood. In the second chapter, we have seen critics of Kant's theory point to its inconsistency which includes mistakes as well as apparent paradoxes among his most controversial terms particularly, as we have noted, in the *First Critique* and the *Groundwork*. Kant's aim is to construct the formal philosophy in the sense that it could be understood theoretically and applied practically. However, critics who neglect the practical sense of Kant's moral philosophy might label Kant's ethic empty formalism.

Even though doubt remains, we also clearly saw that the direction of the unity of Kant's thought is from formal to concrete not from concrete to formal. That is, the Formula of Universal Law (CI1) is only a stepping stone on the argumentative path leading to a more adequate, concrete, and systemic formula of the principle in the second section of the *Groundwork*.

In my view, a proper understanding of Kant's ethical thought requires that the alluded errors that are found in his writings, which unfortunately exist and are commonly recognized even among Kant's sympathizers, are corrected. These corrections include not only addressing the supposed formalism as well as the alleged unconcern with the history and social context of morality, but also the exaggerated emphasis usually placed on the Formula of Universal Law in expounding Kant's approach to moral reasoning.

The existing literature addressing the emptiness critique (mostly CI1) is vast and widely varied. Within this literature, there are a number of approaches drawn from the critiques of other approaches. The discourse, based on these critiques of other approaches, tends to form a relatively complicated narrative. Kant's ethics imply much

more than the ‘formal accomplishment’ that of formalist readings. Non-formalists are doing much more than formalist did, they are not blind to the formal element of Kant’s ethics, but insist on parity and plurality in methodology to make Kant’s ethics plausible.

Given that formal and non-formalistic readings of Kant’s philosophy differ in the role they assign to CI, the two non-formalistic defenses offer great attempts to explain emptiness critique and present problems. Each argument is successful in some ways, but each one has its obscure part and leaves some questions open.

Therefore, the purpose of this chapter, which reviews the relevant literature, is twofold. Non-formalists reading Kant’s philosophy differ in the role they assign to CI, in the first part of this chapter, I will analyze the merits and demerits of three formalist reconstructions. The first reconstruction, which derives from Silber states that the moral law specifies the procedure of judgment via a moral schema which enables one to determine the appearance of the highest good. Silber sees the formulation of universal law in accordance with nature and in harmony with Kant’s purpose of providing the content for the rationality of the procedure. But in Silber’s argument, CII needs supplemental postulates which hold for all rational disciplines by employing sufficient common-sense principles.

The second reconstruction, proffered by Rawls, states that moral content does not directly come from the ends or values; rather it rests on rationality and social-political background. However, for Rawls, we may have to place a certain kind of agent in a certain socio-political perspective in a deliberative situation with other like agents.

The third reconstruction contributed by O’Neill, also advocates a formula for universal law as the canonical case of universality test, by showing how achieving consistency of action in the approach of textually-close reading of CI could recognize Kant’s universality test. O’Neill’s formalist approach adds a declarative set of subsidiary maxims. Silber, Rawls, and O’Neill share a strategy of demonstrating that a moral test can be made by CII. In order to judge right or wrong, they essentially agree on where their theories lead, but disagree on how to get there.



## Formalists and non-formalists<sup>44</sup>

At the outset, it is relevant to point out the philosophical position of Kantian scholars, both formalists and non-formalists which we will intensively examine in this section. However, I do not intend to address whether formalism or non-formalist are espoused in the appropriate scholarship that addresses Kant's ethics since as noted in chapter one, Kant introduced both non-formal and formal elements in his writing. Nor do I intend to identify which of these two positions more accurately explicates Kant's work since doing so would unnecessarily prefer one interpretation over the other, thereby disregarding the value of the opposing arguments. Rather, my main concern here is to focus on the principle of charity that blends both of these positions in the best possible light.<sup>45</sup>

Even considering the principle of charity, the essential division between the non-formalists and formalists is still difficult to explicate.<sup>46</sup> Kantian formalists avow using merits with non-formalist elements. For the formalist, the elements such as the formula of humanity or the kingdom of ends are merely ancillary to the universalization mechanism. That is, they are used merely to help one carry out the test suggested by

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<sup>44</sup> Many Kantians offer this distinction. In my thesis, I conclude that non-formalists read Kant as departing from formalism due to CI2, given Kant's expression that there must be 'something the existence of which in itself has an absolute worth 'as an independent order of value which grounds the moral law. On the other hand, Kant is read as a moral formalist due to CI1 and CI3 given that Kant is understood as saying that there is a procedure for testing maxims to determine their universality thereby constructing rational maxims, or, according to CI3, Kant is understood as saying that the stance of the members of an ideal kingdom of ends defines what is right. See also my introduction of these two stances in the introductory chapter.

<sup>45</sup> Since Kant's work suggests a multitude of positions, the principle of charity is necessary to productively distinguishing between 'textual considerations alone' and philosophical considerations. See Christine M. Korsgaard, "*Kant's Formula of Universal Law*", Pacific Philosophical Quarterly 66 (1-2):24 (1985) p.15

<sup>46</sup> Find great deals for Inquiries into Truth and Interpretation from Davison, he says, "The principle to restrain this difficulty, in philosophically genuine, is on the favor interpretations that as far as possible preserve truth: think it makes for the mutual understanding, and hence for better interpretation, to interpret what the speaker accepts as true as he can..."see *Truth and meaning*. In *Davidson (1984)*: 125-139.

the formula of the universal law. While Kantian non-formalists use the overwhelming preponderance of formal elements throughout Kant's ethical writings, the answer to the content of moral law must also acknowledge the important role of the universalization test, but not to the exclusion or subordination of the material elements of Kant's ethics.

Nonetheless, along linguistic lines, the general division can be given accidentally in corresponding with these two camps: analytic and continental philosophy. Because Kant is firmly established among Anglo-American commentators as an anti-realist and even a formalist moral thinker.<sup>47</sup> However, this division does not respond to the initial issue, namely, what is Kant's formalism? Or more precisely, what is Kant's moral law? While the Formalists will emphasize the significance of CII as a device to determine the universality of *maxims* of *moral* worth, this test primarily employs CII in a formal function. In contrast, the non-formalists will contend that the central role of the universality test excludes or subordinates the material elements of Kant's ethics.

The essential division, I propose, would not be how we accept CII as formal, but rather how to understand CII as formal. There are different approaches to CII; while non-formalists are not blind to the formal elements in Kant's ethics and insist on parity and plurality in methodology, comparatively, the formalists hold to the preeminence of universalization in the hierarchy of principles.

### **Formalist Reconstructions**

Over the last twenty years, various formalist reconstructions have drawn on Kant's ethics in order to inform the process of making moral decisions. Now let us turn to these formalist reconstructions.

#### **3.1 Silber's Procedural Formalism**

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<sup>47</sup> See Alexander Kaufman, "Rawls and Kantian Constructivism", *Journal of Philosophy* 77 (9):515-572 (1980), p.3.

John Silber was the first philosopher who espoused a procedure to explicate Kant's ethics. He reconstructs Kant's ethics by arguing that Kant's ultimate goal is to explain how *moral judgments* are made, which he names 'Procedural Formalism'.<sup>48</sup>

Silber, like most formalists, aims to reconstruct Kant's ethics based on his understanding of the formulation of universal law (or as he terms it Formulation I).

By insisting that this one principle is sufficient for moral practice, Kant presupposes the moral context. Unless we assume that the Formulation I is the law for humans, or some other rational and sensible beings, Formulation I alone, together with the judgment which it informs, could not give expression to maxims containing both form and matter. Furthermore, Formulation I would not be an obligation at all unless it constituted the form of moral judgment for a being who is tempted to reject all rational determination in action...From the standpoint of form nothing more than Formulation I is needed...In determining the maxim of a moral act, judgment must incorporate the form of universality. by acting on such, he transcends the subjectivity of personal inclination and acts in terms of the idea of law rather than in terms of personal inclination. (Silber 206)

When Kant advocates a 'Universal Principle' in Silber's view this is tantamount to advocating CI. Silber's interprets Kant to mean that there is only one CI. This is Silber's position regarding the traditional question: How many formulations of CI are there in the second chapter of *Groundwork*?

According to Silber, this question is misleading because, first, the number of formulations is actually indeterminate. The formula of natural law, the formula of humans as ends in themselves, and the formula of the kingdom of ends specifies the procedure for making intuitive the demands of the moral law which yields maxims leading to appropriate moral judgment. For Silber, Kant does not have the problem of relating the CI to the moral context: it emerges from it. Kant's problem is rather to make clear what the demand actually involves. Therefore, the universal formula of the CI

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<sup>48</sup> Silber says "Kant's formalism is not to be understood either as a substantive or as a logical formalism; rather it is a procedural formalism. The categorical imperative sets forth the procedure which the moral judgment must go through in order to will rationally." Procedural Formalism in Kant's Ethics", *Review of Metaphysics* 28 (2):197-236 (1974), p.38.

presupposes the moral context. If we do not presuppose the CI as a principle of the human will, the universal formula would not express any obligation at all, then it would of course not express the form of moral judgment for a maxim:

Kant notes the curious feature of ethics as opposed to epistemology: while in epistemology we begin with sensible intuition( the aesthetic) and move to the conceptual, in a moral epistemology we begin with the concept of the moral law and move forward intuition and sensibility.....In the act of judgment by means of which the goal of the moral person is determined as the material object of volition by reference to the moral law, one is moving from the abstract to the concrete, not from the concrete to the abstract, which is how the mind works in the theory of knowledge, therefore the number of formulations is as unlimited as sensibility is diverse. (Silber 206)

Secondly, the persistent peculiarity among various formulations of CI can be understood as differing views of procedures. The illustrations of CI in the *Groundwork* in Silber's view are merely rehearsals of procedures. The examples Kant enumerates that illustrate actual duties (e.g., indifference to the plight of others, suicide, false promising, development of our own talents) for Silber, offer us merely "apparent examples" that are "hurriedly determined" in the *Groundwork* (Silber207-208).

Thirdly, the derived formulas of CI are misunderstood if we look upon them as rules for the application of the moral law. There can, according to Silber, be no rule for the application of the moral law; instead the moral law must guarantee its own application and must specify the procedure of judgment in the act of moral schemata or "determining the embodiment of the highest good" (Silber200).

Silber leaves this concept of the embodiment of the highest good somewhat obscure, although fundamentally this principle relates to a method of rationality which Silber outlines by stating the rules that attend the method of rationality. These rules mostly derive from Kant's logics, anthropologies and the critics of judgments<sup>106</sup> which he intended to apply to all intellectual pursuits as rules for the attainment of wisdom whether in the pursuit of aesthetic, scientific or moral analysis. Silber reconstructs these rules which are:

1. Think for oneself.
2. When communicating with others imagine oneself in the place of the other person.
3. Always think in agreement with one self (Silber 200)

Silber says these rules are postulates of rationality since applying these rules in moral law could guarantee a rational consequence in a requisite sense. He explains: “only if the norms of morality, rules of thought and rules of aesthetic evaluation are treated as descriptive procedures, then there can be initially rational knowledge in science, the free play of sensibility and recognizing in aesthetic experience, autonomous action in moral experience” (Silber 200).

Through postulates of rationality, Silber understands Kant to imply that his readers should follow the pragmatic rational-directed procedural ethic as he explains in the following:

The procedurals of judgments in ethics. The procedural interpretation of rationality, that is, the attempt to account for the rationality of thought and action in terms of the process or activity of judgment, receives its greatest emphasis and amplification in Kant’s ethics. This interpretation is emphasized particularly in the *Groundwork*. In his exposition of the CI Kant presents the several formulae of the imperative as various ways of looking at the procedures judgment must follow in the determination of one’s specific duties. (Silber 200)

Silber sees the account of Kant’s rationality constrained by postulate rationality, which as a result lacks substance. Kant might scrutinize substance through offering us the formulation of the universal law of nature, that is, an analogy with nature to create laws or imperatives, namely, the type of the moral law. Consequently, moral agents are able to create laws via their imaginary worlds which are applicable in their everyday worlds of sensibility. Silber, therefore, explains his understanding of type as Kant’s purpose of providing the content for the rationality of the moral procedure in the *Second Critique*:

This law as one which can be exhibited in concerto in objects of the sense is a natural law. But this natural law can be used only in its formal aspect, for the purpose of judgment, and it may therefore be called the type of the moral law.....Now everyone knows very well that if he secretly permits himself to deceive, it does not follow that everyone else will do so, or that if, unnoticed by others, he is lacking in compassion, it does not mean that everyone else will immediately take the same attitude toward him. This comparison of the maxims of his actions with a universal natural law, therefore, is not the determining ground of his will. But such a law is still the type for the estimation of maxims according to moral principles. If the maxim of action is not so constituted as to stand the test of being made the form of a natural law in general, it is morally impossible, though it may still be possible in nature. (KpV70)

The question, therefore, is whether CIIA given Silber's interpretation that Kant's purpose is to provide the content for the rationality of the procedure, guarantees a process for deciding the permissible or impermissible. If not, conceivably there might be no theoretical and practical improvement regarding CII. We might simply disregard this process or recognize it as a form of the universal law of nature; CIIA and CII might be, then, the same law in different forms.

Actually, however, Silber attempts to disguise content as a form, although it seems that CIIA is intended to provide the content for procedural rationality; Silber insists nonetheless that the type is merely formal. Kant and Silber both contend that CII and CIIA are the same law in the form. They deny that the analogy with nature and the talk of harmony in a kingdom of ends introduce material considerations (i.e. concrete function or purpose) into the universalization test. However, as soon as Kant introduces the purpose of *Bestimmungen* in the suicide illustration, we know this notion of formalism is in trouble: we cannot prohibit suicide relying on CII unless we also introduce CIIA which holds that purpose of self-love is fundamentally self-preservation.

For Silber, suicide and other illustrations are "apparent examples" that are "hurriedly determined" in the *Groundwork* (Silber.204). These illustrations dependent on CIIA do not weaken Kant's ethics because In Silber's view, Mill and Dewey's

consequentialism constitute the greatest threat to Kant's ethics since they criticize Kant for appealing to unfortunate consequences, such as indolence, false promises, and indifference to others, in a purely formal manner thereby eliminating maxims. Even though the universal law of nature does allow for the consideration of consequences, Silber argues that Kant's ethics still do not fall into the 'consequentialist slip.'

If Kant made reference to consequences after the fashion of the utilitarian, he would appeal to an empirically derived prediction of the consequences of his action... Kant insists that it is our duty to consider what the willed consequences of our action are. And we determine the willed consequences of our action by projecting in imagination the sort of world that would come into existence were the maxim of our act to become a universal law of nature. He asks, what the consequences of my action must be if the maxim of my act is made into one of the laws of nature! Thus the moral agent, on Kant's theory, does not consider what other men will actually do as a result of his having acted in a certain fashion. Rather the moral man considers what other man would have to do if his maxim were a universal law. (Silber 212)

For Silber, Kantian consequentialism is benign because it does not concern the actual consequence of an action but rather the willed consequences.<sup>49</sup> When agents act as the result of an imaginary law, expected or intended consequences of an act result.<sup>50</sup> As we have seen Silber argues that the nature of Kantian consequentialism is subjunctive consequentialism as the inhabitants of consequences of an act all acted on maxims which were analyzed according to the subjunctive consequences of the action as spelled out in this sentence. As Silber's simpler but less precise formulation "the moral man considers what other men would have to do if his maxim were a universal law" (Silber 213).

However, how do agents following subjectively casual laws achieve objective self-reference? To answer this, Silber points out that Kant's proceduralism presupposes a

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<sup>49</sup> In my view, however, this is a peculiar sense in a premise of no incompatibility among willed consequences.

<sup>50</sup> Harald Kohl makes this point in chapter 1 of his *Kant's ethics of conviction* (de Gruyter Berlin: 1990). He analyzes Kant's unusual use of the term intentions, to show that Kant rules out an appeal to intended or expected consequences of an action.

moral context - no rational egoists exists in the kingdom of ends; non-adversarial rationality is guaranteed when a game-theoretical situation is completely absent. In the Kantian kingdom agents are all good-natured and well-behaved. We may, then, appropriately ask: Are these characteristics additional premises or simply the result of agents acting under the moral law? Only the latter would be true to Kant's ethics. I think Silber's interpretation is essentially close to Kant's perspective in so far as maxims derive from moral propriety such as self-preservation or security, rather than moral goodness.

While Silber has defended Kant's ethics against the charge of consequentialism to some degree,<sup>51</sup> he has not done so in an essential way. Kantian consequentialism or specifically subjunctive consequentialism still seems unable to inform a permissible or impermissible maxim. If the subjunctive consequences possess no moral weight, Kant will be no better off than a Utilitarian who contends that Kant's ethics is completely formal. Utilitarianism straightforwardly holds that the consequences of an act compromise the moral weight in the procedure, as, for example, when an agent prefers satisfaction or happiness. However, why is happiness held as the means by which one justifies consequences or maximized good, rather than suffering? Utilitarianism does not pretend to give a purely formal answer. Likewise, Kant must assign some moral content to subjunctive consequences. While much detail may exist in these consequences through the typic (the nature of law) and while all possibilities of the kingdom of ends might be specified and imagined, the permissibility of maxims is still undecided.

Just as we saw in our discussion in chapter one, the second formulation of CI, namely CI2, includes moral concerns and specifically stresses the concept of treating humanity not merely as means but as ends. However, Silber, like most Kantian formalists denies the possibility of supplementing CI2. In Silber's view, CI2 as a

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<sup>51</sup> See Henry Sidgwick *the Methods of Ethics*, (The Macmillan Co. London, 1922), Sidgwick argues "this is one of the intuitions a utilitarian theory must come down on. The question 'Why is happiness good?' cannot be answered without referring in some essential way to a special moral property of happiness, namely, that it is good."



limiting condition on valid maxims expresses merely a negative condition that one never treats others as means.

Kant also explained that CI2 acts solely as a limiting condition.

In the idea of an absolutely good will [one] good without any qualifying condition (of attainment of this or that end)—complete abstraction must be made from every end that has to come about as an effect...And so the end must here be conceived, not as an end to be effected, but as an independently existing end. Hence it must be conceived only negatively, i.e., as an end which should never be acted against. (Gr 437)

Silber, therefore, recommends that we would be better served by eliminating CI2:

It is regrettable that Kant did not think to express this formulation in terms of his second maxim of common human understanding: rather than write about treating mankind as an end in itself. Kant should have written about putting oneself in thought in the place and point of view of others. (Silber 15)

The context for understanding Silber's comments is found in the *Critique of Judgment* (KU295) when he writes, "the agent can only determine a universal standpoint formulated by shifting one's standpoint to the others." Thus Silber relies upon the principle of perspective-exchange instead of the principle of respecting the humanity of rational agents. In considering this principle, we may recall a similar principle we discussed when addressing the formal element in the Pre-Critical Period, namely, the inadequacy of the democratic version of the universal will. Like this earlier principle, Silber's perspective principle is unable to equip one to arrive at a decision under the procedure of the moral law or explain what the procedure requires. Ironically, when the 'view from nowhere' is applied to Silber's perspective principle, and then when the agent follows the directive to 'think for oneself' he or she must at the same time consider views not his or her own because of the need of to consider the perspective of another.

This criticism, which originated with Hegel, has been the most challenging debate

and most effective criticism of Kant's ethics. Several of Hegel's arguments against the formalism identified in Kant's moral philosophy are still widely accepted.<sup>52</sup>

Silber notes that Hegel's criticisms of CI1 are based on the principle of consistency or more specifically the inconsistencies in Kant's thought, which hold only limited applicability for deriving logical maxim mistakes, i.e. 'I want to stay dry by walking naked in the rain.' CI is thus charged with emptiness that lacks meaning. Therefore, Silber seeks to demonstrate that CI1 represents not mere logical consistency, but most importantly, volitional consistency, which conforms to practical reason, not necessarily logical reason:

Kant does insist that if there is a logical inconsistency contained in the mere idea of the maxim of our act, then it is clearly incapable of universalization and moral willing. But this test of rational consistency is not the primary test of the law. The law requires volitional consistency not merely formal consistency. The CI prescribes more than consistent thought. There is a universally valid will-manner when we try to justify stealing while striving to do so. The agent must, in order to will in this manner, place himself in the thought of the person whom he intends to steal. Once taking this standpoint, I cannot treat the property in which I may steal in question as my property. Rather, I see the situation from a universal point of view in which the concept of property cannot be manipulated. (Silber 232)

In other words, Silber's universal standpoint is a priori to the principle of the sanctity of property which arises from practical, not logical, reason. Silber's procedural formalism does, indeed, yield consequences; however, these consequences are actual or expected rather than evaluated. Evaluations of consequences, furthermore, occur via the subjunctive scenario. According to Silber, Hegel's criticism presupposes that practical reason does not form maxims by working on man's sensuous maxims, but is itself capable of creating moral maxims. Hegel contends that all moral laws arising from practical reason are contingent upon unique situational contexts which reveal their

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<sup>52</sup> For further details, please review the prior discussion of Hegel's criticisms of Kant in section 2.1 of this thesis.

authentic meaning. As I perceive it, Silber's procedural formalism may well be a modal variation of consequentialism in which agents supply the content of CI1A which corresponds with the law of nature, in order to achieve purpose and harmony. This approach along with formality would inevitably undercut Kant's moral philosophy resulting in an unacceptable dependence, or *heteronomy*.

## 3.2 Two Kantian Constructivism

### 3.2.1 Rawlsian Constructivism

Silber's procedural formalism established the framework for solving the 'content problem' in general since the moral content for Rawls does not come directly from considering values or ends and thereby avoids any *threat of heteronomy*. In his book *A Theory of Justice*, Rawls employs the term 'Kant's moral constructivism' to label his interpretation of Kant, although it may more be appropriately termed Rawlsian constructivism.<sup>53</sup> Rawls explains:

Justice as fairness..... is a theory of human justice and among its premises is the elementary facts about persons and their place in nature. Ideal 'moral persons as free and equal not only have a conception of their rational good, but also have a sense of justice. (Rawls 257)

As Silber claims, the other formulations cannot add to the content of the moral law as it applies to us. The second and third formulations must not yield any requirement that is not already accounted for by CI-procedure.<sup>54</sup>

Like Silber, moral content in Rawls' theory is based on his understanding of CI

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<sup>53</sup> Much of what Rawls has to say assumes the basic ideas in his book *A Theory of Justice* (Cambridge, MA, 1971). Rawls begins this new project as a supplement to his theory of justice, expanding upon the particular notions of the person and the well-ordered society which are necessary, in his view, for the selection of the principles of justice. This supplementation's express purpose is to expound "*Kantian Constructivism in Moral Theory*". Rawls demonstrates the degree to which he is Kantian in The Dewey Lectures he delivered in 1980.

<sup>54</sup> See Rawls, "*Themes in Kant's Moral philosophy*" in Förster, E. (ed.) *In Kant's Transcendental Deductions*, ed., E. Förster. Stanford: Stanford University Press, 198, pp.88-89.

which unifies the formulation of the universal law (CI1A) and CI1 (CI1) or more specifically the CI-Procedure. (CI is an abbreviation for ‘CI’ in ‘Themes’.) For Rawls the content of the moral law is constructed via the CI-procedure, comprised of the unity of CI1 and CI1A, while the other two formulations, CI2 and CI3 are omitted.

The resulting content derived from the CI-procedure is not equivalent to the material for Rawls’ formalism since no materials exist in Kant’s ethics. The CI-procedure does not identify the good that we are to pursue; rather it directs us to treat everyone as an end-in-themselves and thereby identifies the permissible subjective ends. Rawls explains:

While Kant means it is the totality of particular CI...that pass the test of CI-procedure are seen as constructed by a procedure of construction worked through by rational agent subject to various reasonable constraints. (Rawls 98)

We must pay close attention to Rawls’ conception of the agent for his construction relies on an ideal agent who embodies pure practical reason to “frame the Rational with the Reasonable.”<sup>55</sup> As seen in the *Dewey Lectures* Rawls emphasizes that ideal agents are not only rational, but must also reasonable. Rationality for Rawls carefully calculates the means which lead to certain ends, which may be traced to Kant’s hypothetical imperative or what Rawls terms empirical practical reason. Ideal moral agents not only learn how to achieve ends efficiently or rationally, but also how to achieve such ends by employing a moral a point of view, which agents construct to approximate objectivity within the applicable social context.

