Non-Inclusiveness of Kantian Ethics:

The contingency of Kant's Formulations of the Categorical Imperative

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In this paper, I argue that Kantian ethics is not inclusive, and his formulation of CI fails. It excludes some intuitive moral actions. I show that Kant's formulation of categorical imperative fails in some important category of moral actions, due to the fact that its first formula (i.e., the formula of universal law) is contingent, and doesn't necessarily obtain in all categories of moral actions. Wood in 1999 shows that the formula of universal law is *incomplete*, however, I argue that it is *not a necessary* condition for moral action; and this entails the failure of CI. There are some *exceptional* moral maxims (and relevant actions), which are both permissible and moral, but they cannot be thought as universal one, without practical contradiction.

Introduction

Kant's practical theory is Reason-based (as opposed to Hume's desire-based theory), and in practical moral theory, he believes that our moral action ought to be followed by our a priori cognitive attitudes, not by our contingent desires-likes attitudes (e.g., feelings, passions, inclinations, etc.); and he says:

> "How should laws of the determination of our will be taken as laws of the determination of the will of rational beings as such […] if they were merely empirical and did not have their origin completely a priori in pure but practical reason?" (GMS: 408"

For Kant, morality, like epistemology, has to based on some *a* priori principles. Sensen (2013) says:

> " Kant's revolutionary proposal, in his Critique of Pure Reason, is that we are not merely passive observers in cognizing nature, but that our mind (partly) constitutes how reality appears to us. If our mind constitutes how reality appears to us, and we can identify this constitution, then we can know something of the appearance of objects prior to experience … . The crucial point is that Kant applies the same basic idea to morality .The idea is that morality should be necessary, and universally valid, …. for all rational beings as such. … In order to be valid for all rational beings, morality cannot be based upon our limited experience, …, he wants to find the a priori elements that already lie within reason"

In his *Critique of Pure Reason*, he argues that we are not only some passive subjects in knowing nature; but we actively contribute to the cognition process. We are provided with some a priori conceptual schemas, which enables us to contribute actively in cognizing the outward nature. He also argues that, because these a prior principles, i.e., conceptual schemas, are common principle between all rational human beings, then we can objectively know the nature and objectively discuss our knowledge about nature. According to Kant's point of view, "We can have a priori knowledge by means of the categories, only if the categories are due to the nature of the mind and are imposed by the mind on the objects which it knows." (Paton 1936, 258)

In the *groundwork of the Metaphysics of Morals*, he will take the same path to shows some universal a priori principles in human nature, which are foundations of human morals. He holds that the validity of the moral laws for human beings comes from its universal cognitive origins. There are some common a prior principles in human beings' Reasons. For him, duty includes goodwill, and goodwill comes from human Reason, which by definition, is a major constitutive of all rational beings. He calls these supreme principle as "categorical imperatives," and he calls his projects as metaphysics of morals, as follows:

"A metaphysics of morals is therefore indispensably necessary […] for investigating the source of the practical basic principles that lie a priori in our reason" (GMS: 390).

1. **The Categorical Imperative**

The categorical imperative is the key concept of Kant's metaphysics of morals. According to Kant, we ought to "Adopt only maxims that conform to universal laws as such" (GMS: 421)."

For Kant, categorical imperative includes some a prior necessary commands which are authored by Reason. Rational beings, by definition and based on it's nature, benefits from Reason, and so, these Reasons commands the universal moral laws.

According to Kant, CI refers to some practical laws, which guide all rational beings in their actions, and are "valid in the same form for all rational beings as such." He believes that it is valid because of the "supreme determining ground of the will regardless of any subjective differences among human beings." I will back to this point soon.

As Sensen (2013, 215) explains it, according to Kant, morality exists, and is constructed by more than one human (rational being) under ideal conditions, and is pre-consciously dictated by one's own reason. Sensen says:

> "the basis of Kant's moral philosophy is a priori law of one's own reason. It is an activity of reason, something reason does spontaneously and out of itself (not something it discovers) that grounds morality." (Sensen 2013, 214).