The goal of Rawls’ construction is thus both epistemological and normative. On the one hand, he aims to de-mystify Kantian pure practical rationality through the notion of a reasonable and rational agent; on the other hand, he notes that maxims must be devolved from a social point of view. In Rawls’ ideal social setting all agents who are considered to be similarly situated assume objectivity as their personal point of

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<sup>55</sup> See Rawls, “Kantian Constructivism in Moral Theory: The Dewey Lectures”, *Journal of Philosophy* 77 (1980): 515–72 p.532.

view.

In order to further explain the notions of reasonability and objectivity, in his *Lectures on Moral Philosophy*, Rawls ascribes four essential steps to expound the details that constitute the desired procedure. In the first step, the agent's maxim is rational from the agent's point of view: that is, "the maxim is rational given the agent's situation and the available alternatives, together with agent's desires, abilities, and beliefs...." Rawls continues, "The second step generalizes the maxim of the first step; the result is what we may call a universal precept... that applies to everyone. When this precept passes the test of CI-procedure, it is a practical law, an objective principle valid for every rational being..." He then adds, "At the third step we are to transform the universal precept... into a law of nature..." Finally, he claims that "the fourth step is the most complicated... it is assumed that a new order of nature results from the addition of the law at step (3) to the other laws of nature...let us call this new order of nature an 'adjusted social world.'"<sup>56</sup>

With Rawls' interpretation, this adjusted world is not like the kingdom of ends found in Kant's third formulation. Rather, this world which is committed to the notion of democracy should not be expressed as a kingdom at all because it is constructed by selection of permissible maxims or a class of moral principles. Thus, a new order of nature replaces the ethically neutral predications found in Rawls' original hypothetical contract in the *Theory of Justice* (TJ). As Rawls explains a "veil of ignorance" exists in both his and Kant's ethical thought:

I believe that Kant also assumes that the evaluation of perturbed social worlds at step (4) is subject to at least two limits. The first limit is that we are to ignore the most particular features of persons, including ourselves, as well as the specific content of their and our final ends and desires (Gr 4:433). The second limit is that when we ask ourselves whether we can will the perturbed social world associated with our maxim, we are to reason as if we do not know which place we may have in that world (Rawls 86).

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<sup>56</sup> Rawls, *Lectures on the History of Moral Philosophy*, edited by Barbara Herman (Cambridge, MA: Harvard University Press, 2000), p. 167.

These limits are, therefore, regarded by Rawls' readers as a moral version of the 'veil ignorance' which is the first limit Kant imposes when he discusses the relative and subjective ends in the second section of *Groundwork*. The second limit draws upon the idea of a universal point of view mentioned in Kant's universal will elucidated in chapter one of this thesis (1.2).

To this point we have observed how Rawls could be considered Kantian. Now, we reverse the perspective to consider whether Kant could be considered Rawlsian given Rawls' CI-procedure. In the fourth illustration in the *Groundwork*, Kant refers to the maxim of indifference in which an agent behaves apathetically to another person's sympathy and love or is untouched by another's plight. In Rawls' view this Kantian maxim cannot be ignored due to the CI-procedure since it places a strong obligation on the agent. Silber reasons that Kant implies that moral agents are obligated to help anyone, including themselves, who is depressed, lonely or lovelorn in response to caring about "true human needs", an interpretive phrase Kant uses several times in the *Metaphysics of Morals*. (Rawls 85) Rawls claims that "realizing true human needs" constitutes only one of six notions of goodness in Kant's ethical doctrine. Human behavior is born of, in a limited sense, rational self-interest or, in a broader sense, of rational preferences. Reasonableness is not merely a rational decision derived from psychological human needs or a limited sympathy; rather pure practical reason outweighs empirical practical reason. Rawls' understanding of reasonable needs constitutes a peculiar transcendental concept<sup>57</sup> because the reasonable which primarily consists of the social restrictions and the ideal model of the moral agent who possesses both equality and freedom, requires a designated agent to introduce impartiality. (Rawls 94)<sup>58</sup>

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<sup>57</sup> The faculty of pure practical reason is viewed differently by most of Kant's commentators.

<sup>58</sup> Rawls says that only the second conception of the good (true human needs) is part of the CI-procedure itself. His entire pluralistic account of the good (pp. 90-95) is noteworthy, since it suggests a pluralism of the Good not found in many Kantian theories. It is interesting that Rawls does not think that Kant holds a teleological doctrine of the good, since the various conceptions of the good, in his view, are also constructed and hence are not 'antedecedently' there to be followed. He also says, echoing the view of the good in TJ that the ends or good one might embrace need not be argued for in the starting point

According to Rawls, given this principle, moral facts are incapable of dominating the principles of rational beings.<sup>59</sup> This is the essential distinction between constructivism and its rival concept, rational intuitionism, which draws upon aspects of Plato's idealism. Moore and Sedgwick explain such intuitionist doctrines:

First principles...are regarded as true or false in virtue of a moral order of values that is prior to and independent of our conceptions of person and society, and of the public social role of moral doctrines. In contrast, moral constructivism holds that first principles are better seen as reasonable or unreasonable, and not true or false. The possibility of convergence, the prospect of a principle or set of principles which are seen as the most reasonable, depends on 'everyone's affirmation of the same authoritative social perspective. (The Dewey Lectures 569, 571)

Drawing on these premises Rawls introduces a coherent concept of objectivity with epistemology. The "reasonable grounds for agreement," given the presence of a constructed social standpoint, replaces the intuitionist notion of moral truth via the antecedent order of objects and relations (Rawls 519). With this constructed social view or coherent concept of objectivity, Rawls is able to specify a unified public order of behavior that is entirely reasonable because free agents maintain the *priority of pure practical reason over empirical practical reason*. Further, Rawls argues that Kant would contend that moral law is the only way to construct a unified public order of behavior without falling into heteronomy. Rawls interprets Kantian constructivism as autonomy, not a desired term, because moral truths cannot be realized as the result of previous antecedents or experiences.

Although Rawls has proposed a plausible interpretation of Kant's conception of objectivity and rationality, his notion of the reasonable person includes too much

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of the construction – or in what I have called the Prior Original Position.

<sup>59</sup> Rawls says "to prevent misunderstanding, I should add that Kant's constructivism does not say that moral facts, much less all facts, are constructed. Rather, a constructivist procedure provides principles and precepts that specify which facts about persons, institutions, and actions, and the world generally, are relevant in moral deliberation. Those norms specify which facts are to count as reasons." See p.101

normative content (see Bohman<sup>60</sup>; Habermas<sup>61</sup>) and some of the intuitionist aspects of his constructivism lack an intuitionist's standpoint; for example, Rawls is intuitionist since he argues our understanding of rational requirements relies on the infamous 'fact of reason' of the *Second Critique*. Rawls says "conception of free and equal persons as reasonable and rational...through the moral experience...CI procedure and to act from the moral law as it applies to us" (Rawls Themes.90). Rawls missed the central feature of the view that an intuition does not permit nor require further argument for its truth. This implies that Kant could not be a Rawlsian at all. As explained in *Themes*,

CI-procedure is simply laid out rather than constructed. Kant believes that human understanding is implicitly aware of the requirements of practical reason (Rawls Themes 99).

As we consider this matter further, first, there is no doubt that the CI-procedure is "simply laid out" as necessary for all agents. Although at this point Rawls' doctrine, given its intuitionist character is close to Kant, in the *Second Critique*, practical reason through human understanding depends on the "fact of reason", which for most Kantian commentators indicates intuitionism.

Second, an aspect of intuitionism appears when Rawls sets his basis of construction on the conception of free and equal persons "as reasonable and rational...that is mirrored in the procedure... [and which is] elicited from our moral experience and from what is involved in our being able to work through CI-procedure and to act from the moral law as it applies to us" (Rawls Themes.101).

Moreover, the fact of reason according to Rawls is to authenticate pure practical reason and its first principle, moral law. However, this authentication is valid only if agents assume a practical point of view and already acknowledge that moral law is binding (Rawls Themes107-108). For Rawls this is Kant's coherent account which upholds the fact of reason and draws upon particular ideals related to the person and

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<sup>60</sup> James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, MA: MIT, 1996), p.33

<sup>61</sup> Habermas, J, *Moral Consciousness and Communicative Action* (MIT Press, 1990), pp.126–129.



society thereby providing what is needed to arrive at coherency.

This consideration has introduced the problem of authenticating or deducing the moral law through transcendental freedom we will encounter in our discussion of the *First Critique* addressed in 5.1. However, it should be noted here, paradoxically, if we entertain that Kant may hold a coherent account of authentication, we must also recognize that such a position would undermine coherency. Indeed, we are unable to find any evidence of coherent authentication in Kant's ethical writings, including his critical ethics, the *First Critique* or the *Groundwork*. For Rawls there is nothing incompatible between a coherent theory of truth and modest intuitionism. Even though we often cling to our intuitions sometimes we must surrender them when they become too costly or incoherent, given other tenets. However, Rawls presents us with a special type of coherency that maintains both a social and epistemological view. Consequently, moral decisions cannot be made in isolation from socio-political circumstances and permissions. CI-procedure constructs a set of permissible maxims and a set of subjective ends, which Rawls terms "the realm of ends" which serve to unite these two sets that embody a democracy and a commonwealth rather than Kant's kingdom of ends. As Rawls explains:

The particular characteristics of a realm of ends are, then, to be adapted to empirical, that is, to historical and social conditions...we also know that, under favorable conditions, a realm of ends is some form of constitutional democracy. (Rawls Themes111)

In Rawls' view the unity of practical reason which blends both the reasonable and the rational serves to frame the reasonable and constrain the rational. That is, unified empirical rationality takes into account the social and historical constraints, our pursuit of the good life and the pure reason of moral ideals. Consequently, moral principles are an integral part of the unity that relies on coherence with others and acts in socially expedient ways, rather solely on what one believes.

While social circumstances may contribute to the construction of moral principles which Rawls would find desirable, these circumstances may subordinate pure moral

considerations. According to Rawls, if the realm of ends forms a constitutional democracy, there will be little argument whether a person is free and equal, since such a concept is inherent to the notion of democracy. However, what about other viable socio-political scenarios? For example, the ancient Greek democracy had no commitment to the equality of persons. The principle of social justice proposed by Plato and Aristotle “treats the unequal unequally and the equal equally.”(Bk. V, Chap. VI)<sup>62</sup> Equality was not univocally endorsed and the Greeks did not have a commitment to the freedom of persons in practice.

Therefore, it appears to me that Rawls’ interpretation of Kant fails to capture the crucial Kantian concepts of autonomy, CI, rationality and the kingdom of ends. Rawls himself admits as much. While he argues that he is ‘sufficiently’ Kantian, it is unclear whether he succeeds in this endeavor. At the very least, since Kantian notions like autonomy are not a matter of degree but actuality, i.e. all action is either autonomous or it is not, then I hold that Rawls would be better served to drop the Kantian connection altogether, which he actually did in his later writings by introducing a strictly political account of justice as fairness based on an overlapping consensus.

After all, those who are Kantian will probably not be persuaded by Rawls’ inaccurate representation of Kant and those who are not Kantian will judge his system by its intrinsic merits, not by its connection to Kant. Even though Rawls associates socio-politics with the charge of empty formalism, he does not, in the end, provide a vigorous response to the charge.

### **3.2.2 O’Neill’s Constructivism**

Highly influenced by and critical of the work of Rawls, O’Neill defended and applied a constructivist interpretation of Kantian ethics in various articles and in her book *Constructions of Reason*.<sup>63</sup>

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<sup>62</sup> Plato, *Republic*. Translated by Shorey, P. in Hamilton, E. & Cairns, H. eds. *Plato: The Collected Dialogues*. Princeton University Press (Princeton, NJ: 1961).

<sup>63</sup> Since most of O’Neill’s articles appear in some form in this work and in her *Acting on Principle*

O'Neill's constructivism seeks to ensure that agents act consistently in accord with the virtuous and the good as measured by Kant's universality test. However, O'Neill recognizes that the universality test in CII is not a simple matter. She, therefore, unpacks the test with great care in order to more clearly explicate Kant's formulation of universal law and thereby defend it as a non-heteronomous ethic. She elucidates her claim by noting that her constructivist ideas "challenge the view that Kantian ethics...must be seen as either trivially empty or relying covertly on heteronomous considerations in order to derive substantive conclusions."(O'Neill *Constructions* 82) O'Neill's approach addresses the problems that Silber faces when he seeks to supplement the universality procedure (Silber's approach is unsuccessful for that heteronomy was introduced into the universality test.).

O'Neill divides the universality test (CII of CI) into two parts. The first part directs agents to "Always act on a maxim." The second part extends the ideal in the first part further, "only act on a maxim which you can will to be a universal law."

In her view, these two parts constitute the formal aspects of moral reasoning since an agent is able to evaluate the consistency of the prospective action given the maxims or principles behind the action which provide the underlying intention with formality or 'syntactic structures' (O'Neill *Constructions* 83). Through this structure, the intention is conceptually or linguistically created and serves as the rule of the universality of generalization. O'Neill claims that there are two varieties of hidden inconsistent intentions: inconsistency with universalizing and inconsistency without universalizing.

However, before we consider these intentions, the notion of maxim, as a vital role in O'Neill's construction should be mentioned. Kantian readers often, as O'Neill notes, ignore the importance of the specification of the maxim given that maxims are "those underlying principles or intentions by which we guide and control our specific intentions" (O'Neill *Constructions* 82). At a minimum, maxims must describe the agent, act, and circumstance, which constitute an essential foundation to provide agents

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(New York: 1975), I will take those two works as representing her developed view.

permission to act. However, agents do not need to complete content or maximal descriptions since in many instances, maxims cannot be universalized.

O'Neill proposes that the content of maxims must be at least be analyzed centrally in a formal mechanism. She gives the coffee example: If I welcome my visitor with a cup of coffee, I intentionally select a particular cup, although my specific intention does not constitute an act that can be universalized (O'Neill Constructions 87), since my specific intention cannot be universalized to mean that 'everyone can select a particular cup.' Therefore, my specific intention must be excluded from the maxim. However, some other specific intentions, as we shall see, have to be included in maxims in order to understand what she calls "volitional inconsistency with universalizing." The question then is: How does including or excluding specific intention lead to a moral decision?

O'Neill does not provide an observable standard for judging the morality of an act; indeed, she introduces a peculiar tension between inner, hidden intentions and observable acts. In her view, Kant's formulation cannot be employed as a standard for behavior; rather it implies that only the underlying intention can be judged by the universality test. However, underlying intentions are neither ineffable nor observable even to the self-conscious and sincere agent. O'Neill argues that the universality test is not, nevertheless, without value since it serves as a purely formal means to distinguish among permissible maxims, even though the test is not useful by legislators and judges. In the end, O'Neill is optimistic about deriving such a test from Kant's formal doctrine alone.

With this background to O'Neill's ethical thought in hand, we will now consider the two essential parts of her constructivism in greater detail. First, we turn our attention to the first part: "Always act on a maxim". We will also consider the two varieties of hidden inconsistent intentions: inconsistency without universalizing and inconsistency with universalizing.

Inconsistency without Universalizing, O'Neill proposes two non-universalized inconsistencies in the first part of her ethical thought. The first inconsistency relates to the internal character of the maxim; the second inconsistency is encountered among

various specific intentions in pursuit of the maxim. (O'Neill Constructions 89) Both of these inconsistencies arise from the conceptual and volitional inconsistency that Kant addressed in the *Groundwork*.

The first type of inconsistency or the internal inconsistency of the maxim relates to the fact that, as we noted earlier, maxims are principles of action in that they provide directives that we intend to realize; this intention is what we mean when we say that we have willed the maxim. The conceptual or internal contradiction, to which O'Neill refers, emerges when what we intend to incorporate something that is not possible. For example, one cannot will success and stay detached from the world at the same time. However, one can consistently will success in public life and yet not interact with others in private life. O'Neill sees this kind of 'schizophrenic' willing<sup>64</sup> as problematic, but tolerable within the bounds of the Kantian doctrine since such nuances dictate some formal guidelines in symbolizing maxims.

The second type of inconsistency or volitional inconsistency is the discrepancy of *specific intentions* that are *ancillary* to more fundamental *intentions*, *i.e.*, underlying intentions which O'Neill connects to Kant's 'contradiction in willing' or the inconsistency that gives rise to imperfect duties. However, this view seems problematic since specific intention is always compared with underlying intention. This difficulty in O'Neill's view particularly runs afoul of empirical practical reason, while for Rawls and Kant it does not mesh with the hypothetical imperatives. According to Kant, if one wills a particular end, one also wills the necessary and indispensable means to secure that end. A practical inconsistency occurs if the means (specific intentions in this case) are incompatible with the maxims (the underlying intention) which they are meant to serve. Consider the coffee example discussed previously: if a maxim of serving my guest coffee is my underlying intention, then, if I adopt the ancillary and specific intention of preparing and offering coffee combined with other specific intention of drinking all the coffee myself in front of my uncomfortable guest, I fall into

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<sup>64</sup> I use 'schizophrenic' willing here to express an appearance of schizophrenia that is a mental disorder often characterized by abnormal social behavior and a failure to recognize what is real.

inconsistency.

The more interesting case concerning the volitional inconsistency is related to O'Neill's account of rational action that is particularly rich. In Kant's doctrine, hypothetical imperatives is involved a kind of analytic connection between means and end, assuming that reason has a decisive influence on the action. O'Neill labels this Kantian notion as the Principle of Hypothetical Imperatives (PHI) and points out that it means that agents "intend any indispensable requirements" for the achievement of their aims. However, whilst Kant's text in the second part of the *Groundwork* appears to leave this notion inexplicit, O'Neill articulates a broader view of the PHI, which she terms rational aiming or rational intending. This broader perspective leads to her set alongside the PHI a list that is unlikely to be complete, but which extends the general discussion of rational volition further:

1. A requirement of rationality directs policies that are not merely concerned with indispensable or necessary means (as with the PHI) but also with the sufficient means for achieving the aim.
2. Agents not only identify the sufficient means, but also seek such means when they are not available.
3. Agents must include in their policies all necessary and sufficient components to achieve that at which they aim.
4. Agents must ensure that specific policies are mutually consistent.
5. Agents must ensure that the foreseeable results of specific policies do not conflict with the underlying aim.

Unlike Silber's 'buttressing rules', which are offered to support the principle of rationality, O'Neill indicates that her list does not refer to all kinds of rationality. Accordingly, we are required not only to achieve sufficient means to ends, but also to make all components of the means available. As even the language in the prior sentence suggest and as O'Neill recognizes the process of coherent intention and volitional inconsistency is demanding and complex. At this point, we now turn to a discussion of

the second part of the test of universality, namely: “only act on a maxim which you can will to be a universal law.” Moreover, we will also address the second variety of hidden inconsistencies, inconsistencies with universalizing.

Inconsistencies with Universalizing, according to O’Neill this inconsistency occurs when we adopt a non-universalizable maxim and treat ourselves as special. To expound this idea more thoroughly, let us consider volitional inconsistency first as it appeared in Kant’s third and fourth illustrations in the *Groundwork*.

However, first we do well to note that O’Neill’s explanation of volitional inconsistency in universalizing is similar to Korsgaard’s explanation of the practical contradiction related to Kant’s universality test. As Korsgaard notes, a maxim could fail the universality test due to its inefficiency and thereby, if universalized, defeat the achievement of one’s own purpose.<sup>65</sup> As Kant notes, maxims of indifference to developing one’s talents and the plight of others are akin to self-degradation. O’Neill’s echoes this sentiment when she writes:

Human beings...have at least some maxims or projects, which (since they are not self-sufficient) cannot always realize unaided, and so must (since they are rational) intend to draw on the assistance of others, and so must (if they universalize) intend to develop and foster a world that will lend to all some support of others’ beneficence and talents (O’Neill *Constructions* 111)

While this interpretation was criticized, especially by Mill, for its consequentialist trend, it parallels Kant’s arguments of non-beneficence and false-promising in the *Groundwork*. In these two cases maxims of selfishness and lying are evidently incompatible with one’s purposes to help others and keep promises. However, when O’Neill considers the Kantian maxim of failing to develop one’s talents, this pragmatic argument is less convincing. O’Neill claims that,

Forming and universalizing maxims would commit either a world in which no talents were developed, or a situation in which the necessary means

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<sup>65</sup> See Korsgaard “s Kant’s Formula of Universal Law,” in *Pacific Philosophical Quarterly*, vol,66, no.1, pp.24-26

were lacking not just for some, but for any sort of complex action (O'Neill Constructions 99)

This type of maxim, O'Neill believes fails to be volitional inconsistent. However, I hold that O'Neill is misleading us by assuming that a slothful person, not committed to any sort of complex action is in view. To presuppose such a person and his or her attendant non-commitment may be appropriately seen as an achievement in the context of that person's set of underlying purposes.

In addition, the pragmatic account fails to handle one of Kant's favorite examples: suicide. When consistency with one's own purposes is the only test, then surely we can imagine an agent whose final purpose is suicide and who holds no other competing purposes.

While volitional inconsistencies may be easily recognized, then avoided, one might tend to fall more readily into conceptual inconsistencies (internal inconsistencies). To identify them, O'Neill lists these symmetric inconsistencies:

1. Slavery: "If everybody became a slave there would be nobody with property rights, hence no slaveholders, and hence nobody could become a slave".

2. Coercion: "If all coerce others, including those who are coercing them, then each party both complies with others' wills... and simultaneously does not comply with others".

3. Abrogating: "If everyone defers to the judgments and decisions of judging others, then there are no decisions to provide the starting point for deferring in judgment" (O'Neill Constructions 96).

These cases have symmetric inconsistencies or contradictions because O'Neill does not permit the symmetric exchange of the relation. For 'all X, if X is a slave...' and for 'all Y, if Y is a slaveholder', however, like the free-rider problem,<sup>66</sup> we can find if relation is concerned over one side, alleged contradiction will disappear.

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<sup>66</sup> Further discussions on free-rider problem see 5.1



In addition, symmetric inconsistencies may prove unsettling. O'Neill's test requires reciprocity and fairness; however, other innocuous symmetric inconsistencies may prove deceptive and fail to demonstrate reciprocity and. Consider, for example, a soldier who wants to become a general. He has a maxim of being a general, once he universalizes his maxim, he will recognize that this intention is inconsistent since if everyone was general, there would no soldiers to command. This case is similar to O'Neill's example regarding becoming a slave in that, at the least, both cases are not immoral. Likewise, there are a lot of counter-examples that may well be morally permissible, but non-symmetric acts such as fixing breakfast for one's partner or spouse, allowing a rival to have the last word, or opening the door for others. These non-symmetric acts accompanied with improper relationships, do not reflect even the slightest hint of immorality.

This line of thought gives rise to O'Neill's reasoning which includes the necessity of a symmetrical maxim as a moral. Her reasoning is as followings:

[T]here is no inconsistency in an intention to engage in competitive activities of other sorts (e.g., games and sports). But such competition is ancillary to an underlying intention to win, and then the overall intention is not universalizable. Competitive games must have losers. If winning is not the overriding aim in such activities, if they are playing for their own sake, the activity is consistent universalizable. But to play competitively with the fundamental intention of winning is to adopt an intention that makes one's own case a necessary exception (O'Neill Constructions 102-03).

In this passage, O'Neill argues, if one intends to win in a competition, the intention is immoral since it is impossible for everyone to win and therefore is not universal. In a competitive game where everyone's interests are included, specific intentions are ancillary to the underlying maxims or intentions if the only appropriate attitude is to play and win. Even if we assume an attitude that winning the game is not of primary importance and the outcome means I do not win, playing the game is still valuable in and of itself. In this case, when winning is not the overriding aim, and when I or others play for our own sakes, the activity is both consistent and universal since these two

different attitudes do not make the underlying maxim immoral or incoherent. As a part of the eventual outcome, I or others may need to accept defeat for the purpose of the game is not to win or achieve other specific outcome, but rather engage the various aspects of playing the game. I may play games for my health, I may play games for developing my natural talents, I may play games in the maxim of trying to win in a fair competition; it is, then not the outcome but the process that matters. At the same, we should note that the ethical questions we face are not about how we are supposed to play.

At the beginning of this chapter, we saw that formalists must demonstrate formalism by supplementing the universality test with the designated results. These demonstrations are problematic for the supplement treats the universality test as heteronymous.

O'Neill, employing her principles of rational intending, reassigns moral action from the perspective of logical consistency to practical coherency without adding normative elements to the universal test. O'Neill's interpretation, then, is more convincing than Silber's interpretation that immoral action comes from irrational action.