Kant also proposes three formulations for the categorical imperative: Formula of universal law, The autonomy formula, and the kingdom of ends formula.

In this paper, I don't directly talk about the second and third formula. I focus on the first formula, which is the formula of universal law, and I discuss three interpretations of it. Then, I show that the formula of universal law, in its practical contradiction interpretation, is not necessary for categorical imperative. Kant's contends that the universality formula is a necessary condition of any moral maxims, however, I shall show some maxims, which are permissible and moral, yet cannot be universalized, without contradiction.

I will show that Kant's definition (i.e., formulations) of CI is not inclusive and doesn't obtain necessarily in all categories of moral actions. It is only a contingent formulation, which obtains are some categories of moral actions, and it has more things to do with rationality instead of morality, given that these concepts (i.e., rationality and morality) are two distinctive ones.

2. Kant's formula of universal law: FUI vs. FNL

The universal laws are the first formulation of CI. According to this formula, a moral agent, will "First, formulate a maxim that enshrines your reason for acting as you propose. Second, recast that maxim as a universal law of nature governing all rational agents"

However, there are two statements in the groundwork, which caused two interpretations of this formulation. The first is,

> FUL: "act only in accordance with that maxim through which you can at the same time will
> that it become a universal law" (G 4: 420-421)

FUL is a semantical, as opposed to metaphysical, formulation of CI, which says that the moral, practical laws have to meet the universality conditions. That is, It has to be possible for you to think of it at the same time to be followed by all rational beings. This is a semantical formulation because it talks only about the truth conditions of a maxim to be considered as moral law. It doesn't say anything about the metaphysical nature of the moral laws, or its components. However, Kant will go deeper and will state that:

FLN: "Act as if the maxim of your action should through your will become a universal law of nature" (G 4:421)

FLN is a metaphysical one, and will claim that these moral laws, which are authored by reason, exist in human nature, and functions like the other empirical laws. This provides human nature with some basic norms and moral codes. This difference between two interpretations would lead two views for the source of the validity (and necessity) of the moral laws. Is it only a semantical normativity that comes from the Reason, or the Reason is the natural sources that cause moral actions as well? The former says that human Reason would understand that the meaning of normativity and its semantical components, and it is the only function of Reason at work; whereas the latter says that human Reason would also function as natural source of moral actions; that is it causes moral motivations in human being toward doing the moral actions.

It seems that the abovementioned explanation of Kant's project in the metaphysics of morals, and his language on FLN shows that Kant's formula here is both a semantical and metaphysical ones. According to Kant, a maxim would be a case of CI only if it can be thought of as a universal law of nature governing all rational being's nature. Moral laws are built in human nature, and so have the same naturalistic features (e.g., causality) like the other naturalistic entities. However, it is still an ongoing controversial debate (wood 1999, chapter 3)

3. The Practical Contradiction Interpretation

According to the formula of universal law of nature,

1- "a maxim is CI only if it "can" be thought as a universal law for all rational beings."

using *Contraposition*, it gives the following proposition:

2- if a maxim "cannot" be thought as a universal law for all rational beings, then it would not be an moral maxim.

The "can not" here seemingly refers to impossibility; however, there are several kinds of impossibility. In the literature, the three following ones are explored, which all refer to kinds of contradictions:

- Logical contradiction: is also called as contradiction in conception, In this case "there is something like a logical impossibility in the universalization of the maxim, or in the system of nature in which the maxim is a natural law: if the maxim were universalized, the action or policy that it proposes would be inconceivable." (Korsgaard 1985)

- Teleological contradiction: "On this interpretation, it would be contradictory to will your maxim as a law for a system of nature teleologically conceived: either you are acting against some natural purpose, or your maxim could not be a teleological law. The maxim is inconsistent with a systematic harmony of purposes, or with the principle that any organ, instinct, or action-type has a natural purpose for which it must be the one best suited."

- Practical contradiction: "On this interpretation, the contradiction is that your maxim would be self-defeating if universalized: your action would become ineffectual for the achievement of your purpose if everyone (tried to) use it for that purpose. Since you propose to use that action for that purpose at the same time as you propose to universalize the maxim, you in effect will the thwarting of your own purpose."

Here, I will focus on the third interpretation, i.e., practical contradiction, because this has become the "standard" interpretation of FUL; and I will show that it is FUL (FLN) with its practical

contradiction interpretation is not necessary for moral actions. It is only a contingent condition which obtains only in some categories of moral actions.

So, according to the practical contradiction interpretation,

- if a Universalized maxim is practically contradicted then the maxim per se would be an immoral maxim (not a CI)

The key point of the practical contradiction interpretation is that the contradiction will happen with the goal of the moral subject. According to the Practical Contradiction Interpretation,

"the contradiction that is involved in the universalization of an immoral maxim is that the agent would be unable to act on the maxim in a world in which it were universalized so as to achieve his own purpose - that is, the *purpose* that is specified in the maxim. Since he wills to act on his maxim, this means that his purpose will be frustrated." (Korsgaard, 1985)

Therefore, whenever a universalized maxim prevents us from achieving our *purpose*, it would be an immoral maxim, and it doesn't lead us to moral actions. Imagine that there is only one poor person in the city and you will help a poor person in the city to become rich. However, it gets impossible for you because your friend did it earlier and so there is no poor person in the city now. In this case, *helping poor person* if gets universal, might contradict your "will of helping" but not your "purpose of helping" the poor person. Consider the case that there is only a limited poor person in the world, and you want to help a poor person, and at the same time you will it to be a universal maxim; it is not practically possible, or in some occasions a contradiction will happen. Because if all the agent helps poor persons, and do it earlier than you, then finally there is no poor person in the world, and you cannot help poor person, and you cannot satisfy your "will of helping"

poor person, then. However, even in this case, if "helping poor person," gets universal, doesn't contradict "your purpose of helping;" because your purpose was to keep poor persons to be helped, and this purpose is finally satisfied by other agents.

What matters in the formula of universal law is the consistency with the "purpose of an action," not the "will of doing" it. So, helping poor people, in this case, would be still a moral maxim, even though it contradicts our "will" if it gets universal.

This formulation of CI will answer the Hegelian objections and will cover some immoral cases like false promises, which makes us an exception based on selfishness and meanness.

4. FUL fails, and CI so

There are two major objections against universal formula, respective to the practical contradiction interpretation. First, it doesn't exclude some immoral cases like killing in a revenge and also will consider some immoral cases as a moral one; even though these cases will be handled by other formulas, like the humanity formula. Secondly, it excludes some intuitive moral cases and will consider them as immoral ones. These counterexamples will not be handled by other formulas, and so they would show an important gap in Kant's categorical imperative formulas. In what follows, I will elaborate on these two categories.

4.1 FUL fails: first category of counterexamples

Frist category refers to some immoral cases, which are included by this formulation. The Formula of a universal law of nature cannot exclude some cases like killing for revenge or doing suicides. You are able to will both to revenge (or do suicide) at the same time that you will it to be a universal law, without contradiction. Your purpose of revenge (and committing suicides) will

also not be realized by other proposal's killing for revenge (or doing suicide). So, these immoral actions (and their preceding maxims) will not be excluded by the formula of universal law. However, these counterexamples can be simply handled by Kant's formula of humanity. According to this formulation, "we should never act in such a way that we treat humanity, whether in ourselves or in others, as a means only but always as an end in itself." So, we cannot kill other person as a means to satisfy our revenge desire. We also cannot commit suicide, in which we will remove the goal, which is ourselves; human being has to be taken as the end and goal of any action. That is, we have to do all actions for human beings' welfare or so; but in the case of suicide, it is supposed that the agent will kill the goal, which is herself, and it is a clear violation of Kant's formula of humanity.

As a third counterexample look at,

Maxim A: *expecting* other people to do moral actions, and condemning them of doing immoral actions to increase the morality in the society.

If an action, like saying true words, is moral action, then intuitively, it seems that it would be moral as well to don't tolerate lying and expect other people to tell the truth. Or in other cases, it seems intuitively moral to *expect* all other people to stop killing animals for their meat because killing for their meat is not a moral action. Put it in other words, if it is moral to do X, then it seems intuitive that expecting and encouraging people to do X, as a moral action, would be morally permissible too; because by encouraging people to do X, you are increasing the rate of X-ing in the society, and so we will have more example of the moral action of X in the society.