A review of the process by which maxims are derived from O'Neill's system may prove useful at this point. Initially, a maxim is formulated in accord with underlying and specific intentions and then a maxim, after it is formulated must pass the first portion of the test O'Neill outlined and as a result may be reformulated. Returning to the example of serving one's friend coffee, we recall that choosing the coffee cup exemplifies a thick maxim that contains all ancillary intentions as they relate to the underlying intention and cannot be universalized. That is, not everyone makes their guests feel welcome by serving them coffee with a particular coffee cup. Thus, this maxim fails the test because it is morally irrelevant.

In sum, O'Neill gives precedence to a maxim over people and contexts. That is, an agent must distinguish the private and public when considering others' contrary intentions. Or, an agent must distinguish every other agent and his or her place in non-symmetric relationships. As I see it, O'Neill does not seriously consider the notion that

an agent considers every other agent, because such a move is not permissible for an agent who is committed to take part in a non-symmetric relationship. Therefore, to return to O'Neill's example, while an agent who engages in competitive activities, such as games or sports plays to win, because his polite competitors also want to take part in desirable non-symmetric relationships, there is nothing immoral in their action. Although this illustration may prove useful, we may well find O'Neill's approach to slavery problematic since her argument may be summarized as: slavery is morally improper because one cannot be, at the same time, a master and a slave. The better argument for abandoning slavery may be found when we consider the value of humanity in chapter six.

### **Conclusion**

In this section, I have been considering the various incarnations of Kantian formalism because I have become convinced that the emptiness problem or Kantian formalism is in error, although the foundational problems posed by Kant's works are problematic and, therefore, must be addressed if his ethic is to enjoy further development. In my opinion, it is important to undertake this work since to this point there is little extant literature that provides appropriately sophisticated analyses of Kantian formalism. In order to provide the larger perspective which underpins my analysis to this point, perhaps the following summary will prove useful.

The so-called emptiness problem as explicated by Hegel is that Kant's moral law is empty and unable to guide action. More precisely, CII merely express a principle of consistency and therefore as a test of moral permissibility is only able to examine maxims for logical errors. For example, CII is clearly able to see the apparent fallacy in a statement such as 'I want to stay dry by walking naked in the rain.'

Formalists see Hegel's argument as a serious charge that most certainly damage Kantian thought. These critics want to make the test of CII capable of generating results by suggesting that we ought to include background theory summarized in some common-sense rules. Such rules are called, variously, postulates of rationality by

Silber, constraining principles of empirical, practical reason by Rawls, and principles of rational intending by O'Neill. Silber, Rawls, and O'Neill share a strategy of demonstrating that a moral test can be made by CI1. In order to judge right or wrong, they essentially agree on where their theories lead, but disagree on how to get there. For instance, for Silber, CI1 needs supplemental postulates which hold for all rational disciplines by employing sufficient common-sense principles. For Rawls, we may succeed by placing a certain kind of agent in a certain socio-political perspective in a deliberative situation with other like agents.

Formalists attempt to enhance Kant's moral test by adding a declarative set of subsidiary maxims (O'Neill) and other 'buttressing' rules (Silber and Rawls). The ethical judgment, then, becomes an outcome of the consistency test. While this kind of test can generate results, it may be vacuous in the sense that it would do no more than forbid obviously contradictory maxims of action.

However, we still want to know why we should act or refrain from acting. We seek content in moral imperatives; our intuitions betray a pessimism concerning the sufficiency of pure, formal reasoning to determine the moral will. Although formalist elucidate the moral law, the question remains as to how to arrive at an effective procedure for determining moral obligation or duty arising from such formal moral law. The formalists' various moral necessities based on common sense, rationality and socio-politics are too heavy for Kant's ethics to bear. Their interpretation of Kant as a moral formalist who is clearly not a constructivist still lacks sufficient clarity with regard to the content of the moral law or an appropriate procedure for deriving moral principles. Formalist also fails to satisfy our intuitions about morality as they seek to address the emptiness problem, ambiguity remains.

To this point we have considered the formalists' reconstructions and limits, including the universalization test. We are now ready to consider the non-formalist perspectives.

## Chapter Four

### The Inspired Kantian Non-Formalism

The interpretation of Kant as a moral formalist or constructivist precisely, has been dominant in much of the recent secondary literature on Kant in the English-speaking world. Those interpretations have lately come under sustained philosophical attack by the defenders of a non-moral formalist or realist interpretation of Kant. We have mentioned at the outset, the essential division for formalist and non-formalist is in their understanding of whether CII is a ‘formal’ accomplishment. Thus far we have seen the formalist holds out for the preeminence of universalization in the hierarchy of principles, i.e. the buttressing rules Rawls or O’Neill posed. Now we are seeing how non-formalists treat the formal element of Kant’s ethics by insisting on parity and plurality in methodology. In doing this, I will move to two non-formalists defenses with which Steinberger and Dietrichson have contributed to the crisis of emptiness. In both cases, I will first lay out the constraints of formalist, then present in what degree the non-formalists are trying to fix them but constrain for stepping further. Regarding how the non-formalist might imply the realistic understanding of Kantian ethics, I will precisely articulate it in the final chapter.

#### 4.1 Dietrichson’s ‘Typic’- Mediation-Principle

In his paper ‘*When Is a Maxim Fully Universalizable*’, Dietrichson is attempting to clarify some of the misreading of Kant. Dietrichson sees those misunderstandings appear in secondary literature by grounding everything directly in Kant’s works. By showing how Kant bridges the gap between the abstract concept of universal moral law and particular material actions, Dietrichson concretizes the moral law through the restatement of abstract moral law in a concrete form, which he terms ‘typic’

To forbid the emptiness charge, Dietrichson's defenses of CI in concrete considerations have two parts: acting from duty and the Mediation Principle-Typic. For the direct discussion of the emptiness charge, I will mainly analyze the second one.

#### **4.1.1 Acting from Duty**

Dietrichson distinguishes between the acting from duty and acting according to duty, which implies he is ready to seek the content of moral law in Kant's ethics. Dietrichson begins with the claim that universalizability in Kant is based on criteria derived from an attempt to determine whether an action is "objectively correct" (Dietrichson 1)<sup>67</sup>, but that this must meet with a certain form of subjective worth or value, and as such, we must also speak of motivation or intention behind the action, and expressed in the maxim. The motivational ideal is transcendent, and thus "humanly unattainable". The impossibility of a complete dependence on reason, or a complete understanding and adherence to the moral law, is based on what Dietrichson calls our existence as "sensuously affected beings", as well as our existence as rational beings even though it is impossible to grasp a complete reference to moral law as Dietrichson proposed, this orientation of the will towards moral law constructs the will in reference to universality.

In this very beginning, we might get a first image that Dietrichson seems to engage the thought of formalist's procedural explanation of universalization. The formalists resolve the emptiness critique by insisting on the rationality in procedure (Silber) or the reasonable constrained by rational (Rawls). As I have pointed out, these attempts fail because they are merely the formal acknowledgement of universalization.

However, apparently it is not. Dietrichson articulates that we can never actually fully grasp the totality of moral law, or rationality; the only basis of worthy intention is

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<sup>67</sup> Dietrichson says, "It is important to keep in mind that the Kantian universalizability criterion is not a criterion for determining whether a given action is subjectively worthy (fulfills 'the spirit' of the moral law) but only a criterion for determining whether an action is objectively correct (fulfills 'the letter' of the moral law)."

to fulfill duty through a reference of moral law, understood rationally. This is what Dietrichson claims Kant means when he speaks of acting from duty, or acting from an intention to fulfill moral duty. According to Kant, a persistent striving of that kind (striving to approximate pure practical reason) is not a means to purity of heart; it constitutes purity of heart, fulfillment of the requirement to act 'from' duty (Dietrichson 23). The concept of moral law springs from pure reason or reason that exists separate from empirical considerations. Since pure reason is able to be relevant to material action, we see a conceptual bridge is constructed in the form of the maxim, to the degree that it is tested in accordance to prescriptive law, a determinate rule of action. This determination, it must be stressed, is voluntary and subjectively constructed, while the basis of the analysis, this intend to act from duty, is based on an understanding of moral law.

Hence, Dietrichson points out a non-formal approach to explain Kant, it is non-formal because it raises the humanity-the material for Kant to guide action. Precisely, because the pure reason enables us to grasp the moral law, we are striking to fulfill the requirement to act 'from' duty as it constitutes the purity of our humanity. Dietrichson did not see the formula of moral law as a formal accomplishment that reason alone could identify moral law, there must be some non-formal matters. For Dietrichson, there is a particular explanation of maxim or specifically Mediation Principle-Typic, through which pure reason is relevant to material action. Given the acting from duty the typic or mediation principle, Dietrichson criticizes the emptiness charge.

#### **4.1.2 Mediation Principle-Typic**

Dietrichson articulates that the abstractness of CI based in pure practical reason does not define the particular material 'nature of things'. To the degree that the concept of universality, in an actual sense, is based on an abstract CI of pure practical reason. CI1 posits that we should will that the maxim becomes universal, and act on maxims that we could rationally will to be universal. But, because the question is left open, this formulation, in itself, cannot provide actual guidance for material action, but only for

abstract analysis. As Dietrichson puts it, pure practical reason, framed through rationality, determines that I should act on maxims that are abstract, but provides no guidance as to how this is determined; this remains an open question to the degree that one cannot fully grasp pure reason in itself. This gap, between the abstract analysis of moral law and the particular and material action, is bridged by the *typic*, or a concretizing of the moral law through the restatement of abstract moral law in a concrete form, which Dietrichson terms a mediation principle:

There is obviously a need for some principle of mediation, whereby the purely abstract moral law can be made concretely applicable as a standard for determining whether such a material maxim of voluntary action is morally legitimate... Kant meets that need; what he calls the '*typic*' (Dietrichson 26).

The *typic* grounds the abstract analysis of moral law, but only symbolically; the *typic* is a restatement of a moral law in a concrete form, but only into an abstract representation of a concrete form. To the degree that moral law remains completely abstract it would be impossible to deduce determinate material reference, or the possibility of concrete application. Dietrichson makes the point that, in this form, the very concept of a moral maxim would be fundamentally contradictory; there can never be a maxim devoid of reference material.

Here he defends Kant out of the emptiness charge; it is not that Kant has ever claimed that moral maxims derive from abstract moral law; he only claims that the moral worth of the maxim is determined by whether it conforms to abstract moral law. As such, Dietrichson claims that CI cannot generate moral maxims as the formalist would insist, it is only a medium through which material maxims can be evaluated in relation to abstract moral law, through rationality. Further, Kant's view is, according to Dietrichson, that we cannot directly apply formal moral laws to the analysis of maxims unless the abstract principles of the moral law are expressed through a *typic*.

#### **4.1.3 Dietrichson's Objection to Empty Formalism**



We see how Dietrichson departs the emptiness charge by the typic or mediation principle. He writes directly in oppose of a misguided criticism of Kant's ethics

A great deal of misguided criticism of Kant's ethics has resulted from a failure to see sufficiently clearly how the typic is—and why is has to be—in kind different form a schematism (Dietrichson 26).

Dietrichson begins with the claim in the First Critique that transcendental categories cannot be directly applied to sensory intuition. This is based in a fundamental disjunction between the formal/universal and the material/particular. Because moral law is abstract, and non-empirical, it cannot function on the level of a law of nature, or a necessary causal chain of events. If the moral law could become schematized it would determine the causal chain of events, eliminating any concept of moral autonomy. However, we can never fully grasp our freedom, which would require grasping the noumenal in some total way. The construction of this bridge between the noumenal and the phenomenal needs to occur completely outside of the framework of the schemata. If the moral law were fused with the schemata, then we would have to base moral law in a contradictory form, with the empirical existing as a fundamentally constitutive part of the law of non-empirical beings. Therefore, the construction of the typic has a limit. It cannot become schemata, or a literal fusion of the noumenal and phenomenal; its role is purely figurative. The typic is a rational fiction, based on the rationality of pure practical reason, but in a fictionalized form, conceptually concretized as a practical device. In this the typic is neither purely abstract, it is not just abstract moral law, but it is also not purely concrete, which would eliminate the universality of the moral law as a category. Rather the typic is a fusion, but only as a practical device to bridge the gap between the universal and the particular. The fundamental disjunction between the universal and the particular constructs a situation in which the typic, in itself, is necessarily the construction of a hypothetical world.

Dietrichson gives what Kant means by the typic of pure practical reason is a fusion for conception of universal and particular. Since the typic of pure practical reason or the primary and the secondary universalizability criteria contained in the typified CI are

not only conducted in a very abstract manner, but also in a concrete manner. Dietrichson, quoting Kant heavily, constructs a dual universalization test, which is the primary universalizability criterion and secondary universalizability criterion. He embarks on a discussion of examples as the Benjamin Constant's case to demonstrate this point:

Firstly, one must ask whether one can consistently think the principle of the maxim as a universal law of nature.

Secondly, one must ask if it is possible to will that the maxim should hold as universal law. (Dietrichson 364)

Dietrichson discussed three occasions throughout his analysis in the Constant's criticism where Kant was criticized by Constant for going "so far as to affirm that to will a falsehood to a murderer who asked us whether our friend, of whom he was in pursuit, had not taken refuge in our house, would be crime".<sup>68</sup>

First, one maxim that fails the primary and universalizability criterion.

For example, maxim of non-benevolence, Dietrichson claims the maxim fails in first formulation of the CI. It fails for the logical reason, not that a matter of psychological fact. Because moral action is not whether a person psychologically would want, but whether he logically could want the principle of his maxim to hold as a universal law of nature. A person might honestly say that he would be perfectly willing to see the principle of a certain maxim hold as a universal casual law of a system of nature of which he himself would be a member. Principle of non-benevolence will not be held for me as a universal law of nature. I am making a moral appraisal that I explicitly or implicitly have to envisage myself as a part of if within the factual type of world-order or counterfactual type of world-order. One can consistently think of the principle of the maxim of benevolence as a universal law of nature.

Second, one passes the primary, but fails to pass the secondary.

For example, Maxim of deceiving. Dietrichson considers the maxim of deceiving

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<sup>68</sup> Beck discusses of Kant's view on a supposed right to tell lies from benevolent motives, see also Dietrichson p. 364.

that whether telling the murder truth to save my friend's life (see my footnote 8 on Constant's charge). Whether telling the truth or telling a lie is not the case, because the particular way I might deceive or lie is not part of the general principle of the maxim which would hold as universal law of nature. I may deceive by any means I see, while the murderer may get the impression that I am lying. A murderer is always able to decide to make such inquiries and attempts to analyze what is truth or untruth. It is perfectly possible to think consistently the idea of a world in which the principle of my maxim would hold as a universal law of nature. That is, the murderer or the victim must ask whether one can consistently think the principle of the maxim as a universal law of nature. But, how possibly willing that maxim as it could become universal law? Given Dietrichson, lying to a murderer is impossible, because one has to take into account a type of situation in which such a wish would contradict itself. It is impossible to conceive of a maxim be modeled on the attempting to deceive. The maxim in question is therefore a morally impermissible one according to Kant's secondary universalizability criterion.

Third, the maxim passes both the primary and secondary test.

Dietrichson at the end of his article discusses the best possibility that could be avoided by Constant's charge. Dietrichson also considers the maxim of deceiving the murderer to save my friend's life. But he defends it not only by the first formulation, but also the second formulation. Dietrichson doubts seriously that the maxim of attempting to deceive the murderer in order to save my friend's life is Kant's clear, full implication of the principle that he himself laid down in his previous works on ethics to make the example unambiguous. Let us assume that my house is such that it would be impossible for my friend to escape from my house except through the door where I am confronting the murderer. At the outset, the person has the reason to believe that my friend will be killed if I in some way or another let the murderer know or come to suspect that my friend is hiding in the house. I could therefore hardly be said to let him know the truth and thereby aid him in his search for my friend. By featuring the maxim of telling the truth, I cannot consistently think the principle of the maxim as a universal law of nature. By considering Kant's second formulation of the typified CI, it seems to me that I would, in that case, be treating my friend as only a means. I would be sacrificing, not

only my friend's future happiness, but his life in order to enable myself to adhere to an abstract principle in my declarations. It is reasonable to interpret the secondary universalizability criterion, for in this criterion, the maxim of telling the truth is essentially treating humanity, not merely as means but as ends, the maxim of treating others ends could become universal law.

That objection to the maxim of attempting to deceive to a murder might seem similar as e maxim of non-benevolence. I shall attempt to show, however, that the two objections are different in kind and that the maxim of attempting to deceive to prevent the murder does satisfy the secondary universalizability requirement of the CI; at least I find it reasonable to interpret that criterion.

Dietrichson also speculated why Kant late in life during his controversy with Constant defended the view that one has a duty to be truthful regardless of circumstances. What I see the most is the spirit Dietrichson explores from Kant. Known critics usually take Kant's illustration as the particular duty because Kant in his major works on ethics, since *Groundwork*, gives specific examples of maxims and shows how they are to be tested in terms of the primary and secondary universalizability criteria of the CI. Kant illustrates different types of empirical circumstances in the light of occasional vagueness and ambiguity of CI on this point. Dietrichson maintains that the emptiness charge upon Kant would be of biographical interest only. That is, not only during that late period of his life, Kant responded the disputes from Constant, but all along Kant had convinced and clearly intended to assert that a given action is disregarded entirely upon type of empirical circumstances. Kant did his biographical or philosophical search which may result in his remarkable doctrine of humanity, the CI, the combination of first formulation and the second formulation.

Finally, In Dietrichson's view, Kant's writing did show that he all along regarded types of empirical circumstances of actions as irrelevant to moral judgments; his universalizability criteria would in that case have been in need of philosophical reconstruction on that very point in order to serve as criteria of an ethically reasonable type.

Dietrichson's argument is successful in some ways, especially given the details

that he listed about maxim, he concerns the moral relevance of empirical circumstances in which an action takes place. This, as Dietrichson also agrees, might be Kant's moral legality of the subjective principle of the action applies the CI as a test of the moral law. However, it should be noted that leaves some questions open. Discussion of the topic allows him to construct a relevant content to CI. However, this comes at the cost of potentially sacrificing actual adherence to actual universal moral law. If duty is only an approximation, and moral law always must be modified to be relevant, then one can never hope to attain actual morality in some direct and total sense. This leaves the discourse on the level of willing the impossible adherence to moral law, even if one can never actually grasp universality.

## **4.2 Steinberger- When a Maxim is not Universalizable**

### **4.2.1 The Standard view of CI**

In the paper *The Standard View of CI* Steinberger attempts to resolve the critique of emptiness, not based on the critique of others, or about choosing between given views. Rather, he is attempting to bring this project back into line with what he sees as a more direct reading of Kant, and a more direct basis in the development of CI, rather than what he views as the construction of hypothetical conditions on CI, or hypothetical imperatives. He argues that the common attempts, embodied by O'Neill (see O'Neill formalist reconstruction in chapter three) are based on a standard reading of Kant which departs from the text itself. Steinberger positions the question of universalizability on a slightly different conceptual terrain than most thinkers that have engaged with the question. Rather than asking the question about when a maxim is able to be universalized he focuses the discussion, and the discourse of universalizability, around the question of when a maxim is not universalizable.

At the opening of his paper, Steinberger proposes the debates for Kant's moral law are not simply on whether a formal criterion of rational willing could establish as universal moral law, but on whether the formal formulation fails to have any substantive implications, he says,

It should be emphasized that Kant is being criticized not simply for failing to achieve his evident goal, viz., to show that the formal criteria of rational willing are sufficient to establish for all rational agents a single, universal set of moral laws. Rather, the argument is that Kant's formation fails to have any substantive implications whatsoever. (Steinberger 1)

Steinberger sees on one hand the age-old prejudice against Kantian ethical theory remains unrefuted; On the other hand, it does mean the emptiness charge is not irrefutable. Steinberger argues that the standard view of CI is far less promising than has generally been thought. He quotes some Williams's argument in *The Concept of the Categorical Imperative* and says,

The empty formalism charge is attendant to what one author has called the "traditional interpretation of the CI. " <sup>69</sup>According to this interpretation, "the moral value of maxims is determined by reference to their form alone without reference to ends and consequences.... (Williams 56) "Among Kantian specialists, such an account is now almost universally rejected precisely because it is thought to leave Kant defenseless against the charge of empty formalism. These commentators have proposed, instead, an alternative kind of interpretation that emphasizes outcomes: you cannot rationally will that a maxim of action should become a universal law if the (hypothetical) result of doing so would be the establishment of a universal law that could not possibly be obeyed. (Steinberger 2)

Likewise, Dietrichson's approach to explain CI into two parts, Steinberger argues that the emptiness critique is based on a traditional reading of CI in which the maxim is evaluated separately from the ends and consequences of the action. There is, therefore, an attempt in the Kantian literature to reformulate CI around a concept of consequences:

You cannot rationally will that a maxim of action should become universal law if the (hypothetical) result of doing so would be the establishment of a universal law that could not possibly be obeyed

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<sup>69</sup> T. C. Williams, *the Concept of the Categorical Imperative* (Oxford: Oxford University Press, 1968), pp. 37-56.

(Steinberger 5).

This reading, according to Steinberger, is unpersuasive in a couple of ways. Firstly, Steinberger realizes that the moral law is not guided by the mere logical consistence. Steinberger reviews Harrison's argument that the maxim of breaking promises<sup>70</sup>, if universalized, undermine the systematic harmony of purposes. Since such result is based on experience of breaking promises. Kemp argues that Kant indicates self-contradiction in the CI is essentially logical.<sup>71</sup> Steinberger takes Harrison's point is at best the causal ones, not logical impossibilities. I will call this 'reason alone consistence' later because reason cannot alone identify the moral law.

Secondly, Steinberger points out that if the consequences of the universalization of a maxim are contradictory in no way does this imply that the maxim itself is contradictory. He says,

I take this to be a much stronger version of the argument from consequences. As such, it has become, in one form or another, the standard view. According to this view, the maxim of action A is said to be ruled out if its universalization would make it impossible subsequently to perform actions similar to A. this formulation is not only widely accepted; it also has a very strong textual warrant(Gr423). We must, therefore, be surprised to realize that in fact it describes nothing that could even remotely be called a self-contradiction (Steinberger 4).

It is possible that lying, for example, could, if universalized, erode the structure of trust that interaction is based on; it is possible that, in any other series of circumstances, this does not occur. Therefore, no analysis of the possible consequences, assuming an entire world of predictable contingencies, could ever generate a necessary moral conclusion; it can only generate contingent moral conclusions. All conclusions within

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<sup>70</sup> Jonathan Harrison, "Kant's Examples of the First Formulation of the Categorical Imperative," in *Kant's Foundations of the Metaphysics of Morals: Text and Critical Essays*, ed. by Robert Paul Wolff (Indianapolis: Bobbs-Merrill, 1969), p. 217.

<sup>71</sup> J. Kemp, "Kant's Examples of the First Formulation of the Categorical Imperative," *Philosophical Quarterly* 8 (30):63-71 (1958), p. 238.

this re-reading of CI would have to be based on a disclaimer, “if we assume this particular structure of contingent situations then universalization would result in x”. (Steinberger 4) This re-reading of CI noticeably regarded as consequentialism, would be inconsistent with the central idea of Kant’s ethics, namely, that the result, outcome or consequence of action are mere ‘matter’; for formalists, the moral law must be formal hence universalizable. Formalist reconstruction avoids this misreading by demonstrating the moral law is merely identified by reason alone, but the problem is always that how procedures could be effective for determining moral obligation or duty that can be operated by such formal moral law.

Moreover, it is not outside the realm of possibility that someone may be trying to subvert the possibility of a specific action. If this were the case it could be argued that the action was immoral, but the analysis of the action would be completely consistent with the end, the subversion of the possibility of the action. O’Neill, again, attempts a slight modification in the understanding of CI, in order to deal with this possibility by reframing CI around normal and predictable results of universalization by revealing a literal contradiction.

The Standard view, as formulated by O’Neill and others, fails because it involves a most peculiar understanding of what it means to universalize a maxim of action. Universalization must, I think, mean that a maxim can justifiably be adopted by all rational agents who would perform a particular action A; but added to this, O’Neill and others seem to believe that universalization also means that a maxim can be justifiably acted upon at all times and in all conceivable circumstances(Steinberger 5).

Steinberger breaks this reframing around a two-stage argument. Firstly, the argument removes the discussion of consequences from having to apply in all possible contingent circumstances, positioning them only in relation to normal and predictable consequences. Secondly, within this normal and predictable series of contingencies the maxim would be self-contradictory if it yielded a result that was literally and materially impossible to perform. O’Neill uses an example of the promise; if I were to will breaking promises as universal it is predictable that this would end the reliability of the



promise, if universalized, and would, therefore, make it impossible to speak of promises, and thus the breaking of promises. But, O'Neill's reframing of CI severely modifies Kantian universalism; it is no longer a question of universalization, it became a question of the universalization of action within what we consider to be normal circumstances.

#### **4.2.2 Steinberger's Rejection of O'Neill's Maxim**

Steinberger rejects O'Neill's reading based on a problematic construction of the maxim itself. O'Neill's reconstruction does not make the last move, given that the maxim 'to be a general' is not permissible because the agent committed to take part in a non-symmetric relationship. In this sense slavery should be abandoned merely because one cannot be at the same time a master and a slave. Steinberger rejects O'Neill's argument relying on a construction of the maxim. This construction already implies the end of the maxim, and the scale of universalization. As such, what can be generated is a contradiction between the intended result and the possible consequences, but not a self-contradiction internal to the maxim itself. For example, if the maxim is 'break promises if one so chooses', to take an example from Steinberger, then the universalization of this maxim would not lead to any form of self-contradiction since if everyone could break promises whenever one chooses, the structure of the promise still exists.

Steinberger ties the deficiency of this view back to an odd concept of universalization. Kant directly frames the concept of universalization, within CI, around the universalization of the possibility of the action being carried out by all rational agents while O'Neill adds a second assumed step into this process, assuming that this action would be carried out by all rational agents "at all times and in all conceivable circumstances" (O'Neill Constructions 95). This assumes an action that is justifiable in a circumstance, must be justifiable in all circumstances. Steinberger argues that this form of universalization ignores that an action occurs within particular dynamics in a particular way, and as such, not all lying is the same lying. It can never

be the case that general action can occur outside of the particularity of their occurrence, and as such, it cannot be possible to construct general maxims separated from circumstantial contingency.

On a more formal level, the maxim at least assumes the possibility of the action, thus it is absurd to make the claim that the maxim, in itself, outside of any contradiction between intended result and the possibility of said result if universalized, is impossible. For example, the maxim of breaking promises when one chooses to assume the existence of promises, constructing the particularity of the maxim of that particular action, which cannot be removed from this context of the possibility of promises. To show that a maxim is intrinsically without moral worth is to show that it is without moral worth regardless of circumstances. What O'Neill asserts is normal and predictable circumstances, while early writings of Paton assume a systemic harmony of purpose. This yields only hypothetical imperatives which function to the degree that we assume normal and predictable circumstances or assume the moral primacy of a systemic harmony of purpose. As such, Steinberger concludes, the standard interpretation, voiced by O'Neill and the early Paton, fails utterly to establish a categorical basis for the Kantian project, a basis that is essential to overcome the emptiness critique. However, regarding to what this categorical basis is, Steinberger did not explain it further.

## **Conclusion**

In this section, I work on the relevant critics to emptiness critique. Given that the formal and non-formalistic reading of Kant's philosophy differs in the role they assign to CI, the two non-formalistic defenses offer great attempts to explain the emptiness critique and present problems. Each argument is successful in some ways, but each one has its obscure part and leaves some questions open.

Dietrichson, succeeds in grounding his narrative in Kant's text and eliminating a lot of misreading of Kant presented in secondary literature. And, the discussion of the topic allows him to construct a relevant content to CI. However, this comes at the cost

of potentially sacrificing actual adherence to actual universal moral law. If duty is only an approximation, and moral law always must be modified to be relevant, then one can never hope to attain actual morality in some direct and total sense. This leaves the discourse on the level of willing the impossible adherence to moral law, as one can never actually grasp universality.

Steinberger's critique of O'Neill is rather successful. In her specification of 'normal and predictable' circumstances there is a limit to the universalization of CI. Steinberger makes a great doctrine directly citing Kant, and deriving points from this citation. In this closeness to the text, Steinberger is able to show how other views (O'Neill) may depart from the limit the universality of CI though. In doing so, she fails in establishing a categorical basis for Kantian ethics, and acknowledges as much, but in the attempt to show how the 'standard view' departs from Kant, he is somehow successful.

In sum, Kantian formalism supports a theory that there are correct procedures for determining what is morally wrong in the CI test. It is simply a fact that this is the correct procedure and it is not at all clear that the facts about correct procedures are genuinely less ontologically and epistemologically problematic than facts about what is morally right or wrong. Whereas their opponents, for different reasons, have made effective attempts, but, are constrained from stepping further.

## Chapter Five

### The Non-Formalistic Expressions in Kant's Writings

The previous chapters have given my argument that the emptiness charge against CI1 is, indeed, successful. We have learned that formalistic expressions in *Groundwork* and the *Second Critique* may label Kant's formality ethics. We have seen that both approaches that formalist and non-formalist unpacks CI1 to solve the emptiness problem are not successful.

In this particular chapter, my approach to Kant will therefore attempt to offer a non-formalism account of the experiential dimension of Kant's moral philosophy. I will do so by focusing upon the pre-critical period, *the First Critique* and the *metaphysic of morals*. My discussion of pre-critical period will state that there is tendency toward anti-formalism. My argument is based on three aspects: firstly, this anti-formalism tendency is given through Kant's rejection of Wolff's formal procedure. Secondly, Kant views that moral obligation must be practicable hence non-formalistic. Thirdly, Kant's central concept in ethics, the contradiction in will implies to treat others as humanity or ends.

After examining Kant's implication concerning this anti-formalism in pre-critical period, I will turn my attention to the *First Critique*. I will argue Kant's moral Platonism points out two non-formalism aspects. Firstly, transcendental logic is not derived from the merely formal structure of judgments. Secondly, normative determination is made through practical freedom, this freedom is expressed as our humanity in CI2. In my reinterpretation of *Metaphysics of Morals*, I will argue that Kant would accept a non-formalistic moral law, which implies a value realism. This appreciation for the complex interplay of value realism will help us to uncover the non-formalism dimension of Kant's moral philosophy, and should therefore help us to address those emptiness criticisms that have contested the existential veracity of his ethics.

## 5.1 The Pre-Critical Period: A Tendency toward Anti-Formalism

In this section, I will discuss a tendency toward anti-Formalism in Kant's earlier writings at three aspects: Kant's criticism of Wolff's formal procedure, Kant's Non-formalistic moral obligation and the implication of the contradiction of will.

The Pre-Critical Period of Kant's thought found in his correspondence, transcripts of his lectures and some of his earliest writings were all influenced by a variety of sources.<sup>72</sup> At that time, like most lecturers in East Prussia, Kant's textbooks and core lectures were largely based upon the philosophies of Leibniz and Wolff. In his 1764 Preisschrift (Berlin Academy *Prize Essay* of 1764, *Inquiry Concerning the Distinctness of the Principles of Natural Theology and Morality*) Kant adopted two Wolffian principles including the rule of commission which stated that one should 'realize the greatest perfection you can' and the rule of omission which said 'do not do that which can hinder the greatest possible perfection realizable through you.' Wolff's argument that we strive to procedurally achieve our sense of moral obligation was seen by Kant as a formal procedure because there is no material content for what indeed constituted perfection or inner goodness. For Wolff, the ends or effects of a particular action are based on our ability to calculate perfection, which espouses a Utilitarian view since with everything being equal we pick one option in an attempt to arrive at maximum perfection. Mill, for example, one of the influential Utilitarian philosophers, holds that social utility acts as the final arbiter of morality.<sup>73</sup> However, Kant finds Wolff's formal procedure unfeasible since the calculations he postulates are virtually impossible in attempting perfection.

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<sup>72</sup> For an analysis of the complex developmental influences on Kant's moral philosophy, see Manfred Kuehn, *Kant: A Biography* Cambridge: Cambridge University Press, 2001; Keith Ward, *The Development of Kant's View of Ethics*, Oxford: Oxford University Press, 1972.

<sup>73</sup> For a detailed analysis see 2.1.21 and 1.222.2 how both Hegel and Mill interpret Kant given their respective 'formalist' criticisms of his moral philosophy.

Kant addresses this impossibility in his *Prize Essay*. In this essay, Kant agrees with Crusius' criticism of Wolff, who argues that Wolff takes refuge in formal obscurity to explain his principle of human perfection especially noting that moral obligation cannot be determined given this obscurity.<sup>74</sup> Kant says:

And now I can with little effort show how I became convinced, after much thought, that the rule 'do the most perfect action which for you is possible' may be the first formal ground of all obligations to act, just as the proposition 'refrain from that by which you hinder the greatest possible perfection' is what is to be done from the point of view of duty. And just as nothing flows from the first formal basic principle of our judgments about truth, neither does any special, well-defined obligation follow from these two rules of good alone, where no material ground principles of practical knowledge are combined with them ( *Prize Essay*.2:229).<sup>75</sup>

Further on in his essay, Kant notes that Wolff's view tends to support amoral perfectionism a kind of moral *perfection* by stating: "And here we find that such an immediate supreme rule of all obligations would have to be absolutely indemonstrable. For from no consideration of a thing or concept, whatever it is, it is possible to know and infer what we should do..." (*Prize Essay*.2:229).

Kant's comments during this Pre-Critical Period can be interpreted as a tendency toward anti-formalism. Although Kant does not directly oppose Wolff's formal procedure ethics and did not completely reject Wolff's teleological view, because, to some extent, Wolff's view assisted Kant in realizing that the right way to know the end is an important concept which is reflected in his later ethics. But Kant realizes that Wolff's formal requirement of 'realizing the greatest perfection possible' failed to express the matter precisely and merely asserted the notion of perfection. Therefore, at the end of the *Prize Essay*, Kant does not satisfy a formalistic explanation by noting

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<sup>74</sup> It is not obvious in the *Prize Essay* that Kant wants to embrace Crusius' position; Kant praises Crusius for having understood the problem with empty ethical formalism and criticizes his doctrine of obligation for being likewise empty formalism.

<sup>75</sup> Ernst Cassirer, *Kant: His Life and Thought*, pp.232-34, translation by James Haden 1981

that “the fundamental concepts of obligation” still need to be “determined more reliably” (Prize Essay 199).

Further, this essay is also noteworthy and very prophetic, since Kant hints at the distinction between hypothetical and CI which became more prominent in his thought as he developed his philosophy.<sup>76</sup>

One ought to do this or that and not some other things. This is the formula under which every obligation is proclaimed. Every ought presents a necessity of action and is qualified for two meanings: either I ought to do something as a means if I wish something else as an end, or I ought to achieve my real end directly (that kind of something else). The former we can call the necessity of means (*necessita temproblematicam*), and the latter the necessity of ends (*necessita temlegalem*). Through the first necessity no obligation can be stemmed from; the solution of a moral problem is prescribed by clarifying the means which I must use if I wish to achieve a particular purpose and end (Gr.300).

The second necessity, the necessity of ends is stringent, formal and complicated. As Kant began to use formal requirements in his emerging ethical theory, he resolves the traditional distinctions between ‘*Ought and Is*’. The is-ought-problem Hume introduces states that based on mere is-statements (descriptive statements) no normative conclusion (ought-statements) can be drawn. Kant took himself to have effected a ‘Copernican revolution’<sup>77</sup> in philosophy which ultimately leads to humans conforming to a necessary end that allows for an imperative moral obligation to be categorized. Wolff and Crusius point out that the moral obligation through some necessary means to the necessary end fails to offer a sensible demonstration of categorical moral obligation or the truly necessary. According to them, the right end is reconciled with

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<sup>76</sup> This view is given by Ernst Cassirer. Cassirer sees that this passage contains the fundamental concept of Kant’s ethics yet to come: the strict distinction between the Categorical Imperative of the moral law and the hypothetical imperatives of merely mediate ends is discussed here with full precision and clarity. He seems to have been the first to recognize the importance of this passage, though others of late have also emphasized the connection to Kant’s mature view.

<sup>77</sup> Silber, J. (2009). The Copernican Revolution In Ethics: The Good Reexamined. *Kant-Studien*,51(1-4), pp. 85-101

the morality which requires the means of moral obligation to follow a formal principle. In other words, the right end must follow a formal principle or mechanism that is designed to achieve the requisite end. However, for Kant, this position is an exaggeration that does not ultimately answer the associated logical question: How can the proposed end be necessary? Wolff and Crusius respond by appealing to God's preference for a perfect world in harmony with divine will. However, neither philosopher explains why God is a supreme ruler with the power to motivate and direct human will that, in turn, leads to compliance.

In his 1764 essay, Kant alternatively deals with these problems in a psychological way. He adapts the theory of Hutcheson and later Smith in order to demonstrate the principle of obligation (Prize Essay 299)<sup>78</sup>. Having drawn the conclusions from the doctrine referenced in the footnote below, Kant avoids falling into Leibinizian optimism.<sup>79</sup>

We have recognized that the faculty of predicable truth is about the intellectual ability, moreover, the sensation of the good is obtained via our feeling, and most importantly this feeling seems not to be interchanged at this aspect. The analogy of this issue can be easily made between the un-analyzable concepts of the true and the un-analyzable feeling of the good. We attempt to understand the complicated and peculiar concept of the good by presenting that the simple feelings of the good can particularly mean, if we set the question aside and insist that the feeling of the good is just as simple as the judgment, 'this is good', then the morality will be indemonstrable, for it contains a direct effect about the conscious feeling of the pleasure in accordance with the concept of the object. It is certain that there are many sensations of the good that are not doubtful in us, since there are also many simple un-analyzable conceptions of the good (Prize Essay 299).

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<sup>78</sup> Kant credited Hutcheson and others (Hume and Shaftesbury) for showing us that the material basis of the good was not merely some object of cognition; he remarked that 'Hutcheson and others have provided a start toward some excellent observations.' but that it was instead a matter of simple feeling that could not be analysed. By 1771, Kant seems to prefer Smith amongst the British moralists, according to the July 9 letter from Marcus Herz.

<sup>79</sup> Naturally, this argument is simply the Christian retort to the Epicurean argument against theism. Because Leibniz argued that if one is to hold the traditional theistic conception of God and believe that one can meaningfully assert that the world could have been other than it is, then one must hold that this world is the best it can possibly be.



In these words, Kant treats moral obligation as implying an un-analyzable concept of the good or simply the sensations we immediately feel and follow. Therefore, given the peculiar sensation and subjective characteristics of the good, the good becomes absolutely indemonstrable. Moral obligation consequently is closely associated with subjectivity. At the end of this essay, Kant concludes that we acquire ‘many’ such simple feelings of the good in practice and that the good is indeed ‘the foundation for all the other practical principles.’ Even though he held that the fundamental principle of obligation still needed to be ‘determined more reliably,’ this essay nevertheless indicates that Kant’s early views espoused the idea that ethical obligation or the necessary end is primarily driven by a kind of subjective, simple, and indemonstrable sensation.

However, Kant also realized this perspective was problematic because he was cognizant of the deficiency in Wolff’s principle, namely, that subjective feeling is not a demonstrable basis for establishing the necessary end of moral obligation. Kant may have seen that moral obligation must have its demonstrable basis as non-formalistic character. In response to this dilemma, Kant adopted another psychological approach to describe how the good practically functions. He argues that while one’s immediate good feeling remains indemonstrable to others it could be demonstrable to one’s self. The simple sensation of a good feeling is intuitively irrefutable and psychologically immediate given in Kant’s letters on ethics 1785,<sup>80</sup>

The principle of morality from empirical grounds of inner experience is derived from sense in two ways, namely a, from physical, and b, from moral sense. Those who reduce the principle of morality to physical sense are the epicureans, and their principle is that of self-love, and rests upon the comfort and safety of our condition.

Those who assume a moral sense, whereby we are supposedly able, by feeling, to perceive the propriety or impropriety of our actions, have the principle of moral feeling. Shaftesbury introduced it, and had many

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<sup>80</sup> Part 3, *Morality According To Prof. Kant: Lectures on Baumgarten’s Practical Philosophy*, C. C. Mrongovius 1.Jan,1785

Englishmen, including Hutcheson, as followers. The moral and the empirical senses are both internal empirical grounds. Those who assume external empirical grounds as the principle of morality, base it on examples of custom and education, through community with one another, men engender that which seems similar to a moral law (Kant's letters on ethics.29:622).

Kant holds, then, that the subjective, empirical and internal serve as the foundations of moral feeling and also the basis for the principle of morality. However, after a short while, he realizes this psychological explanation of morality remains deficient. Consequently, he alters his views in order to essentially rule out obscurity and specifically the notion of the privacy of the indemonstrable concept of the good. Therefore, one year after the *Prize Essay*, Kant deals with the problems associated with subjectivism and his psychological approach to morality in his work entitled '*Bemerkungen zu den Beobachtungen*' (*Observations on the Feeling of the Beautiful and Sublime*).

In this essay, Kant proposes that external obligation replaces the indemonstrable inner feeling of the good. By external obligation Kant means that if moral feeling is universally applicable then it must be able to be externally specified and tested since human will does not merely depend on inner feelings. For example, a selfish action fails an external test since it does not benefit the majority of people nor speak highly of human nature. Much like Utilitarianism, Kant holds that only 'well-behaved' and rational choices meet the test of external obligation which ultimately undermines the subjective view of the good.

But this resolution has remained fallacious since neither the inner physiological feeling nor the motivational external obligation work well appropriately, which Kant readily recognizes. Therefore, in order to provide a clearer explanation, in the *Groundwork*, he proposes and unpacks the CI. Surprisingly though; Kant does not systemically address CI in his publications until 1785, some twenty years later. He writes:

An action which is judged through the common human will contradict itself; from an external point of view it is morally impossible. Suppose I go

to seize somebody else's grain. If I consider that no man will-under the presupposition that he himself shall be robbed of what he was acquired-acquire another's property want something according to the private (point of view), and I reject the same from the universal (point of view). (Observations: 161)

Kant predicts a paradox of the will where subjects seek to achieve two contradictory ends, which is logically and psychologically impossible. This paradox derives from wanting or desiring two reconciled ends based on some unknown set of 'contradictory' facts, which Kant explains is impossible. For example, suppose one wants his taxes to be decreased so that his net-salary will increase, but, at the same time, he also expects the government to improve the infrastructure (i.e., build roads) and social services (i.e., establish schools and offer job training programs.) These two sets of desires are simply incompatible given the typical complex social and economic conditions we face, although we are not likely to fully understand these attending conditions.

However, some may argue that such a paradox will not occur because human will is not universal across time. For example, staying with our example of reducing taxes and increasing government services, suppose sweeping reforms were initiated by a new president; it would then be difficult to conceive of a contradiction between these two ends.

However, Kant's central concept in ethics, the contradiction in will, neither appears dependent on a single fact nor complex facts. Initially, applying this consistency criterion seems trivial until the following questions are answered: What determines the consistency of human will? How does an individual fall into contradiction? While the consistency of will originates in particular social contexts, conceivably, unless one is able to absorb all points of view, individuals will have differing wills which creates an essential contradiction and the impossibility of consistent human will. For example, assume you decide X, I choose Z. Even though we are both seeking to arrive at a universal point of view, a supremely democratic notion, there is little reason that my preference for Z would supersede your preference for X,

or that your preference would take precedence over mine; therefore, we face a conflict of wills. We may seek to resolve the problem democratically by relying on voters to choose which course we should take. It will not be impermissible for me to steal your grain until the majority of farmers agree that stealing grain is not allowed. When taken to the point of exaggeration, this democratic approach may be charged with promoting legal positivism since human rights are dictated by a governing authority and arbitrated by law; rights and the power of choice are not innate, they are granted.

Such an exaggeration would not exist in Kant's ethics since Kant's universalization is not democratic, but rather closer to a kind of totalitarian view<sup>81</sup> which is abstract, impersonal and non-inter-subjective. In this case, stealing grain is not only incompatible with the will of a neighbor, but with the will of any owner who has monetary wealth or property; therefore 'no one in particular' is identified. Nevertheless, when individual will conflicts with universal will, individual will is morally forbidden. In other words, there is no need to balance individual and universal will.

This 'totalitarian'<sup>82</sup> thinking, according to Kant holds that 'in a conflict, the universal will is more powerful than the private will' (Observations: 161). However, to totalitarians are faced with a daunting question: How does one know that his or her personal will conflicts with the universal will? A democratic response does not answer this question because the answer relies on inter-subjectivity. 'Totalitarians' may note that one could ask neighbors about the appropriateness of stealing grain or even take a vote on the matter in the local agricultural community. But this personal totalitarian approach has no value when one seeks a universal or impersonal ethic since it remains impossible to absorb an obscure and impersonal point of view. For the real-world totalitarians, the universal will does not automatically rebuke individual will that may

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<sup>81</sup> The totalitarian view I reference here is different from the standard conception of totalitarianism, which is the political in which the state recognizes no limits to its authority and strives to regulate every aspect of public and private life wherever feasible.

<sup>82</sup> My use of totalitarian is in the ethical sense, rather than the political sense, the concept of the latter was first developed in the 1920s, for example, a distinctive feature of totalitarian governments is an elaborate ideology, a set of ideas that gives meaning and direction to the whole society. I would like to thank Prof. Mesch for this remind.

not align with the immediate social setting. In the end, how can we recognize the universal will? Kant says:

The judicial power whereby we distinguish between right and wrong... originates in the nature of the human mind. With its halo it judges what is categorically (not usefully) good. It judges not from its own or other's advantage, but by transferring the same action to other human beings. If contradiction and contrast arise, the action is rejected; if harmony and concord arises, it is accepted. From this comes the ability to take moral positions as a speculative means. For we are social beings by nature, and what we do not accept in others, we cannot sincerely accept in ourselves. The universal sense of true and false is merely the ordinary human understanding, seen as a criterion of true and false, and the universal sense of good and evil is a criterion of that (Observations: A 156).

At first glance, it seems that Kant's short answer seems to assert, 'I know better because I know.' Actually, Kant's answer is much deeper and wiser since he intends to mediate between the totalitarian and democratic versions of universal will. Returning again to the case of stealing grain, such theft cannot be judged in terms of how either my neighbor or I benefit. What I must do is evaluate my prospective actions comparing them other possible courses of action., Kant's response would not be the utilitarian argument suppose stealing grain is universally acceptable then I would be worse off, my neighbor would be worse off and, extensively speaking, all other farmers would be worse off thereby corrupting the common good, creating disharmony and discord. Rather, if I steal, I will degrade both myself and others' humanity and ends.

The short answer also supports a strong democratic position<sup>83</sup> Kant encountered while reading Rousseau's *The Social Contract*. In assuming this position, Kant seeks to mediate between universal and individual will. While Kant criticizes the weak democratic version because it "regards private interest, and is indeed, but a sum of private wills" (Rousseau Bk2),<sup>84</sup> he supports the strong democratic version because it

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<sup>83</sup> As explained here, the difference between strong and weak democratic position is the former regards private interest, takes no one in particular, while the latter is merely a sum of private will

<sup>84</sup> Jean-Jacques Rousseau, *the Social Contract and other Later Political Writings*, translated by V. Gourevitch (Cambridge: Cambridge University Press, 1997) chapter 3.

focuses on the common interest and good for all which ‘takes no one in particular.’ During his Pre-Critical Period Kant considers the universal will as simply the general will. Comparatively, in present society, the strong democratic position is realized politically since politicians are supposed to propose legislation that seeks to establish a universal will appropriately consistent for all concerned. Although modern politicians may consider Kant’s view painfully naive, he focuses on understanding human response since he believes that humans are capable of evaluating proposed, non-formal actions that contribute to the common good.

However, Rousseau’s universal view which underlies Kant’s thought faces the problems that attend modern representative democracy. Therefore, Kant would likely propose that with regard to stealing grain farmers consider neither their neighbor’s benefit nor their own benefit, but rather farmers in general. In this way, an individual farmer would be capable of discerning whether harmony or disharmony would result from the act of stealing grain. For Kant, this evaluative process helps one discover whether stealing grain contradicts universal will by relying on the awareness of harmony.<sup>85</sup> This resolution may be assessed in two possible ways.

The first approach notes that the consequence would be terrible if more and more farmers steal the grain. However, this argument represents a free-rider problem which is ultimately fallacious, since it rests on the assumption that the consequences of an individual action are the same as the consequences of multiple acts. This argument also creates a contradiction that occurs regardless of whether merely on a single fact or a complex set of facts. So, for example, if the grain harvest results in bounty, stealing some of it would not create serious problems. At this point, any resulting discord would only result in minor disharmony. Moreover, it is even possible there would be no disharmony if the thievery was not discovered by a neighbor!

The second approach notes that even if we dismiss the real consequences, we still would not allow the thievery with whom neither our neighbors nor we are associated to

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<sup>85</sup> See the harmony Rousseau and Kant share in A. Kelly, “Kant and History”, *Journal of the History of Ideas*, 1987, p.29

steal the grain. In other words, we reject thievery, not because of the impact of others' actions upon us or our interests, but because as a result of the process of speculative evaluation, we conclude that a wrongful act remains unethical no matter who does it or what is the consequence; it is unethical on its face. However, the problem remains as to whether an unrelated third party's action is immoral. Even though we can employ the speculative evaluation process, we initially employed repeatedly, ultimately, we face an infinite regress. To avoid this regress, we must conclude that all stealing of grain by any and all agents is wrong. However, we cannot explain this charge of wrongness any further and are once again reliant on Kant's *Prize Essay* explanation that we know the good as a result of a psychological feeling.

Even though these two approaches may have appeal, they possess problems. The first approach leads to a harsh conclusion on whether certain acts are right or wrong based on aggregate results. This is akin to a common parental response to children who seek permission to engage in behavior that parents consider undesirable. In such cases, parents may be heard to respond with a question such as 'What if everyone did that?' However, intelligent children may find such a coercive question unpersuasive since they realize that it is unlikely that everyone would engage in the same behavior in which they wish to engage. Although Kant never employed this analogy, it may still prove illustrative of the problem of this first approach.

In the second approach the badness or goodness of an act is not judged according to its consequences but according to the act itself. This approach is even more problematic than the consequential approach since at least with the first approach we are able to evaluate goodness from a personal perspective whereas we have no such footing with the second approach. The problem remains as to whether an unrelated third party's action is immoral.

While we may wonder why Kant did not clearly work out the details associated with these two approaches, later he hints at an answer in his draft of the concept of CI before offering *Groundwork*. I will return to this matter later in this thesis.

Although Kant realized the significance of the notion of the common good from Rousseau, he did not develop his own prospective view of the good until his *Critical*

Period.<sup>86</sup> At the same time, after the *Prize Essay*, Kant maintains that moral obligation must be directed towards a necessary end and continuously criticizes the notion of ethics directed towards necessary means, thereby eliminating an additional idea espoused by Rousseau.

During this period, Kant seeks to realize a path that enables humans to pursue a necessary end or harmony with the universal will, Kant does realize that the formal procedure does not guide concrete action, and moral obligation must be made in a non-formal sense. In his book *Critique of Pure Reason*, as we will see, one of Kant's central works is to create a framework for achieving a necessary end. Consequently, Kant's ethical theory is not only considered as highly formalistic once his critical philosophy is more thoroughly realized. But also, as my purpose in this thesis, there are other ways to interpret Kant's ethics as Moral Platonism or Anti-Formalism.

## 5.2 The Critique of Pure Reason-Kant's Moral Platonism as Anti-Formalism

*The Critique of Pure Reason* has been widely regarded as Kant's critical masterpiece. It has two competing trends. The first trend is well known as the moral Platonism<sup>87</sup> which is implied in the transcendental dialectic, and then implicated in the canon of pure reason.<sup>88</sup> The second trend typically known as 'formalism', (the foundation of his transcendental philosophy) is an ethic relying on the notion of a law.

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<sup>86</sup> Kant does not provide an argument supporting the claim that the common good is a necessary end for determining moral obligation.

<sup>87</sup> KrV 313'370-320:377. Cf.569:597.

<sup>88</sup> See Thomas K. Seung's *Intuition and Construction* (New Haven: 1993). According to Seung, Kant had embraced Platonic Ideas as the foundation of his ethics in his Inaugural Dissertation of 1770 and reaffirmed his Platonic allegiance in the *Critique of Pure Reason* (1781). In his *Groundwork*, Kant had to abandon his Platonic ethics because he designed his ethical formalism as a Copernican revolution in ethics. In distinction from this new position, Seung labels Kant's Platonic ethics his ethical Platonism. This version of his ethics had never been recognized until it was uncovered by Seung. He has further shown that Kant did not sustain his ethical formalism very long after the *Groundwork*. In the *Critique of Practical Reason*, Kant may appear to retain his formalistic framework, but he injects Platonic content into this framework. That was only three years later than the *Groundwork*.



Since Kant's moral Platonism is indirectly opposed to formalism, by considering formalism more closely we can better analyze Kant's tendency toward this trend.

Initially, Kant compares formalism with science.<sup>89</sup> In this analogy, found repeatedly in both the *Second Critique* and *Groundwork* Kant points to both moral law and scientific law. Moral law as a law of obligation prescribes how we ought to act and is both necessary and universally valid; it commands our behavior categorically. Scientific law, on the other hand, explains phenomena and is also necessary and universally valid, at least with regard to the phenomena it governs.<sup>90</sup>

The clarifying doctrine regarding the necessity of scientific and moral law, are primarily seen in the doctrines espoused by the empiricist and rationalist philosophers. For example, Hume examines human experience as the basis for knowing cause and effect.<sup>91</sup> He particularly focuses on the necessity of scientific law based on our belief arising from observing or experiencing repetitive phenomena, he questioned the necessity and claimed it was only founded on a consequence.

Descartes also investigates the necessary association between cause and effect, which leads to a scientific law that may be summarized as 'A follows B' based on a repetitive number of experiences. Inductively we associate repetitive co-occurring events and arrive at the concept of causation. Scientific law, as Hume recognizes, relies on the necessity of causal association instead of the necessity of the law. Kant reveals

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<sup>89</sup> Kant is using the structure of general logic as the basis for the structure of the *First Critique* as he is trying to give metaphysics the secure path of science that traditional logic has.

<sup>90</sup> For Kant, a scientific law governs phenomena in a very strong and unusual sense. The law is the function by which the concepts of the understating order the given intuitions and allow them to be cognized. In Kantian terminology: Thus the order and regularity in the appearances, which we entitle nature, we ourselves introduce. We could never find them in appearances, and not we ourselves, or the nature of our mind, originally set them there.... We may now characterize [the understanding] as the faculty of rules/ Rules, so far as they are objective, and therefore necessarily depend upon the knowledge of the object, is called laws... They are not borrowed from experience; on the contrary, they have to confer upon appearances their conformity to law and to make the experience possible. Thus the understanding is something more than a power of formulating rules through comparison of appearances; it is itself the lawgiver of nature. (trans. N. Kemp Smith) New York: 1965). Hereafter I will cite in this form: KrV, A page/ B page.

<sup>91</sup> Kant credited Hume for showing us that the material basis of the good was not merely some object of cognition [Erkenntnis] but that it was instead a matter of simple unanalyzable feeling in Gr.299.

that such scientific law is not in accordance with the experiment as a matter of fact, but, rather a concept that may be known and universally applied. To see it more clearly, we must explicitly show how the concept of cause may be experienced as well as how the ‘universally valid’ is derived from human experience, as a prior.<sup>92</sup>

Kant draws our attention here neither to actual moral instances, nor to how people arrive at judgments of what is morally bad or good, but rather to how we realize an objective and universal obligation. Thus, the essential issue of critical philosophy is clarified analogically in this manner: Theoretical philosophy explains how the concept of a cause gives rise to necessity while practical philosophy explains how the concept of obligation brings about necessity even though the necessities of science and ethics might be wholly different.

Consequently, Kant’s earlier investigation of the necessity of moral obligation is transferred to his treatment of critical philosophy in order to open a new approach to an old problem. For him, this ‘prospective reform’ must derive from a new objective notion which states that scientific and moral obligations are neither simply out there nor in us. While Hume’s challenge arises from observing the notion of exclusive truth proposed by empiricists or rationalist, which requires necessary scientific or moral

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<sup>92</sup> This problem is considerably more difficult than the problem usually associated with Kant’s critical project: How is a synthetic a priori concept possible? Paul Guyer has called this the ‘Problem of Objective Validity’ and in chapter 1 of *Kant and the Claims of Knowledge* (Cambridge: 1987) he gives the following synopsis: The problem is that pure concepts furnish maxims of pure reason concerning their objects, that the understanding ‘construct[s] for itself entirely a priori concept of things with which the things are necessarily in agreement’ (10:130-1). Because its principles are known to be true a priori, the understanding must draw them up, out of its own resources, independently of experience, yet the objects necessarily, rather than accidentally, agree with these principles. (See Page 23, Guyer’s references are to the famous Letter to Marcus Herz on February 1722, a found in volume 10 of the academic edition of Kant’s works). Guyer argues that Kant recognized the complexity of the problem only after finishing the dissertation and independently of the criticisms of Lambert, and Mendelsohn about the status of the synthetic a priori for intuitions, space and time. With respect to the issue of scientific law, the problem can be put as follows: How can laws come a priori from the understanding, but describe the ordering of objects which are entirely independent of the understanding, even though the cognition of that ordering is not independent of understanding or sensibility?

propositions, Kant contends that we need a new understanding of the problem of objectivity.<sup>93</sup>

In Kant's pre-critical writing, he combines the concept of the good with the necessity of the end as the later critics hold may prove troubling. The fact is, Kant clarifies three core concepts: objectivity, universality and the necessity of obligatory morality in his *First Critique*, 1781, even though little else is offered in this publication about these concepts in the *Groundwork* and the *Second Critique*. I will argue that, at least, for two aspects Kant clarifies central concepts (understanding, reason, intuition, form, matter, science, freedom) thereby allowing us to focus on Kantian terminology and subsequently laid the foundation for concluding that Kant's moral philosophy is not merely formalistic in nature, I reinterpret Kant's *Pre-Critical writings*, *The First Critique* and the *Metaphysics of Morals* in a non-formal way, which of the CI formulas (2, 3) consists of my line of argument in this way.

Firstly, the transcendental logic is not derived from the merely formal structure of judgments. In the inaugural dissertation in 1770. Kant expresses "logical use of the intellect" as the formal structure of judgment governs the rules of inference (Kant Reflexionen 467). In the *First Critique*, the terms form and matter are used most often when Kant addresses the syntheses of a sensibility and understanding.<sup>94</sup> The two terms represent an important but difficult distinction in his system of critical philosophy. For Kant, these two synthesis terms constitute the necessary conditions for objective knowledge. As we observe empirical objects, intuition is the product of sensibility while concept is the product of understanding. The form is "that which so determines the manifold of appearance that it allows of being ordered in certain relations" (KrV A 20.B40). It can be found with two combined concepts: pure categories or concepts of understanding, whereas time and space as a synthesis of spontaneity are pure form.

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<sup>93</sup> For the history of Kant's views on objectivity, see Cassirer, p.131ff.

<sup>94</sup> There are of course exceptions, e.g., the synthesis of apperception which is supposed to lead in the Transcendental Deduction from the unity of self-consciousness to the categories of the understanding, Kant says it is not exigent to cover all of the notions of synthesis in the Critique, since our purpose here is to elucidate the form/matter distinction.

Matter is observable in the phenomenal world which we register as sensations constructed by intuition arising from the synthesis of time and space as spontaneity; these are conceived appearances. Kant explains for the first time between understanding and reason and named it the “transcendental logic” in an early draft of the Critique from *Reflexionen*:

All of our cognitions are differentiated according to the matter (content, object) or the form. As far as the latter is concerned, it is either intuition or concept, the former is of the object, insofar as it is given; the latter, so far as it is thought. The faculty of intuition is sensibility, that of thinking is understanding (that of thinking a priori, without an object being given, is reason).....Understanding is thereby set in opposition to both sensibilities and reason. The perfection of cognition according to intuition is aesthetic, according to concepts is logical. It is either of the object ( apprehension ) or of our self; The latter (apperception) figures in all cognitions, even those of understanding and reason. Transcendental logic deals with cognition of the understanding according to the content, but without determination in respect of the manner in which objects are given.<sup>95</sup>

According to Kant, “transcendental logic” has something to do with the content of knowledge, it sets rules for which will not be derived from the merely formal structure of judgments Kant’s distinction between understanding and reason is suggestive: if reason is an ability to think a priori without any object being given then one may suppose, by contrast, that understanding is a faculty of think a priori about objects that are given, that is, it is essential to the notion of the understanding, as opposed to the concepts of the understanding must be used in connection with intuitions. Through the process of thought we transfer our sensibility to intuition, where our understanding relies on categorization of various types of objects.<sup>96</sup> Strawson explains that our mind

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<sup>95</sup> Paul Guyer. *Reflexionen. Kant's notes and marginalia* in volumes 14–20 and 23 of the Academy edition. R 4675.

<sup>96</sup> The interpretation that the judgment performs the function of ‘taking something as such’ is developed by Henry Allison in “Kant’s Refutation of Materialism”, *Monist* 72(1989), pp.190-208. He then uses this characterization to explain how Kantian rational agency can ‘take an imperative’ as a ground for action, even though that imperative does not embody any of the sensible inceptions of the phenomenal agent. See also *Kant’s Theory of Freedom* (Cambridge: 1990), pp.25-46.

produces the world by imposing form.<sup>97</sup> Like Strawson, many Kantian commentators espouse the notion that the mind creates the whole world which harmonizes with Kantian Subjective Idealism.<sup>98</sup> However, we are ultimately responsible for the forms of sensibility and understanding; form creates a possibility of experience which we subjectively interpret <sup>99</sup>(KrV A 48.B65). The objective, then, is neither solely in our minds (subjective) or externally present in the manifested world (objective), but rests on forms of intuition and categories of understanding as Kant explained in the First Critique. As Kant notes, while subjectivity is connected with the mind, it is not simply ‘mental privacy’. Neither time nor space is ‘mental privacy’. On the other hand, even though objectivity rests on our ability to perceive objects, an object is not a thing-in-itself, but an appearance (erscheinung KrV A 26-28/N 42-44). So when Kant speaks of the validations of objects he means that our knowledge consists of objective experience, and cognition of the understanding appear to be synthetic rather than analytic, substantive rather than tautologies. Kant’s transcendental idealism is kind of empirical realism in that he holds that the manifestations of objects have objective validity; that is, the object is not given experiential characteristics other than a thing in itself. That allowing for lawful experience is the essential expression of the transcendental idealism which Kant emphasizes in the *Groundwork* and throughout his moral writings.

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<sup>97</sup> See Strawson’s part 4 of *The Bounds of Sense* (London: 1966).

<sup>98</sup> See William F. Bristow, “Are Kant’s Categories Subjective?” *The Review of Metaphysics* Vol. 55, No. 3 (Mar., 2002), pp. 551-580.

<sup>99</sup> The conditions on cognizing ‘anything at all’ may not hold for the consciousness of self, or what Kant calls the ‘I think’. One might be tempted to believe that the synthesis of apperception or self-consciousness allows the self to be cognized irrespective of what goes on in the sensibility and understanding. Kant argues in both the A and B Transcendental Deductions that the unity of apperception is epistemologically prior to the unities of sensibility and understanding. (A 136, B 166). What this priority amounts to is one of the real mysteries of the Critique. By carefully analyzing Kant’s claim in the unpublished notes, Paul Guyer argues that Kant was fundamentally ambivalent about the priority of apperception. According to Guyer, Kant sometimes ‘thought that the fundamental act of the understanding is to draw analogies from the unity of the mind to the unity of objects.... But sometimes Kant conceived of the analogy as operating in the opposite direction: The mind itself is conceived of in analogy to our conception of objects’ (Ibid, p.67)

Secondly, normative determinations are different with scientific determinations. In the *First Critique*, Kant's formalism uses an analogy with science, drawing attention to the notion of governing laws. Science enables us to perceive nature, which consists of a set of laws arising from variously sensible and actual experiences; this is the only kind of experience for Kant. Likewise, morality is in accordance with lawful maxims. Yet science and morality differ. In science, we understand phenomena as a result of the presence of systematic laws. However, we choose an action by understanding moral phenomena and respond either as the result of one of two causes: natural necessity or freedom. (KrV A532.B560)

Natural necessity means that we are phenomena in the natural world and thus subject to cause and effect. This natural necessity may be described as 'A follows B'. As I explained the CI2 in the introduction, 'Jack sees a cake, Jack has an appetite for cake' and is then faced with multiple and varied options; Perhaps Jack will steal the cake from Tom to satisfy his lust. Humans, like Jake live under such scientific causal determinations. Whether one steals or not in Kant's view is a phenomenal product of causal determination or simply put, a mere effect.

However, the second possible cause, freedom can be called a moral necessity in an exclusive way. The specification of morality is abstracted from nature in that individuals face various kinds of laws in making moral choices. While moral law is not empirical or causal other than as a prior normative notion, humans as subjects under the law experience rationality and a phenomenal effect at the same time (KrV A532-558) <sup>100</sup>. In the phenomenal world, the scientific determination is actual but comparatively, it is morally possible when rational beings make a normative determination.

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<sup>100</sup> This dual-aspect theory of the self requires one to think of one's self both as a puppet being controlled by the forces which control other phenomena and at the same time as the controller of the puppet, the spontaneous causality which itself as reason is uncaused and lies outside of the time-order of determinations. This 'subtle and obscure' distinction is the heart of Kant's solution to the Third antinomy.

Normative determinations differ from scientific determinations in that they follow a procedure. Returning to the matter of stealing cake, Jack could acknowledge that rather than stealing from Tom, he has other choices in accordance with the moral law. While he may realize that in accordance with causal law he will ultimately face the effect of his theft, only via a normative determination will he experience practical freedom.

One may argue that, in this Critique, Kant's main purpose is not to draw the reader's attention to actual moral experience, and the *First Critique* does not actually explain the moral philosophy. Likewise, many commentators, most notably Allison and Henrich, argue that while Kant attempts to provide a direct interpretation of morality in the *First Critique*, he fails.<sup>101</sup> In their view, because Kant concluded that transcendental freedom was not within reach he employed an alternate strategy by concentrating on practical freedom.<sup>102</sup>

In my view, these arguments may be mistakenly understood Kant's position, Kant's ultimate aim in this critique is to demonstrate how metaphysics could be possible. In doing this, he not only constructs his transcendental philosophy, but also implies a non-formalism that transcendental logic is not derived from the merely formal structure of judgments. Kant also has given a clear exposition in preceding writings through his doctrine of practical and transcendental freedom, because normative determination is made through practical freedom, this freedom will be expressed as our humanity and ends in CI2. In conclusion, In the *First Critique*, Kant's moral Platonism

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<sup>101</sup> See Henry Allison, *Justification and Freedom in the Critique of Practical Reason*, 1990, pp.115-120

<sup>102</sup> Transcendental freedom and practical freedom differ. Transcendental freedom is viewed differently by Kantians. Markus Kohl in *Transcendental and Practical Freedom in the Critique of Pure Reason*, claims 'transcendental freedom' requires the absence of determination by *all* natural causes, whereas 'practical freedom' requires the absence of determination by, specifically, sensuous incentives. While Stephen Priest in *Kant's Concept of Freedom in the Critique of Pure Reason* says transcendental freedom is an essential part of practical freedom since if a person is practically free then that person is transcendently free. The concept of transcendental freedom is 'the idea of a spontaneity which can begin to act of itself, without requiring to be determined to action by an antecedent cause in accordance with the law of causality'. I will discuss the difference further in when addressing autonomy in the last chapter.

implies his non-formalism tendency and his intention to embrace the practical philosophy rather than a formalistic theory.

### 5.3 The Metaphysics of Morals- Non-Formalistic Moral Law

What is ‘*Metaphysics of Morals*’? For thirty years, Kant intended to entitle his system of ethics ‘*Metaphysics of Morals*’<sup>103</sup> In discussing the *Metaphysics of Morals*, I will discuss Allan Wood’s article in Mark Timmons’s volume *Kant’s Metaphysics of Morals: Interpretative Essays*; Woods presents a thoughtful interpretation that might be a clue for our discussion of emptiness charge. By examining each of the two major doctrines of *Metaphysics of Morals*, that is, principle of right and the class of juridical (or coercively enforceable) duties, Woods argues it will help us more clearly understand Kant’s implication. Wood claims,

Kant’s admirers, in fact, as well as his critics tend almost by reflex to think of the universalizability test as his most (or even his only) significant contribution to moral reasoning. But the universalizability test is used very seldom in the *Metaphysics of Morals*. In fact, it is used exclusively in connection with a single duty: the ethical duty of beneficence to others. The case of beneficence to others is in fact the only one where it can be used to ground a positive duty, since in Kant’s view, there is only one end which all human beings have necessarily, namely that of their own happiness. The *Groundwork*, with its examples of perfect and imperfect duties and duties to oneself and to others, prepares us for the taxonomy of ethical duties found in the *Metaphysics of Morals* -- even if it has not prepared most of the *Groundwork*’s readers to think of this taxonomy as central to Kant’s conception of moral reasoning. But the *Groundwork* does not prepare us at

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<sup>103</sup> Wood explain such ‘*Metaphysics of Morals*’ in his distinctions between self-love and human inclinations. He says “in the *Groundwork*, as in the *Critique of Practical Reason*, the term ‘metaphysics’ underlines Kant’s insistence on the apriority of the supreme principle of morality and the purity of the moral motive. He is worried that to permit these to be adulterated by anything empirical may be to open moral theory to our human tendency to falsify moral principles by accommodating them to the self-love which biases all human inclinations.” see *The Final Form of Kant’s Practical Philosophy*,” Mark Timmons (ed.) *Essays on Kant’s Moral Philosophy* (New York: Cambridge University Press, 2000).p2.



all for a whole new division of the duties separate from all ethical duties, with its own fundamental principle.

Wood suggested that Kant implies the response not only in discussion of the doctrine of right in *Metaphysic of Morals*, but also in the doctrine of virtue. In my view, Wood's argument is somehow appealing since he sees that CI2 is a non-formal formulation in Kant's ethics. But what I disagree is, Wood intends to clarify that CI1 and CI2 are equivalent and the same duties are generated under two sets of illustrations. I have opposed two equivalence thesis versions that treat CI1 and CI2 equivalent. My argument is that there is no moral content within CI1, and only CI2 and CI3 has the content of moral law involved our dignity, humanity and ends.

However, Wood's approach, I think would help me find the evidence that Kant expressed a non-formalistic position in *Metaphysic of Morals*; in Wood's argument, there are a couple of ways to understand CI in the *Metaphysic of Morals*.

Firstly, Wood claims that Kant believes the dignity of humanity provides us with a moral incentive for respecting people's rights. The principle of right is: "Any action is right if it can coexist with everyone's freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law". (Ms 6:231) This principle bears a superficial resemblance to CI1 and provides us with a test only of the permissibility of actions, and it does so with reference to some possible universal law.

Wood also argues, the main context of the *Doctrine of Right*, that is, the principle of right is usually taken for granted somehow to be derived from the fundamental principle of morality in one or another of its formulations. According to Wood, three textual points might be found in the *Metaphysics of Morals*.

One is in the Introduction, where Kant seems to present CI1 as an illustration of the general idea of legislation for freedom. The second is Kant's remark that our innate right to freedom (as specified by this principle) "belongs to every human being by virtue of his humanity" (Ms 6:237). The third is Kant's remark that a doctrine of morals (Sitten) is called a doctrine of duties rather than of rights because our awareness of the concept of right as

well as that of duty proceeds from the moral imperative whose command gives us the concept of duty (Ms 6:239).<sup>104</sup>

Wood says, *The Doctrine of Right* also expresses the most mature of Kant's statements about a system of law to ensure individual rights and the peace project. This doctrine defines the principle of justice, distinguishes between freedom and equality and rights, while also confirming Kant's non-formalism. The original principle of justice states:

Each action is just (Recht) which, through it or its maxim, allows the freedom of the will of each to everyone, according to a universal law, to coexist (Ms A/B 230).

In this statement, in my view, the concept of the universal law is non-formalistic. My reason is that the freedom of the universal will is based on the respect and treat others as ends; this universal law is thus not only the (formal) CI. It claims of equality and right demonstrate the principle of justice. Furthermore, the principle of justice establishes both retributive and distributive political rights, which Kant connects with his Platonic ideas of the virtuous man and the perfect constitution found in the *First Critique*. As Wood claims, "Even if we question Kant's analysis of the concept of right, however, we may still think that his principle has to go beyond that concept if it is to provide us with a reason (a moral one) for respecting others." Wood would probably believe, the dignity of humanity in Kant's ethics provides us with a moral incentive for respecting people's rights, which I will talk about precisely in the last chapter.

Secondly, when we compare *Groundwork* and *Doctrines of Virtue*, Kant's non-formalistic position is even more obvious. Wood argues that the *Doctrine of Virtue* further develops Kant's ethical theory, which Kant first laid out in the *Groundwork*. Kant particularly emphasizes treating humanity as an end in itself; in fact, Kant retakes CI2 by making it possible to deduce duties. The duties are analytically treated by Kant, who distinguishes: 1) duties towards ourselves; 2) duties towards

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<sup>104</sup> Wood, p.67

others. The duties are: 1) perfect duties; 2) imperfect duties. Kant thinks imperfect duties are the duties of possibility in choosing maxims. The perfect duties instead determine exactly the maxims of actions. If the equivalent thesis as Kant proposed in the *Groundwork* is constantly maintained, then all moral duties can be derived from either CI1 or CI2. In *Doctrines of Virtues*, we find along with this approach that many of the illustrations are reformulated. Particularly, Kant adds perfect duties to oneself to his previous list. The perfect duties to oneself focus on our physicality, i.e. gluttony, unnatural sex, prohibitions of suicide, as well as our moral selves, i.e. miserly avarice, servility, false humility and lying. Relatively speaking, the imperfect duties (moral and physical perfection) receive less attention here with only eleven paragraphs dedicated to the subject, which do not offer any new arguments. Comparatively, the imperfect duties to others are divided into two categories: duties of respect and duties of love. These perfect duties to others are substantively linked with the issue of human rights.

Kant continues making the following division in the introduction to the *Metaphysic of Morals*, by associating it with the two formulas of CI (CI1 and CI2). Kant says ‘The formal duties are restrictive (negative duties); material duties are ampliative (positive)’ (Ms419). This naturally comes with an assumption that CI1 is directed to the perfect or restrictive duties and CI2 to the imperfect or positive duties, although strangely, Kant does not follow the division in the *Metaphysics* but leaves this issue as uncharted territory. The most important illustrations of Kant’s concept of perfect duties are found in his discussion of lying and suicide. If we appeal solely to CI1 there is little ground to oppose suicide.

Further, by appealing to an analogy with nature or CI1A, the universalization of CI2 is essentially abandoned. This conflict existed in Kant’s previous argument of the division discussed earlier. Likewise, the same plausibility applied to suicide is equally applicable to lying. According to the requirement of agent-neural reciprocity, we abandon a maxim of false-promising because truth-telling is the only way to realize the purpose of promising; here the analogy with nature is not used, thus abandoned.

However, in the *Doctrines of Virtue*, Kant treats lying as “the greatest violation of man’s duty to himself being considered only as a moral being”, and goes on to describe

the practice as “violating the dignity of humanity in his own person”. (Ms429) Therefore, as a result of this explanation, Kant abandons the strong illustration (from CI1 to CI2) that implies his departure from the formalism in the *Groundwork*. In *Groundwork*, another duty is repeated, the imperfect duty to develop one’s natural talents or powers. As we have noticed, in the first illustration this duty depends on the many different definitions of nature. Likewise, with regard to CI2, he says that there is an “end (which) nature has in view as regards humanity in our own person”. Consequently, we must choose behavior which conceivably harmonizes with this end. (Gr430) In the *Doctrines of Virtue*, given that we have a duty to be useful to the world, Kant argues that if we fail to be useful by neglecting our talents we degrade the humanity of every person. Here the determining power of duty is not explained by any peculiar view of nature, other than a premise of social utility or usefulness. Interestingly, this premise is not found in the *Groundwork*. Moreover, Kant did not explain why the new standard should be adopted.

The last set of duties, duties to oneself, seem to conform to another alternative imperative: maintaining moral consideration for persons. Kant implies here that as persons we should not only treat other human beings in accordance with CI, but also not treat animals cruelly or callously destroy the environment. If we do so, we fail to seek moral self-knowledge because we neglect our own perfection. While there are additional duties that make us better moral persons, it is difficult to analyze them under CI1 or CI2 because of the uniqueness of these duties which focus on improving our capacity to act dutifully.

Given that there are no duties to self, derived from CI1 alone in the *Doctrines of Virtues*, when we turn to a discussion of duties to others we face even more complications. All the duties of love (and likewise benevolence) are loosely derived from CI1. While we might consider other’ ends, we may not give practical assistance to others, such as a neighbor who is in bad circumstances. This does not appear to conflict with CI1 since to love our neighbors is to regard their ends as our own. However, for Kant, such imagination of action or in active thoughtfulness is merely a

sort of benevolence, not active love. So, the question remains whether a person has a duty to be beneficent; Kant responds positively to this question by applying CI1.

Suppose a person or agent realizes that he, like a neighbor, may be confronted with problems and therefore wishes someone would help both him and also his neighbor. Such benevolence actively comes from the reason and follows the principle of CI1. However; it could also be easily argued that such beneficence is merely the extension of self-benefit. In response to this misunderstanding, Kant claims that:

Instead, legislative reason, which in its idea of humanity in general comprises me along with the whole race, also includes me, insofar as it is universally legislative, in the duty of mutual benevolence according to the principle of equality with all other man; and it permits me to be benevolent to myself under the condition that I am also benevolent to everyone else. This is because only in this way is my maxim (of beneficence) qualified for the universal legislation on which every law of duty is founded (Ms451).

Hence, benevolence must be practicable. In the end, after we have considered moral matters and universalization, benevolence must act. So, referring to the former example, we undoubtedly act in accord with our duties to help our neighbor.

It is not surprising that duties with respect to others originate from CI2 since such duties are essentially a negative statement of the imperative: namely, do not treat others as means but ends. Treating others as means implies disrespect, calumny, acts of pride, and mockery, which corrupt the ideal of CI2. Just as Kant shelve investigating the concept of value and instead introduces the notion of harmony when addressing imperfect duties in the *Groundwork*, he also sets aside the analogy with nature in his treatment of duties to the self.

In sum, the various duties discussed in the *Metaphysics of Morals* hardly correspond with their counterparts in the *Groundwork*. Kant's arguments often are proposed for the particular end or the case at hand without consideration of wider applications. One of Kant's purposes in the *Groundwork* was to show that CI1 and CI2 are equivalent and the same duties are hence generated under two sets of illustrations because the formalist tenet of demonstrability requires univocal outcomes. Kant

appeals here to peculiar arguments, including the harmony of the ends in humanity and the teleological nature in his philosophical explorations.

Although Kant does not employ these arguments in the *Doctrines of Virtue*, he presents the strongest justification for duties. Hence, ultimately although some duty arises from CI1 and some from CI2, and other duty arises from various other imperatives, all of these duties uphold the moral system. At this point, we may then observe that Kant's later ethical writings (the writings after *Groundwork*) possess justificatory strength, but seem to lose theoretical unity as the critics hold. Meanwhile, the equivalence thesis, which he had argued, was refuted in the *Groundwork*. As a result, critics may argue that Kant muddies the waters of formalism in his ethics, given my previous discussion, I would align myself with these critics and reject the equivalence thesis. For equivalence thesis leaves room for Hegel and Mill to charge him with empty formalism since they argued that Kant's ethics is too formal to generate action. Others note that these charges are misunderstandings of Kant and that we must reflect upon and consider his ethic more carefully.

## Chapter Six

### **From Kantian Value Realism to Non-Formal Values: A Kantian Strategy Answering the Emptiness Problem**

In the third and fourth Chapter, we investigated various factors that have contributed to the different formalists' interpretations of Kant that are well known to hermeneutic scholars. Both Kantian supporters and critics, who rely on varying rationales, conclude that Kant's moral theory stands or falls with the question of formalism. To this point, I have contended that the formalist reconstructions are unable to resolve the emptiness problem since formalists appeal to a range of background theories based on common-sense rules; these rules are called, variously, postulates of rationality by Silber, constraining principles of empirical practical reason by Rawls, and principles of rational intending by O'Neill. On the other hand, the non-formalists address the formalism in Kant's ethics by insisting on a methodology that encompasses both parity and plurality that might be seen by Kantian critics to provide additional understanding of morality.

In the fifth chapter, I reinterpret a non-formal explanation of Kant's ethics, I argue that evidences in the Kant's pre-critical period and the *First Critique* and the *Metaphysics of Morals* indicate Kant would endow the practical meaning of moral law in CI2 and CI3.

In this chapter I will claim that even though the broad formalism offers a closer interpretation to the procedures and content of moral law, it fails to bring new ontological and epistemological tensions to the larger debate where constraints arose. I argue that those constraints might disappear by understanding a Kantian non-formalism, specifically, Kantian value realism. In my previous interpretation of Kant, I have already referred to Kant's earlier writings and argued that considerations of value can be found there to serve as key aspects in his ethical approach. In this chapter I will

propose a Kantian strategy to answer the emptiness charge, based on the Kantian values of impartiality, freedom, dignity, as non-formal components to complete judgments about obligation and goodness, and finally dispute the emptiness charge in Kant's moral philosophy.

Further, I hold that Kant has served as a compelling interlocutor in moral matters. Still further, my purpose here is to offer a better interpretation of Kantian thought than that offered by the both the formalists and non-formalists. In contrast, I present a perspective that gives due credence to Kantian central texts and at the same time offers an alternative reading that is philosophically, morally, and psychologically plausible and powerful. Ultimately, like others who have also vigorously argued the prevailing value of their interpretations, in the end, the reader must decide the validity and veracity of my views.

Therefore, what follows is an extended overview of my anti-formalism understanding of Kant's ethics. In the Second and Third Chapters, I argued that both the emptiness charge and the formalist reconstructions do not fit Kant's ethics. In this Chapter, I will continue to argue that the CI or Kantian moral law should be defended realistically, concretely, and essentially. Moreover, after I demonstrate that the broad emptiness charge also fails in helping us understand the moral practice, I will argue that only a non-formal theory of value provides a genuine Kantian strategy to the emptiness problem.

In order to effectively organize this chapter, I divide it into three sub-sections. In the first section, I will first summarize the various versions of formalists' criticisms and point out the problems with each accordingly. In the second section, I proceed to pose a non-formalist theory of value or what may be termed a rival Kantian theory, referred to as Value Realism. The third section offers the primary aspect of this project: an explicit explanation of the larger scheme of Kantian value realism which includes three central, independent values, impartiality, dignity and freedom.

While many formalists would agree that these three values are referred to in Kant's ethics none would agree that these independent values are central in Kant's system since formalists consider impartiality, freedom, and dignity the products of the



will and not values. At the same time, for formalists these three values do not determine the will but, rather, are determined by the will. In conclusion, I will thoroughly clarify my objection to a formalist interpretation by demonstrating that impartiality, freedom, and dignity are non-formal, independent values of Kant's ethics which are worthy of moral practice.

## **6.1 Problems for Kantian Formalism**

As noted earlier, my goal in this thesis is to evaluate and criticize Kant's ethical formalism and then to extend his ethics beyond the formalist interpretation by demonstrating how the original emptiness charge may be analyzed and refined. At the outset, it is prudent to review the principles which many Kantians at one time or another have thought to be essential to emptiness charge.

1. The original or narrow emptiness charge states that the moral law based on CI1 is merely abstract and unable to guide moral action.
2. The formalist interpretation holds that moral law is a formal acknowledgement that is able to guide moral action.
3. The non-formalist interpretation contends that moral law does not merely encompass formal components, but also effective procedures and therefore it is able to guide moral action.
4. The broad emptiness charge argues that moral law based on CI1 is merely abstract, while CI2 and CI3 as well as the autonomy formulation are all too formal to guide moral action.
5. The non-formalistic value theory which states that moral law includes moral values is specifically able to guide moral action in great detail.

We turn to the first principle found in the foregoing list, which was originally posed by Hegel who stated that Kantian ethics are too abstract to guide action. In this

view, the entirety of Kant's moral views rests solely on CI1.<sup>105</sup> The second principle, which constitutes the formalist reconstruction relies on the rules of moral deliberation, namely, the CI. While these formalist reconstructions surpass the emptiness charge by regarding formality as an accomplishment, i.e. the formal property of the principle or a maxim of action as well as the goal or value that is achieved remains formal. Non-formalists have held that formalist reconstructions including the CI are not designed to achieve logical consistency nor do they possess a formal property of the principle or maxim of action; however, for different reasons, non-formalist does not pursue these objections further.

Still ahead, I will consider the fourth principle with special attention to the charge of broad emptiness. Then, I will consider the final principle in greater detail in order to demonstrate that this principle constitutes a sufficient condition for moral goodness and that it implies that effective procedures can be determined by considering non-formal values.

## 6.2 The Broad Emptiness Charge

We now turn our attention to Principle Four and most particularly the broad emptiness charge. Unlike the original emptiness charge and the formalists' and non-formalists' positions, contemporary scholars argue that every form of CI, whether CI1, CI2, CI3, or the autonomy formulation, is too formal to guide action. These scholars insist that CI does not ground Kant's theory with a substantive value judgment given that Kant acknowledges formality in his theory. Specifically, the moral law (the formal component) is defined prior to the Good that is described in Kant's terminology as reciprocity or the practical sense of universality, the end of which is humanity and autonomy. Some of these scholars have engaged rather heated debates as they seek to adapt some values as substantive but deny others. For example, they may recognize

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<sup>105</sup> Murphy, J.G.R. "The Highest Good as Content for Kant's Ethical Formalism". *Kant Studies*, 1960, 52, p.106.

autonomy as concrete, but the ideas of self-end and self-dignity as abstract. On the other hand, they may point out that self-end and consideration for others (reciprocity) is concrete while autonomy remains abstract. However, whatever their various positions, in my view, these scholars only understand CI in a partial sense; this constitutes the broad emptiness charge or broad Kantian formalism.

In order to provide greater clarity as well as the grounds for an examination of ethical theory, I will first address the problems within the broad Kantian formalism. Thereafter, I will contrast the original emptiness charge with the formalist reconstructions. Finally, I will demonstrate the degree to which the broad emptiness charge fails to withstand examination and that how, in contrast, the non-formalist value theory remains robust even under examination.

In order to launch this discussion, we must first contrast broad Kantian formalism with narrow Kantian formalism, which differs in at least two ways. Firstly, narrow and broad Kantian formalism both regard the moral law as abstract with regards to the particular action. Thus, for example, the narrow emptiness charge states that I can neither make promises nor break promises if making false promises is inconsistent, since a maxim is allowed one logical consistency. Comparatively, broad Kantian formalism does not refer to logical consistency, but considers the formal nature of humanity by relying on the deep sense of non-moral value, namely, the formal notions of impartiality, freedom or indignity, about which we talk in detail in a subsequent section of this chapter.

Secondly, the broad emptiness charge contends that moral law is not able to guide action given the arguments in the *First Critique* which limit moral knowledge to the phenomenal sphere. In contrast, the Kantian formalists' reconstructions envision moral law as a formal accomplishment that is able to achieve moral obligation by predicating various moral necessities based on common sense, rationality and socio-politics. For instance, if there is an underlying or hidden truth as O'Neill said such a truth will not be universal. Since universality may well define the morality which we recognize as belonging to the moral sphere, if the hidden truth of universalization works through a set of calculations, then the contradiction that the moral sphere is defined and operated

through the formal law reappears, as we saw in chapter three. Further, the contradiction will multiply if an effective procedure for determining moral obligation or duty clearly can arise from such formal moral law.

However, with regards to the first observation, the broad Kantian formalists encounter a problem in that they attempt to give an account of both moral wrongness and non-moral value. There is a correct procedure for determining what is morally wrong, namely the CI test. However, it is not clear that facts about correct procedures are genuinely less ontologically and epistemologically problematic than facts about what is morally right or wrong. Indeed, one model to which formalists appeal to avoid this problem is to agree that the rational will is the source of all value, i.e. rational will is unconditionally valuable and is an end in itself not merely a means. Clearly, while this model purports to explain the special value of a rational will, at the same time it explains the correctness of the formula of humanity.

The problem inherent in the second observation centers on the fact that, according to Kant, agents cannot properly know morality since only transcendently-free rational agents can comply with morality in the noumenal sphere. Therefore, moral knowledge cannot be recognized by relocating morality in the phenomenal sphere which excludes the transcendental doctrine of Kant's ethics. We may understand Kant's implication that universality is a category of practical reason or pure concept by observing that Kant also implied that universality plays a role similar to the categories of the understanding. Kant evaluated the divergence between pure practical and theoretical categories since for him the former must apply to the noumenal realm. However, the hurried doctrine of the *Second Critique* defends the transcendental use of the practical categories. In Kantian philosophy, such a proposal may seem to constitute a radical move, given that if we cling to the transcendental interpretation, the fruitfulness of Kant's ethics will be compromised. However, contemporary philosophical sensibilities no longer turn to the transcendental interpretation for insight, especially when metaphysical approaches provide a concrete theory of moral obligation or duty.

Therefore, if we reject broad Kantian formalism, it appears we must then defend the plausible inconsistency between the formal nature of humanity and the *First*

*Critique*'s constraints of Knowledge to the phenomenal sphere. I suggest we are able to avoid this peculiarity of Kant's ethics and the problems arising from the broad emptiness charge in Kantian non-formalism value theory.

In the end, Kantian formalism, both the narrow and broad forms, are misleading views, which calls for some alternative way to explain Kant's ethics. We find, then another interpretation of Kant that is persuasively valid and that recognizes both the weaknesses and strengths in his ethical theory. If we fail to embrace this challenge by considering Kant's ethics as an insuperable obstacle, we will be halted in our desire to deepen and enrich philosophical thought.

### **6.3 Kantian Value Realism**

With the background of the preceding chapters and the introductory analysis provided in the foregoing paragraphs of this chapter, we have logically led to these questions: What is essential to Kant's ethics? What is the content of the moral law if, indeed, it possesses such content?

To approach these questions, it is useful to note that in chapter one, we saw the paradox that arises from Kant's writings in the *First Critique* and *Groundwork* that leads to the charge of empty formalism. In chapter two we examined the problems or weakness that remains in Kant's thought which has puzzled his readers for decades and given rise to different interpretations of his thought.

However, in my view, neither Kant nor many scholars agree that Kantian ethics is essentially formalistic. Rather than be caught in the formalist quagmire, by exploring Kant's ethics more deeply and by turning to a non-formal understanding of his work, we may still discover philosophical rigor, intellectual value and practical application. While formalism is essentially a negative way to understand Kant, value theory offers a fresh approach, albeit often ignored by Kantians that is positive and productive.

In order to direct the forthcoming discussion, I pose a series of questions that will prove helpful. These include: Which values are consistent with the formal portions of

Kant's ethical writings? Why is Kantian value realism worthwhile? At what values does Kant's ethic, or as I hold a Kantian value realism hint? How do these values direct a moral life in Kant's perspective?

Before we make this move, it should be clarified that Kant had never explicitly wrote about or conceived by non-formal, non-sensuous values. However, there is evidence in Kant's work that implies that values are not conceived due to formal moral law, nor dependent on it. The question of whether these values are 'in us' or 'out there' cannot be answered easily in this study since such a consideration is beyond the scope of this thesis. However, these questions should prove heuristic and help direct future scholarly inquiry.

### **6.3.1 The Evidence for Kantian Value Realism**

Although as previously, noted Kant did not explicitly mention non-formal, non-sensuous values and although there are no clear textual references to a non-formal theory of value in Kant's work, controversy continues regarding this matter. Moreover, in the first chapter of *Groundwork*, Kant objects to the notion of value realism. He makes two statements that support this observation:

It is impossible to conceive of anything at all in the world, or even out of it, which can be taken as good without qualification, except a good will (Gr393).

A good will is good not because of what it performs or effects, not by its aptness for the attainment of some proposed end, but simply by virtue of the volition; that is, it is good in itself, and considered by itself is to be esteemed much higher than all that can be brought about by it in favor of any inclination, even of the sum total of all inclinations (Gr394).

Here, Kant says that good will is good without qualification. Later, Kant explains that this good is a rational will, that is, a will that adopts and acts upon CI to respect humanity.<sup>106</sup> These striking passages, however, are misleading due to Kant's phrasing

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<sup>106</sup> Like Guyer pointed out "commentators see Kant have emphasized the value of the freedom to set and

which would incite some critics, no doubt, to contend that this good will is a reality with value in Kant's ethics

However, Kant does set forth a precise objection to value realism in the *Groundwork*. While Kant begins with the notion of 'ordinary rational knowledge of morality' or what may be termed a common sense approach, in the course of each chapter he espouses an increasingly philosophically sophisticated theory. In other words, the first paragraph in the *Groundwork* appears to set out a version of value realism that Kant will later repudiate as philosophically naive.

I argue, however, that this is a misunderstanding of Kant's meaning. Kant never suggests that common sense is substantially mistaken about morality. In fact, he says that ordinary common sense moral views are substantially correct, and simply need philosophical elucidation. (Gr 391)<sup>107</sup> In the rest of *Groundwork*, he explains what it means for the rational will to be supremely valuable, without intending to criticize this view. It is obvious that Kant did not reject value realism since later in the *Groundwork*, specifically in the section focused on CI2, the formula of humanity, he offers this clear statement:

Something has its existence in itself as an absolute value, such value as an end in itself could be a ground of determinate laws; then in it, and in it alone, would there be the ground of a possible CI- that is, of a practical law. Now I say that man, and in general every rational being, exists as an end in himself, not merely as a means for arbitrary use of this or that will (Gr4: 442).

There are many other passages in which he makes similar remarks (Gr4: 396, 4: 397, 4: 462.). Kant could hardly make his views clearer: the existence of rational beings possesses an innate absolute value. Because rational being possesses the capacity for autonomy, they are thus able to guide their actions based on the moral law. This, one might argue, leads one right back to formalistic approach, so that the 'innate absolute

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pursue ends or the importance of the value of rational nature" (Guyer 1996: 420–3). But there is no further explanation on how rational nature would be the source of the value of all other ends.

<sup>107</sup> "Human reason can, in matters of morality, be easily brought to a high degree of accuracy and precision even in the most ordinary intelligence."

value' of persons does not refer to material aspects. In this respect, I think Korsgaard provides a better interpretation on the defense of a Kantian realism.<sup>108</sup>

Korsgaard criticizes a substantive moral realism that includes the alluded moral concepts for the moral entities noticed by us. The obligation would not exist unless there are necessary actions. This moral realism has the content problem in terms of whether there is really anything for action. Korsgaard argues the potential of defending realism should have both standards: not only have forces against practical normative truth (that x is a reason to do y) but also have force against the existence of theoretical normative truth. For example, I do not lie because I think lying is wrong; I must suppose that my reason of thinking is real. In this sense, the moral realism would have to answer what is the truth. Korsgaard gives another example that I think that I am mortal because I am human; the belief that I am mortal need not suppose that my reason is real. The question of existence of theoretical reasons is dismissed since we only need to explain the occurrence of beliefs.

Hence, in Korsgaard's view, Kantian morality is grounded in human nature; Kant's moral philosophy characterizes the deliberations of the autonomous moral agent. Moral properties are projections of human dispositions. In CI, a reason is determined in terms of whether we should allow it to be a law to us and whether the maxim of acting on it can be willed as a law. Korsgaard disputes a misunderstanding of Kantian morality as an interpretation of moral consciousness; it is essentially a mental state and no more certain than anything else. For Korsgaard the human mind is self-conscious and essentially reflective. Korsgaard distinguishes the meanings of self-conscious by exploring the meanings of reason, as the reflective success she argued. The key question is how can reflective reasoning have any reason for adopting one law rather than another?

Korsgaard gives Kant's answer would be reflective reasoning accords from the law of a free will. The CI tells us to act only on a maxim that we could will to be a law.

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<sup>108</sup> Korsgaard's defense of a Kantian sort of realism in her book: *The Sources of Normativity*, (Cambridge: Cambridge University Press, 1996).



The problem, then goes to how the free will is interpreted in terms of the content of the CI. Korsgaard points out that according to Kant the CI is the law of a free will. But the question about how or why the moral law is the law of a free will has not answered.

The above is a brief review of Korsgaard's standpoint about realism and empty formalism. Even though Korsgaard is not optimistic that the CI is not the moral content that could guide us, I think she has inspired to pursue a further approach to Kant, viewing value as reflective reason in this sense the CI could affect reflectively, while I will argue that the CI, precisely, the second formulation rather has the central significance that may valid for the Kant's purpose of the content of moral law. Allison Hill's Kantian value realism gives us a persuasive interpretation in what sense Kant means of value and its relation with CI, but how Kantian value realism could be directly defended CI upon Hegel's charge? As I understand, Hill does not give a clear answer, maybe Hill as many realists tend to the evaluation of value theory in Kant; however, value theory is too broad a topic and limitedly discussed in my thesis. Since my thesis is essentially critical of the emptiness charge, I will discuss value realism in terms of humanity, or precisely dignity, impartially and freedom; these notions of value are presented through Kant's second formulation.

### **6.3.2 Alison Hill's Kantian Value Realism**

We have listed textual evidences that imply value realism in Kant's moral philosophy. However, a number of doubts remain whether Kant endorsed realism or value realism. There have been lots of scholars working on these issues. Kantian value realism, I think most famously Alison Hill's Kantian value realism, has been widely discussed for different purposes.<sup>109</sup>

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<sup>109</sup> For example, Paul Formosa argued that Kant is both a moral realist (but only in a weak sense) and a moral constructivist (but only in a not 'all the way down' sense). Realists, such as Robert Stern, Allen Wood, Rae Langton and Dieter Schönecker, they see the foundation of Kant's moral philosophy on the value of humanity. The further discussion of moral realist and moral constructivist can be found in these articles: Paul Formosa, *Is Kant a Moral Constructivist or a Moral Realist?* Frederick Rauscher, *the Problem of Obligation, the Finite Rational Will, and*

Alison Hill in the article *Kantian value realism*, evaluates Korsgaard and Wood's explanation of the construction of moral and non-moral value as a 'regress' argument (Korsgaard, 1996a: 119–124; Wood, 1999: 125–132). Hill begins with the source of non-moral values and terminates with the formula of humanity. Hill explains the value of our ends in the humanity formulation. Hill proposes that the source of value is the agent herself rather than else, which he named the "conferral model" of value, as one possible explanation of non-moral value. Another one may be Korsgaard's Kantian constructivism that correctness of the CI procedure constructs the action-self: making false promises is morally wrong because a maxim of false promising fails the formula of universal law and the formula of humanity tests. Hill points out the problem of Kantian constructivism. And Korsgaard criticizes realism for three reasons:

1. Realism cannot explain the correctness of ethical statements.
2. Realism is committed to the existence of moral.
3. Realism cannot explain why we have reason to do with some peculiar duties; it is simply a fact that making false promises is wrong.

Hill gives his objections:

Regarding numbers 1 and 2 above: these two charges of realism are not valid, because it is hard to say facts about correct procedures are genuinely less ontologically and epistemologically problematic than facts about what is morally right or wrong.

Regarding number three, we cannot explain why we have reason to do in some peculiar duties because it is difficult to explain one option is worthy or worthless rather than another, such value may be belonging to supreme value. Hill suggested these difficulties are forcefully pressed by Regan (2002) who concludes that 'rational nature cannot be valuable in a Kantian world'. Actually, there are Kantians working on issues, whether rationality could identify moral law.<sup>110</sup>

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*Kantian Value Realism*; Anne Margaret Baxley, *Naturalism and Realism in Kant's Ethics*; Robert Stern, *Kantian Ethics: Value, Agency, and Obligation*.

<sup>110</sup> Noriaki Iwasa, "Reason Alone Cannot Identify Moral Laws", *Journal of Value Inquiry*, Vol. 47, Nos.

According to Hill, aside from Korsgaard's objection to realism, there are mainly two doubts whether Kant implies value realism. The first doubt arises from epistemological concerns. Kant states that it is possible for all of us to possess moral knowledge; given that we construct value it is clearly plausible that we can know what is valuable. However, if value realism is correct, then our epistemic access to value is much more puzzling. In Hill's view, Kant does find moral knowledge puzzling and holds that epistemology is compatible with realism. Kant appears to claim that we do have epistemic access to truths about value. Although Kant was clearly more interested in explicating his moral theory and in addressing questions about freedom than in discussing moral epistemology, this may be simply because he was confident that we actually have access to values, not because he denied that values are real. So as Hill proposed, this first doubt is not a decisive denial of the possibility that Kant is, indeed, a value realist.

Hill argues that the second doubt regarding Kant's commitment to value realism arises from the fact that Kant emphasized the importance of principles in ethics rather than values. For example, in the *Critique of Practical Reason*, he claims that we cannot understand what is valuable until we know the correct principles for action (KpV5: 62–4). In the *Groundwork* he explicitly considers a theory he calls perfectionism that seems very like value realism, but then rejects it. But in both cases the evidence is misleading, for Kant does not reject value realism as such, but only particular versions of it. For example, in the *Groundwork* he makes it quite clear that a formal principle can be based on an objectively valuable end – such as rational nature (KpV5: 21–2, 5: 27). He quite explicitly states that free will or rational nature is supremely valuable since it is the source of all other values. He rejects perfectionism because he rejects theories based on the effect of willing, rather than the nature of willing itself. (Gr441–4, 4: 394.) Kant rejects the idea of value in the *Critique of Practical Reason*, not in order to favor principle, but to support conceptions of the good that are based on happiness or desire (KpV5: 21–2, 5: 27). In Hill's argument, Kant does not consider value realism puzzling

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1-2, pp. 67-85, 2013.

per se since Kantian value realism is a coherent theory, whereas Kantian constructivism is not; we ought to interpret Kant as a realist.

These are Hill's objections to Korsgaard's constructivism Hill made a profound attempt to explore the evidence of Kantian value realism, but how can Kantian value realism directly defend the CI? As I understand, Hill does not give a clear answer. In the next section, I will discuss value realism in terms of humanity, or precisely dignity, impartiality and freedom, these notions of value are presented through Kant's second formulation.

## **6.4 Value of Humanity, Non-Formal Aspects of Values in Kant's Moral Philosophy**

Having considered the notion of value realism and the potential objections to the claim that Kant, in the end, is a value realist, we are now ready to turn to the consideration of the second question posed earlier: At what values does Kant's ethic, or as I hold a Kantian value realism hint?

I would argue three values are at the core of Kant's theory of value: impartiality, freedom, and dignity. Many formalists would agree that Kant's ethic give some attention to these notions, but none of them have recognized that they are independent values in Kant's system. The broad emptiness charge, urges that impartiality, freedom, dignity are products of formal willing. I would suggest, however, that the broad emptiness charge dismisses the non-formal aspects of values. Moreover, Kant's ethic needs and indeed possesses a non-formal component in order to 'complete' judgments about obligation and goodness. In order to explore these ideas further, we will now consider each of the three values in greater detail.

### **6.4.1 The Non-Formal Value of Impartiality**

The requirement of impartiality is a defining feature of any Kantian approach to

morality. Many Kantian commentators and critics have attempted to characterize impartiality, but fail to understand this idea in terms of either the narrow emptiness interpretation, which emphasizes logical consistency or the broad emptiness interpretation, which focuses on the deconstruction of humanity summarized in the impersonal and indifferent view or what is also labeled equal concern for all. In contrast, I argue that Kantian moral impartiality is not merely a matter of logical consistency or even a deconstruction of humanity by reason alone; it must be valued in a more specific non-formal sense.

#### **6.4.1.1 Logical Consistency: The Narrow Emptiness Charge to Impartiality**

The narrow formal notion of impartiality is expressed as a procedural constraint on the process by which particular moral principles are determined without recommending the substantive principle of impartiality; it directs agents to assume the stance of a disinterested judge and treat all persons equally. This seemingly simple principle reminds us of Rawls' troubling formalist reconstruction of the ancient Greek principle: 'Treat the equal equally and the unequal unequally.' An example of formal impartiality can be found in our earlier discussion of the grain-stealing problem:

A farmer who wants to steal his neighbor's grain wonders why this is not permissible. From an external point of view, stealing grain is morally impossible because of common human will which subsequently creates a self-contradiction. In this case, the farmer's private will contradicts the universal will which harks back to the democratic version that complies with universal progression. Therefore, there is nothing morally impermissible about stealing another's grain until the majority of farmers who disallow stealing grain create specific rules or laws prohibiting theft. However, such a universal progression reveals the pitfalls of legal positivism which states that we receive rights as a result of laws legislated and enforced by a governing authority. Further, then ideal of a democratic universal will has not gone far enough since, returning to our example, the farmer's theft will be morally indifferent. In the end, therefore, a farmer who steals his neighbor's grain is only considered immoral

after some positive law is established to prevent stealing grain. Before this decision is made, the democratic universal will results in a war of conflicting interests.

While this purely formal notion of impartiality in Kantian formalism highlights the importance of the universal will, what occurs when my personal will conflicts with the universal will? This question cannot be solved by depending upon the democratic version which makes moral decisions by relying upon the non-inter-subjective views of the majority. Again, referring back to our example originated by Kant, I may pursue at least two options in order to arrive at a majority opinion with regards to stealing grain. First, perhaps I can ask my neighbor's and others' attitudes about stealing gain. Or, second, perhaps, as members of the agricultural community, we could vote on this issue.

While this example may be illustrative, we must note that Kant's notion of impartiality is obviously more complicated since his view may be characterized as closer to the impersonal totalitarian view. Still, such a view creates new questions: How do I absorb an obscure and impersonal point of view? As an agent living in the real world, the universal will does not come automatically as an epiphany if one strays from the universal will. How, then, can one recognize the universal will? Clearly, a purely formal notion of impartiality does not answer such questions satisfactorily. I hold that Kant's notion of impartiality offers a better alternative to the narrow impersonal stance elucidated here.

Moreover, the strong democratic version or the Rousseauian Universal Will explanation which stresses everyone's best interests or the common good is also invalid. In Kant's view, ostensibly, the idea of a general will which results in what is ultimately best for everyone is likely naive given modern political perspective. However, this does not appear to be the case.

Because Kant seeks to grasp human understanding and believes humans are capable of both engaging and implementing speculative actions in accordance with the common good, humans are therefore able to pursue a non-formal, public conception of the good. I propose that such a view constitutes the archetype of Kantian non-formal impartiality.

I should also note that textual evidence for non-formal impartiality is extant in Kant's work. Kant, for example, says the "good to be furthered is no longer called the common good. Rather, it is the good for humanity". He also notes that such a view may be seen as a means to advance the ends of humanity through positive duty in the third and fourth illustrations of CI2 in the *Groundwork* (Gr 430). To illustrate these ideas, Kant notes that neglecting others in need would 'harmonize negatively' with the good for humanity because in doing so one would not intentionally make the needy less happy than they already are. Moreover, according to formal impartiality, neglecting others in need might be permissible, provided that one does not desire to receive help in the future; such a stance would at least be coherent.

However, Kant may well have held that the formal requirement of impartiality is not enough. He adds the positive duty of beneficence in the illustration of CI1 to forbid negative formal duty, i.e. making promises that serve self-interest. Given this aim, impartiality must describe the ideal conditions under which impartial principles can be selected and justified. As Susan Wolff points out:

The 'impartialist insight' claims that all persons are equally deserving of respect and well-being and that one integrates this insight into one's life by acting in ways that any reasonable person would accept and by holding oneself to the standards one expects of others.<sup>111</sup>

Kant's non-formal notion of impartiality does consider the conditions behind Rawls' view of fairness. In chapter three we discovered that Rawlsian fairness requires that we give up our surplus to provide what others lack. This impartial perspective can only be achieved, however, under what Rawls terms a 'veil of ignorance' experienced by an autonomous legislator or an impartial spectator, respectively. Actually, Rawls argues at great length why we should accept the difference principle, namely because no one knows behind the veil of ignorance if he might end up as the least well-off, giving him a reason to adopt a risk-avoiding strategy, i.e. implementing the difference

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<sup>111</sup> Wolff, S. "Morality and Partiality". In *Philosophical Perspectives*, Vol. 6, Ethics, 1992, pp.243-259

principle.

It is *prima facie* unfair, according to Rawls, to allow the least-well-off to starve to death simply because of their own bad luck, which merely appears to point to ‘formal impartiality’ as ‘formally concerning for all’. In contrary, a just or non-formal impartiality might allow special consideration for persons who have traditionally been marginalized or subject to discrimination. Rawls comes to realize that the ultimate argument for the difference principle is a Kantian one.<sup>112</sup>

In order to extend my discussion further, I now turn to an examination of Kantian non-formal impartiality. The following paragraphs will allow me to set forth my arguments more cogently.

#### **6.4.1.2 The Non-Formal Value of Impartiality**

At the outset, the following question will help direct our examination of non-formal impartiality: How exactly is the Kantian duty of beneficence determined by non-formal impartiality rather than formal impartiality? To provide an answer, consider this scenario: I have an over-abundance of resources and my neighbor is about to die from starvation due to his poverty. I am fully aware of my neighbor’s suffering and of the steady decline of my food resources. According to the narrow formal impartiality stance, which considers the moral law as equivalent to logical coherency, I am not required to act to meet my neighbor’s need, especially if I do not intend to accept charity in the future; this position appears completely rational. But what reason could I have for not feeding my neighbor? My reason cannot be a mere logical consistency, for if I am, indeed, indifferent about everything I would also be indifferent about relinquishing some of my wealth to feed my neighbor. Let us assume, then, that I am specifically indifferent about my neighbor’s suffering. In reality, even though I know that I could prevent my neighbor’s suffering by giving him some of my surplus, my real attitude is that I prefer holding on to my surplus rather than acting to save my neighbor from

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<sup>112</sup> See my discussion of Rawlsian Procedural Formalism in chapter three.



starvation. It is irrelevant whether his life has no value or is of minimal value to me. In neglecting to feed my neighbor, I show that I am partial to sustaining my overabundance when compared with his life.

Now, assume that my neighbor's life negatively affects my happiness because he regularly disturbs the peace with his cries of hunger that keep me awake at night, even though his behavior has no substantive impact on my conscience. By allowing him to starve, not only would I get to keep my surplus, I would also get rid of a disturbance that makes me unhappy. However, if I act from a duty born of beneficence, I clearly have chosen to benefit my neighbor in preference for retaining my surplus and ensuring my happiness.

Nevertheless, such seeming self-sacrifice will still not be morally good if it can be affected. That is, no matter whether the ultimate effect is positive or negative, humans may well hold to the supreme moral value which motivates us to regard others as ends in themselves not merely means. Therefore, CI2 is not merely a negative assertion, as the narrow formalists charge. The supreme value espoused in CI2, is, then, not too formal to guide our action; it possesses concreteness or substantive matter that informs an impartial approach to others.

Furthermore, when Kant considers a situation similar to the one previously described, he says that the character of the dutiful benefactor has incomparable moral worth (Gr398-399). Such moral worth, I argue, is the non-formalistic value of impartiality for Kant.

Another case worthy of consideration emerges when Korsgaard objects to Dietrichson's example of a woman who has decided to consider a maxim that states, "If I give birth to a baby weighing less than six pounds, and I shall do everything in my power to kill it." While Dietrichson opposes this maxim given that it fails to mention the mother's reason for killing the child, Korsgaard correctly points out that we can pose a maxim stating that 'killing children that tend to cry at night more than average in order to get enough sleep' is not a logical contradiction with the mother's maxim in Dietrichson's example. While these examples of allowing a neighbor to starve or murdering children in accord with some rule of action may appear extreme, they can

and, indeed, have occurred in our world. Therefore, if we choose to impartially consider the interests of all concerned parties in a given situation; such a course goes well beyond the requirements of a merely formal notion.

In my thesis, my general argument is CI2 is needed to address these examples adequately, and that CI2 has to be understood in a non-formal sense in terms of Kantian value realism. This also includes that CI1 alone, being purely formal, does not suffice and is also actually not equivalent to CI2. I have been working on these issues in my previous discussions:

We have seen that the emptiness notion of impartiality as a procedural constraint on the process is given without recommending the substantive principle of impartiality; it directs agents to assume the stance of a disinterested judge and treat all persons equally. The grain-stealing problem implies a universal progression, that is, there is nothing morally impermissible about stealing another's grain until the majority of farmers who disallow stealing grain create specific rules or laws prohibiting theft. But when the universal progression about voting steal action permissible or impermissible could arrive the ending? The merely formal impartiality did not give the answer, accordingly, only a farmer who steals his neighbor's grain is only considered immoral after some positive law is established to prevent stealing grain.

The narrow formal impartial stance considers moral law as equivalent to logical coherency; however, my reason cannot be a mere logical consistency. As mentioned in above, logical coherency has something answered. According to logical coherency, for indifferent about everything I would be indifferent about relinquishing some of my wealth to feed my neighbor. In reality, I could prevent my neighbor's suffering by giving him some of my surplus rather than in neglecting to feed my neighbor, I could prevent my partiality by sustaining my over-abundance, not compared with my life, but treat humanity as ends.

Therefore, that the narrow emptiness notion of impartiality relies on logical coherency is fallacious, whereas the non-formal notion of impartiality is not subject to such errors. For non-formal notion of impartiality, humans may well hold to the supreme moral value which motivates us to regard others as ends in themselves, not

merely means. We do not steal the grain because such action would demean our humanity. We help others, because we never treat others merely as means, but ends. CI2 is not merely a negative assertion, as the narrow formalists charge. The supreme value espoused in CI2, is, then, not too formal to guide our action; it possesses concreteness or substantive matter that informs an impartial approach to others.

As we now turn to consider the broad emptiness charges as well as the nature of humanity, we will also see that the non-formal notion of impartiality remains plausible.

### **6.4.1.3 Two Broad Emptiness Charges to Impartiality**

As we have seen the narrow emptiness charge of impartiality implies that one must maintain nothing more than logical consistency. Modern moral thought characteristically views impartiality as a requirement of morality, which, in turn, leads to the nature of humanity. However, the precise nature of this connection remains disputed.

As Brad Hooker has pointed out, we may assess moral impartiality by considering at least three levels. First, one may ask whether moral rules are being impartially applied. Second, impartial benevolence may directly guide practical decisions. And third, the content of first-order moral rules may be assessed impartially.<sup>113</sup> Hooker's interpretation fits well with procedural universalization, which also accords with the common rules established by the formal reconstructions. While such a position might be well accepted as a purely metaphysical consideration, in my view, Kant's theory is provoking not because of its attractive form, but rather because of its practical benefit which enables us to comprehend humans, including ourselves, while also serving as a guide for moral action. When Hooker connects impartiality with the nature of humanity, I find his three assessments fallacious because he conceives of the nature of humanity as simply formal. Moreover, his position espouses a formality that ultimately destroys

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<sup>113</sup> Hooker, B, "When is impartiality morally appropriate?" In Feltham and Cottingham (Eds.). *Partiality and Impartiality: Morality, Special Relationships, and the Wider World*. Cary, NC, OUP, 2010, pp. 26–41

humanity. More particularly, the first assessment refers to the coherency of action which is related to the original emptiness charge we have just analyzed. In order to respond to the remaining two assessments, I now discuss the two aspects of the broad emptiness charge. In the end, these two aspects undermine and even destroy humanity given the impersonal stance and the associated idea of equal concern for all both born of impartiality.

### **Deconstruction of Humanity and Equal Concern for All**

At the outset, we recall that Hooker's second assessment asserts that impartial benevolence serves as a direct guide to facilitate decisions about what we ought to do. Hooker states,

I mean impartial benevolence as the direct and sole determiner of everyday practical decisions. By impartial benevolence, I mean an equal concern for the good of each. And by equal concern for the good of each, I mean treating a benefit or harm to any one individual as having the same moral importance as the same-size benefit or harm to any other individual (Hooker 6).

As I understand it, Hooker's view resembles a broad formalistic understanding of Kantian impartiality given that he requires equal concern for all in a pure formal sense. However, as Fairbanks argues equal concern for all would ultimately destroy the self:

The impartiality requires moral agents...focus on categorical uniformities rather than face up to the particular reality of each person involved. It becomes all too easy for the agent to ignore a particular person's pain or loss. The impartial moral agent no longer hears the cries, perceives the tears, or acknowledges the injustice and harm done to others because her eyes are firmly fixed on impartial principles; simply, the impartial moral agent becomes a moral monster.<sup>114</sup>

With regard to these controversies, Kant seems to advocate that the members of

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<sup>114</sup> Fairbanks, S. J, *Kantian Moral Theory and The Destruction of The Self*, (NY: Westview, 2000),p.88,

the moral community are to set aside their personal interests in consideration of the principles that should govern the moral community. For example, suppose that our community decides to ban the right to own and hold private food supplies in order to achieve the common good of eliminating hunger. As a result, everyone would be allowed to enter any household and eat whatever they need. This and other like moral quandaries raise the issue of how to morally balance the ultimate needs of humanity or community ends with private ends. Paul Guyer explains the possible systematic connection of these two seemingly competing ends:

There is no guarantee that in any given circumstances that there will be any maxim of action that could be adopted by any single agent that will also be compatible with all those ends.<sup>115</sup>

A genuine moral community, therefore, requires that we rise above our private interests and ends so that we can arrive at a decision that ensures harmony in our community by achieving community ends. In this sense, non-formal impartiality ensures that no particular person's or group's ends receive special consideration.

Given this interpretation of CI3 (the kingdom of ends formula), Kant holds that the moral community as a kingdom of ends will not be possible if we justify a particular action or maxim solely on the basis of satisfying personal ends. However, we achieve a moral resolution by balancing our legitimate personal considerations with the interests of other particular individuals as well as the 'common or social interests'. For Kant, then, impartiality determines the will and harmonizes with his theory of value. Therefore, this position withstands the broad emptiness charge.

### **Deconstruction of Humanity: The Impersonal and Indifferent View**

Although Hooker realizes that the second assessment he proposes needs to be

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<sup>115</sup> Guyer (P.), "the Possibility of the Categorical Imperative". *The Philosophical Review*, 104 (3), 1995, pp. 353-385.

revised, he holds that agent-neutral assessment of rules is better than agent-relative assessment of them. He writes: “In short, evaluating impartiality in the sense of agent-neutrality does not entail evaluating with equal concern for everyone.” He further notes regarding an Impartial Assessment of (First-order) Moral Rules:

What is it for a rule to be impartially defensible? One idea is that for a rule to be impartially defensible is for it to be defensible from an agent-neutral point of view. If this idea is right, then your evaluating rules impartially is your evaluating them apart from any special attachments of yours. In your assessment of rules, you would not give extra weight to benefits that the rules produce for you, for your friends, for your family, etc. (Hooker<sup>10</sup>)

This assessment, which as Fairbanks notes characterizes impartiality as impersonal and indifferent is one with which I agree. Rather, we are directed to consider the common good, the result of which may mean the denial of our personal good. It may well be that the interests of the common good might not harmonize with our personal interests.

This interpretation is closer to the Rousseauian version of impartiality where stealing is impermissible because the will of the majority prohibits such action. Therefore, Rousseauian impartiality forces us to assume a view of the good that requires us to abstract our closest personal interests. Williams, in my opinion, provides a compelling explanation of this abstraction in terms of the indifference resulting from an impartial standpoint:

The moral point of view is specially characterized by its impartiality and its indifference to any particular relations to particular persons, and ... moral thought requires abstraction from particular circumstances and particular characteristics of the parties, including the agent, except in so far as these can be treated as universal features of any morally similar situation.<sup>116</sup>

However, this view of the good which prefers the concerns of our neighbors does not fit with the abstraction Williams proffers, noted above. In fact, Williams complains

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<sup>116</sup> Williams, B, *Moral Luck*. NY: Cambridge University Press, 1981, p.2.

that Kant's view of humans essentially divorces our will from our individuality. However, according to CI3 (the formula of the kingdom of ends), this charge would be dismissed because Kant defines the kingdom of ends in the following way:

I understand by a 'kingdom' the systematic union of different rational beings through common laws. Now, since laws determine ends as regards their universal validity, we shall be able—if we abstract from personal differences between rational beings, and also from all the content of their private ends to conceive a whole of all ends in systematic conjunction (a whole both of rational beings as ends in themselves and also of the personal ends, which each may set before himself); what is we shall be able to conceive a kingdom of ends, which is possible in accordance with the above principles(Gr 74).

Kant's ultimate assertion is that even if rational agents abstract away all of their personal ends, they can still conceive of themselves as agents. One can always act by relying upon the reason provided by the end of humanity as an end in itself. Respect for humanity or rational nature is an end for all rational beings and, as such, it provides a rational agent with a reason for an action that is distinct from any contingent end the agent may have. Hence Kantian impartiality is not impersonal and indifferent to others, and it is not of course, merely formal.

#### **6.4.2 The Non-Formal Value of Autonomy**

There can be little doubt regarding the centrality of the concept of freedom in Kant's critical philosophy since this notion constitutes a common thread running through all three critiques. Although Kant does not claim to establish the reality of freedom in the *Critique of Pure Reason*, he does claim, on the basis of transcendental idealism, to establish its compatibility with the causal mechanism of nature. Indeed, he even states that 'were we to yield to the illusion of transcendental realism, neither nature, nor freedom would remain.' Further, in the *Critique of Practical Reason* he shows the reality of freedom from a 'practical point of view' and characterizes the concept of freedom as the keystone of the whole architecture of the system of pure

reason and even of speculative reason. Finally, in the *Critique of Judgment*, Kant suggests that the faculty of judgment makes a possible transition from the realm of the concept of nature to that of the concept of freedom (KpV 14-15, 35, 175-6, 195). Surely, it is no exaggeration to claim that, ultimately, Kant's critical philosophy is a philosophy of freedom.

Unfortunately, it is also no exaggeration to state that Kant's theory of freedom is the most difficult aspect of his philosophy. This arises from the fact that Kant offers a number of different ways of characterizing freedom and its various distinctions.

Because of Kant's various, complex conceptions of freedom, the role of freedom is often hidden among the generation of duties. However, Kant explains that freedom is autonomy with a formal function, which exists because of the capacity of the will in a rational being and which remains independent of the influence of any objects of volition. The capacity for autonomy, according to Kant, is 'the basis of the dignity of human and of every rational nature: and in accordance with this rational nature, is an end in itself.' Furthermore, autonomy 'restricts freedom of action, and is an object of respect.'<sup>117</sup> Autonomy is self-legislation under the dictates of CI; there are only two kinds of legislation about human action, in Kant's view, either our actions are determined by the laws we set for ourselves, or they are subsumed under natural laws. The procedure of universalization allows one to self-legislate and thereby to break free of nature in some sense. Every dutiful act is an act of freedom according to Kant. Ironically, free acts are also controlled by moral law which means that 'radical freedom' does not exist in Kant's moral philosophy.

Autonomy, then, which constitutes the formal account of freedom, is an ambiguous principle since Kant treats it both as a self-contained formula for the CI and as the supreme condition enabling the possibility of CI. For example, if I decide to construct a particular maxim, say to borrow money without any intention to repay it, I make repaying my rule of behavior, which constitutes self-legislation. Even though

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<sup>117</sup> Many thinkers have followed Kant in grounding the dignity of persons and respect for persons generally in our capacity for autonomy although it should be noted that not all of these thinkers have accepted Kant's conception of autonomy. More will be said in our discussion of dignity.



such a rule reflects my inclinations and needs, it is never determined solely by them. Consequently, it might be argued that even in the case of desire-based or ‘material’ maxims, the “law stems from the will rather than from some property belonging to the object of volition.” If it did not, the action “would be a mere conditional response to a stimulus rather than an expression of rational agency.” As Rudiger Bittner, the main advocate of this interpretation of Groundwork correctly notes that Kant does not accept the idea of practical reason.<sup>118</sup>

Given there is no radical freedom and no receptivity of practical reason, is the notion of freedom in Kant’s ethic an empty expression? Before we answer this question, one of the most difficult aspects of Kantian freedom must be clarified, namely, whether the concept of transcendental freedom is an explicitly indeterminate concept, which requires an independence of determination by all antecedent causes in the phenomenal world. In response to this question Kant himself insists that because freedom involves this transcendental (non-empirical) component it remains the ‘stumbling block of all empiricists, but the key to the most sublime practical principles for critical moralists.’ Despite the fact that Kant focuses on the question ‘How can pure reason be practiced?’ he gives only passing attention to the notion of freedom when he discusses the illustrations of duties, noting only that autonomy is the form of freedom in the *Second Critique*.

Kant’s position here may serve as a strategy, which appears to be something of a radical move since if we hold to the idea of transcendental freedom, it will ultimately be contrary to the emerging fruitfulness of Kant’s ethics. Moreover, as previously noted, transcendental freedom does not constitute a plausible interpretation for contemporary philosophical sensibilities, especially when metaphysical ideals provide a concrete theory of moral obligation or duty.

Given this background, we must pose a fundamental question: Is freedom an empty idea in Kant's ethics. In answering this question, we must consider the two formal

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<sup>118</sup> Bittner, R, *What Reason Demands?* Theodore Talbot, Trans. New York: Cambridge, University Press, 1989.

views of freedom, i.e., personal autonomy and moral autonomy. While many scholars have addressed both of these positions and typically chosen one position in preference to the other, none have considered them through the lens of anti-formalistic thinking.<sup>119</sup>

#### 6.4.2.1 The Original Emptiness Charge on Autonomy

In my prior discussion of Hegel in chapter two, I mentioned that he underestimates Kant's CI in terms of its content. Further, the emptiness charge holds to coherency among maxims rather than appealing to the ideal of universal law. The original emptiness charge may attribute freedom that is only constrained by logical coherency; we have freedom because the will is determined by something other than a sensuous or pleasure-based motivation. We might think that this 'something other' is coherency.

While we found that the emptiness charge ultimately fails, as we have previously discovered, impartiality can determine the will in some less complex cases. Such a conclusion, however, is erroneous since coherency may constrain the choices available to the will, but not determine the will especially in more complex cases. Like the free-rider problem we considered in 5.1, the consistent consequences of an act-related to n-times easily become fallacious. If freedom is a value in Kantian value theory, then it too should be able to determine the will non-sensuously.

However, to make sense of freedom as a value, we need also to look at Kantian freedom in its non-formal aspect. Robert Taylor best captures the value of freedom in Kant's ethics by plausibly and systematically rereading Kant's *Doctrine of Virtue*.

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<sup>119</sup> Robert. Taylor emphasizes that Kantian prudential reasoning could serve as a conception of personal autonomy. Further, Raz notes that "Personal autonomy, which is a particular ideal of individual well-being, should not be confused with the only very indirectly related notion of moral autonomy. Moral autonomy... is a doctrine about the nature of morality. Personal autonomy... is essentially about the freedom of persons to choose their own lives." Jeremy Waldon also suggests that, despite this claim, Raz in fact infuses personal autonomy with a substantively moral character, effectively associating personal autonomy with the pursuit of a particular conception of the good. See Waldron, J. Moral Autonomy and Personal Autonomy. In J. Christman & J. Anderson (Eds.), *Autonomy and the Challenges to Liberalism: New Essays* (pp. 307-329). Cambridge: Cambridge University Press, 2005, pp.320-21

Taylor provides an essential line of defense against certain critiques of Kantian formalism, especially that of Rawls' procedural formalism. Taylor says,

Is it even possible for a single conception of personal autonomy to meet both of these criteria, to be not only ultimately objective but also substantially subjective? I shall argue in this section that Kant offers just such a conception in his *Tugendlehre*, or *Doctrine of Virtue*—specifically, in the form of certain imperfect duties of virtue to self (natural perfection) and others (beneficence).  
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This concept of personal autonomy harks back to Rawls' interpretation, which places greater emphasis on the planning and deliberative features of personal autonomy that Rawls associates with Kantian empirical practical reason. As he explains, it “roughly parallels Kant’s notion of hypothetical imperatives.”<sup>121</sup> Rather than focusing on the creative side of personal autonomy, Rawls highlights its dependence on principles of rational choice, such as “the adoption of effective means to ends; the balancing of final ends by their significance in our plan of life as a whole; and finally, the assigning of a greater weight to the more likely consequences.”<sup>122</sup> For Rawls, personal autonomy is a kind of deliberative rationality given that his procedural formalism focuses on the process of deliberation rather than its outcome, which neither implies nor is implied by personal autonomy. I find Rawls’s procedural formalistic explanation of freedom too narrow. I agree with David Johnston’s statement, “The pure proceduralism of personal autonomy does not assure results consistent with the moral law or any other substantive standard.”<sup>123</sup>

#### **6.4.2.2 The Broad Emptiness Charge on Autonomy**

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<sup>120</sup> Robert Taylor, “Kantian Personal Autonomy”, *Political Theory*, October 2005, 33(5): 622.

<sup>121</sup> See my discussion of Rawls’s version of Kantian formalism in chapter three.

<sup>122</sup> Rawls, *Theory of Justice*, (Oxford: Basil Blackwell, 1975), p.359-60.

<sup>123</sup> David Johnston, *the Idea of a Liberal Theory: A Critique and Reconstruction* (Princeton: Princeton University Press, 1994), 76.

Given the disadvantages of the formal features of personal autonomy, we may ask how the personal autonomy would be creative. I will argue a developed interpretation of Kantian autonomy that is moral autonomy would suffice; especially when we meet the deeper charge about the CI.

The deeper charge against Kant's treatment of the CI is more complicated. According to Kant, being autonomous means being autonomous in terms of moral autonomy, thus governing oneself based on CI, which, in turn, includes CI2, i.e. respecting others as ends, without sufficient argument, that is, it is not possible to be personally fully autonomous without caring about the freedom and autonomy of others as well. As Raz notes, moral autonomy must consider the effects on particular cases. He further explains that moral autonomy reduces “self-authorship to a vanishing point as it allows only one set of principles which people can rationally legislate and they are the same for all.”<sup>124</sup>

Earlier, we noted that Kant says very little about freedom in his discussion of the illustrations of duties. Because Kant does not espouse practical reason, some may be concerned about the disconnection between personal autonomy and moral autonomy. However, in practice, we are obligated to carry out moral duties, which means that as we live our lives we remain minimally responsive to these duties and engage in particularistic forms of self-legislation. This dual self-legislation combines elements of personal and moral autonomy, respectively, into a unified whole.

Taylor's observation which I find compelling and with which I agree states this notion well:

Personal autonomy should not be confused with the only very indirectly related notion of moral autonomy that this disjuncture between personal and moral autonomy is the main obstacle to constructing a genuinely Kantian personal autonomy, not an insurmountable one.<sup>125</sup> Since this disjuncture

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<sup>124</sup> Raz (J.). *The Morality of Freedom* (New York: Oxford University Press, 1986), 370n. Cf. Joel Feinberg, “Autonomy,” in the *Inner Citadel: Essays on Individual Autonomy*, ed. John Christman (New York: Oxford University Press, 1989), 35–6, and 44.

<sup>125</sup> See Robert S. Taylor, “Self-Realization and the Priority of Fair Equality of Opportunity”, *Journal of Moral Philosophy* 1 2004: 333–47, here 342–3.

implied in those contemporary theories is as holding rights (personal autonomy) and fulfilling obligations and responsibilities (moral autonomy). It can be assumed that these two notions are somehow demanding, but it can help us to elucidate the moral practice. Through this description, we can see the missing public ingredient in taking oneself seriously in the moral sense. Let us assume for now that moral practice consists in having rights and obligations.<sup>126</sup>

Here, Taylor offers different levels of the practice that are publicly recognizable. The highest level of practice notes that both agents A and B have rights and obligations, such as is seen marital relationships or other partnerships. Such relationships are typically earmarked by deep trust, dependence, and mutual expectations between both agents. Thus, if one or the other abuses a right or fails in an obligation, the moral lapse is apparent. The second level of practice means that agents A and B share some rights and obligations, but not in equal strength compared with other relationships one or the other might have as is often experienced by adults and adolescents. While both may share mutual rights and obligations, one or the other does not possess a full set of rights or face an equal share of obligations. While this does not mean that the both agents may not necessarily achieve the highest level of rights and responsibilities discussed in the prior paragraph, it may also mean that A has a greater level of rights and obligations with another person (person C) which exceeds the level of commitment he or she holds toward B. In this case, A and C are at the highest level while A and B are at the second level since B is not taken as seriously.

At the third level, A and B do not have reciprocal rights and obligations. For example, B may enjoy rights with respect to A but holds no obligations with respect to A; this is seen for example in parent (A) and infant (B) relationships. In such a relationship, the infant has rights while the parent has obligations; but the infant has no obligations. It may appear in this case that the parent lacks any rights with regard to the infant. While this is true insofar as the parent cannot demand anything of the infant while the child remains an infant, the parent can of course exercise rights with respect

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<sup>126</sup> Again, there is nothing essential about this way of expressing the moral practice; we could just as easily talk about privileges and responsibilities, duties and powers, etc.

to third parties concerning the infant. The parent can, for instance, refuse to leave the child with a stranger and in this way exercise a right.

At the fourth level a person has only obligations and no rights, which particularly refers to a slave. A slave is expected only to perform and never to expect or demand; in fact, the slave is not allowed to make demands since a slave's sole purpose is to obey the master. In such a situation, a slave can neither receive moral praise nor blame since a slave is not free and his or her behavior is, by definition, decided by the master. Kant holds that those who are in the fourth level do not possess the consciousness of freedom. In reality, for Kant, there is little distinction between an animal and slave since both are both controlled by nature. Only when we have freedom and can take ourselves seriously as well as exercise self-control are we able to embrace and act with moral freedom. Without this social and participatory understanding of freedom, Kant's doctrine becomes formalistic and is restricted to the self-legislation of a morally-solipsistic agent.

### **6.4.3 The Non-Formal Value of Dignity**

We now turn to the third central notion in Kant's moral philosophy, dignity. I begin with two accounts of Kant's concept of dignity which includes a purely formal interpretation of the dignity of persons that I oppose as well as a non-formal version of dignity that I place at the center of a Kantian theory of value.

Now let us begin our discussion of the formal account dignity. There are two different interchangeable ways that the dignity of persons or the idea of humanity as an end in itself occurs in Kant's writings (Gr4: 435, KpV84). The first of these I label a 'substantive account of dignity' and the other a 'formal account of human dignity'.

#### **6.4.3.1 A Formalistic Explanation of Dignity**

The formal conception of dignity lacks substantive value with requirements for rational action. It is rather simply another way of imposing submission to the universal

law that all rational beings can accept. In the following passage it appears that Kant holds that the dignity of the person and the need to treat every person as an end is satisfied by ensuring that all people are treated in accordance with universal law:

Just because of this every will, even every person's own will directed to himself, is restricted to the condition of agreement with the autonomy of the rational being, that is to say, such being is not to be subjected to any purpose that is not possible in accordance with a law that could arise from the will of the affected subject himself; hence this subject is to be used never merely as a means but as at the same time an end (KpV5: 87).

This passage does not appear to impose a substantive constraint on what universal law affirms. Rather, it appears to affirm that treatment as an end is guaranteed by action that accords with universal law that every rational being can accept.<sup>127</sup>

Many students are drawn to Kant's ethics because of his formula of humanity may find his argument dissatisfying and in response point out that humans are ends-in-themselves and therefore have dignity only when they successfully practice self-legislation. Given that self-regulation is the formal aspect of freedom, the concept of dignity holds true for those agents who act with the free moral willing.

However, we should also note that this passage does not impose substantive constraints on how one may treat persons, but is merely another way of stating that self-imposed universal law is the true basis of morality. In this way, human dignity is related to moral law because the dignity of persons is respected, even if all universal laws do not mention humanity or persons. However, in order to comprehend the full implications of this approach we need to discover whether a substantive account of dignity would actually result from this procedure.

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<sup>127</sup> For a defence of a thinner reading of the formula of humanity. Hill writes there: "The core message of the humanity formula, on the thin reading, is that we must treat not merely our own reason, but also reason in each, as authoritative over inclinations, our own and theirs as well. To treat reason (or rational willing) in each as of unconditional and in comparable worth is not merely or primarily to protect and treasure it like a valued object but to respect the principles or 'laws' that (in our best judgment) it prescribes." p.150. See Thomas E. Hill, Jr., Donagan, *Kant, in Respect, Pluralism and Justice: Kantian Perspectives* (Oxford: Oxford University Press, 2000) pp. 119-151, esp. 148-150

### 6.4.3.2 A Non-Formal Explanation of Dignity

For most Kantians, a formal understanding of dignity has proven unsatisfactory. These critics argue that a formal understanding of dignity is unacceptable since this view means that human dignity is dependent on some other factor. Because many view Kant as a great humanist of the era of Enlightenment, a formalist understanding of dignity does not mesh well with such an image.

As a result of these objections, many Kantians and most famously, Thomas Hill have attempted to reform Kant's doctrine of dignity. Accordingly, Hill claims that Kant ascribes dignity to a variety of objects and that a result dignity cannot be tied to the achievement of morality by conforming to the maxims of universal law if it is to be unconditional. Citing Kant's later works, Hill points out that dignity and humanity are inextricably linked because humans are ends-in-themselves. (Hill 150) Thus, Kant's demand that we treat people as ends-in-themselves results from this understanding. Most Kantians, Hill included, believe that Kant insists absolutely on treating 'everyday' persons, that is, the people we meet on the street as ends-in-themselves or as intrinsically valuable entities. However, I do not see this as Kant's view. Rather, I believe that Kant expresses this view at times to assign dignity to both one's rationality and one's morality. But only rationality can be attributed, with any certainty, to the person on the street.

As I see it, the key to understanding the doctrine of dignity is the value of being a member of the kingdom of ends.<sup>128</sup> One does not expect or receive pleasure, such as that which derives from goods or money upon entering the kingdom; there are no door prizes. Rather, dignity must be an intrinsic value. While it is evident that humans are never perfectly moral, the kingdom of ends is an ideal which means that only part of a person is truly in the kingdom. Therefore, intrinsic dignity is an essential precious value

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<sup>128</sup> In other works, Kant expresses rationality contains morality. I will take Kant's doctrine from pp.435-438 of *Groundwork* and assume that these two can be separated.



for anyone entering or taking part in the kingdom.

My understanding of Kant is that dignity is an emergent value which is a part of the process that includes both rationality and morality. This process transforms a rational being into a legislative member of the kingdom of ends, which in Kant's view constitutes the notion of a person (Gr428).<sup>129</sup> One must possess both rationality and morality in order to be an end-in-one self and therefore enter the kingdom as an authentic legislative member. Such a person is to be distinguished from the person on the street, since the kingdom of ends is an ideal legislative body, the members of which are self-legislating beings or ends-in-themselves. Consequently, rational beings are not automatically members of the kingdom of ends; they are members when and only when they enact universal laws. This makes perfect sense; I am not a member of Congress just because I have the rational capacity to be a member of Congress. I must be 'transformed' by a process that vets my ideals and skills and ultimately officially declares that I am a Congressperson.

It is my hope that my interpretation of dignity avoids both the formalist problems and Hill's strained interpretation. Kant does appear to suggest and certainly seems to say at various points that the dignity of persons provides the necessary ground to substantively constraint how one may treat persons. The illustrative examples of the formula of humanity given in the *Groundwork* also suggest this more substantive reading of the dignity of persons. That is, one may not commit suicide because of one's own humanity. One may not lie or make a false promise to another because of the humanity of the other. One must help others in need because of their humanity. These ways of treating humanity whether with regard to ourselves or others are, therefore, ends in themselves.

The principal passage in which Kant introduces the idea of dignity in the *Groundwork* suggests that Kant thinks of dignity as a special kind of value to be contrasted with objects that have a price. (Gr4: 435) In the *Metaphysics of Morals*, Kant

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<sup>129</sup> Kant clearly wants to use 'person' as a term of art, although in practice, he uses it in the colloquial sense.

suggests a more substantive reading of the importance of the idea of humanity as an end in itself and the dignity of persons. For instance, Kant says that “Freedom (independence from being constrained by another’s choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity.” (Ms29-32) Moreover, the value of humanity is used in a variety of places to support and comply with various duties to oneself and others in the *Doctrine of Ethics*.

Given this discussion, we are, I trust, able to see how dignity connects to freedom in the non-formal sense. A contrast may help emphasize the point. As we observe people who appear rationally sound repeatedly commit immoral acts, because they fail to convert their rationality by means of their moral capacity into proper behavior, they begin to lose dignity in our eyes. We in turn take them less seriously as moral agents and we entrust them with fewer and fewer rights and obligations. When they fail in some horrific manner, we do not take them seriously at all.<sup>130</sup> On the other hand, when people irretrievably lose their rational capacity, we likewise take them less seriously as moral agents. We have no grounds to punish or kill them, but neither do we allow them a full set of moral and legal rights. Rather, typically we confine them in a mental hospital where they have no obligations, but also, of course, lose some of their rights. In turn, given their confused condition, how can they possibly take others seriously?

Certainly our discussion of dignity must go beyond engaging in an examination of the exchange of rights and obligations, even though Kant never arrived at such an explanation of dignity. For Kant, to take someone seriously has a negative and a positive connotation. To take another seriously means that we refrain from treating human as a means. Rather, when we take others seriously, we see them as persons with unique and particular wants and desires (what Kant calls the subjective) (Ms 381-388). Even if the other is a person who serves us as a slave, we continue to treat this servant as an end; that is, as a being with intrinsic value equal to our own. Although, of course,

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<sup>130</sup> We can find these kinds of acts almost every day throughout the entire world. Especially, we often lose sight of the fact that crimes might reveal a lack of moral capacity instead of, or in combination with, a faulty rational capacity.

it is conceivable that even though we assume positive regard for the other, including a servant, by default, the other person may ultimately undermine our regard and no longer be taken seriously.

The purely formal understanding of freedom and dignity that Hill and other Kantians humanists try to avoid is problematic. The problem, as I see it, is rooted in the denial of any other source of value in the world aside from persons. It is only by virtue of these other values that rational nature can exercise its distinctive capacities in a way that makes it worthy of respect.

In sum, my interpretation sees dignity as autonomy in the non-formal sense. This value appears to deny independent reality. It is displayed in our everyday interactions with people and recognizes that the humanity of a person emerges from his or her capacity to recognize, appreciate, engage with, harmonize with and produce intrinsic good. As a result, humans bring unique and distinctive characteristics to the world and establish their dignity which is worthy of respect and hence not merely formalism.

### **Conclusion: Summary**

In this chapter, I have presented a resolution of the problems arising from the versions of the emptiness charge mostly by reconsidering them in a non-formal sense.

As we have seen, the broad emptiness charge is an adaptation of the traditional emptiness charge. This charge claims that the most distinctive and important feature in Kant's ethics is not his claims about the particular ethical duties that we owe to each other, but his views about the nature of value. In other words, moral action wholly exists deep inside of me rather than elsewhere. However, I argue that the possibilities for a formal theory of willing or the nature of value are based on Kantian universalization whereas the broad emptiness doctrine supports a theory rooted in the nature of value and employs different ways that in the end misunderstand the content of moral law.

In contrast, I pose a non-formal theory which constitutes a rival Kantian theory of value that I call Kantian value realism. I further claim here that the core character of Kant's value realism rests on three primary values within Kantian ethics: dignity,

impartiality and freedom. I have argued that each single value is an independent value, which many formalists would probably have not recognized given their stance and given that their formalist interpretation. This interpretation holds that dignity, impartiality and freedom which arise from formal willing are unable to determine the will while at the same time claims that these values cannot be derived. Therefore, I have proposed that Kant's ethics possess a non-formal component to provide 'complete' judgment that speaks of and informs actions.

## **Conclusion: The Content of Moral Law**

To review, this thesis first considers Kantian formalism which includes an examination of the tests and the literature reviewed in first two chapters. Chapter three and four go beyond Kant's original literature by considering contemporary formalists and non-formalist positions regarding universalizing maxims. Chapter five identifies some weaknesses in Kantian formalism based on the materialist value theory, which I argue states that the moral will might be determined by the matter of a maxim rather than by a materialistic value. The view which I have espoused opposes the formal parts of Kant's theory by either narrowly interpreting universalization as a necessary condition based on the notion of coherency to determine the moral goodness of a maxim, or broadly interprets the nature of humanity as mere formal condition.

In chapter six, I argue that we do not have to accept the narrow or the broad formal explanation of Kant's ethics. Rather, I contend that a value approach to Kant's moral philosophy is able to withstand the charges of formalism. Further, I demonstrate that the sufficient condition for moral goodness is that the will is determined by three non-formal values: impartiality, freedom, and dignity, all of which Kant accepts given his frequent consideration of these three values in his extant writings.

Finally, I restate the central question posed in this thesis: What is the content of the moral law? To my mind, the answer is the key to understanding Kant's moral philosophy, which leads to yet another common question: Why be moral? Kantian value realism, I would suggest, gives us a better response to these questions than any version of the emptiness charge since with the Kantian formalist view, we seem to have no reason whatsoever to be moral. However, Kant held that there could be no moral reason to lead a moral life, apart from reason itself, which he believed could only be internal to the practice itself.

Since we cannot expect a theory of morality to define normative approval and then apply that definition, in a self-verifying way, I believe a non-formalist ethic provides an interesting answer to our question. Kant holds that humans are capable of seeing

value in the world and harmonizing with the natural order by pursuing ecologically friendly forms of living. These values are neither ‘in the formal moral law, nor dependent on it.’ Neither are they dependent on our sensuous desires or on their contingent satisfaction. The resulting emergent picture depicts persons whose morality consist of value-sustaining practices which result in a beautiful outcome. The aesthetic ideal here does not fit with practicing formal calculations. Ultimately, only impartiality, autonomy, and dignity are the achievements worthy of moral practice, which leads to the ‘right’ to be happy by virtue of the earned character of one’s moral life. People assume this moral course, because they appreciate and love these values, and not merely to avoid the emptiness.<sup>131</sup>

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