According to the universal formula, maxim A is a moral one, becuse if it gets universalized, and all people expect others to follow all moral actions, will not contradict my will of doing it.

However, this maxim, pre se includes some intuitively immoral actions. I will explain it in the following.

Consider a case in which you expect a young girl from a lost patriarchal tribe who is "not been properly brought up" to being vegetarian, instead of her tribe's food system, and condemn her for not being a vegetarian. According to universal formula, the action of "expecting of other people to be vegetarian is moral one," because it doesn't contradict any will or purpose of doing it. However, in this case, it is an irrational and immoral expectation from that girl to be vegetarian or condemning her of not being vegetarian. It is me who has irrational expectation and who immorally condemns her, for it is not fair to expect the young girl (in that context) to understand what is very far from her context, or condemn her credence given that there is no defeater accessible to her in the context.

Objection against the third case (Maxim A)

It might be said that this case is pretty controversial; for example, Suppose that her custom was deeply patriarchal. Is it "irrational and immoral" to expect this individual to not be patriarchal?

Response

I believe that it still is "irrational and immoral" to expect her to not be patriarchal, due to the fact she is not properly brought up and she might don't make any sense from other liberal contexts; if so, it is not possible for her to follow up somethings which is not understandable for her. Consider that X is a rational and moral action, however, for any reason I cannot understand the content of X. Is it rational or moral to expect me to follow some concept which is not understandable for me?

Or is it fair to condemn me because I didn't follow it up? It seems that it is not rational or even moral to do that.

Therefore, Kantian's formula of universal law will consider the immoral action of "condemning the girl of being not vegetarian" as a moral action only because it doesn't include any contradiction with the agent's will.

4.2 CI fails: the second category of counterexamples

The second category, which is more important, includes some counterexamples which prove the inclusiveness of Kantian definition of CI, through showing that UFL (FLN) is not necessary for moral action. This category refers to some moral cases which are excluded by Kants's FUL, and would be considered as immoral ones. These counterexamples will not be handled by other formulas as well, so they would show an important gap in Kant's categorical imperative formulas. In what follows, I will consider three examples of B, C, and D.

Maxim B, says:

> *Do better action in response to other people's kindness and good action, which they already did for you, to compensate for their kindness.*

That is if your friend helped you in doing some action, then in response to her kindness, you would help her more in doing her actions. It seems intuitive that it is a moral maxim, and every action which is based on it would be a moral action.

However, if such maxim becomes universal and all people (including your friend) try to do that, then it entails an infinite regress, which is not realizable or achievable. Imagine that your

friend did the good action A for you, and so you want to do A+A for her, and then she wants to do A+A+A for you and so on so forth. It entails an infinite regress; it never happens in the actual world. Therefore, it is not achievable and neither the "will of doing it" nor the "purpose of doing it" will be realized. If so, the universalization of this maxim prevents us from achieving our purpose, and according to Kant's formula of universal law, it is an immoral maxim.

Objection against case B

It might be said that this the infinite regress will not happen because, according to Kant's theory on "gratitude," we have not to the response to other people's kindness as a "pay off." According to Kant, "beneficiaries should cringe at receiving favors since in doing so, a beneficiary becomes the debtor of his benefactor—a shameful position." (Manela 2019)

Response

Kant holds that the duty of gratitude is a sacred moral one and we have not to mix it with some immoral concepts like "pay off." We have to do it "Benevolently" and "purely." However, it doesn't mean that all the reactions which are done in response to other people's kindness are kind of "pay off." It is not necessarily so. You can react purely and benevolently in response to your friend's kindness. It is pretty possible to do that. Imagine the case that I want to follow Maxim B only because I want to be more benevolent than the others, and not to paying off my friend's kindness.

Maxim C: I want to be the best and most morally exceptional person of my community.

It seems pretty intuitive that it would be a very positive and praised will, that you want to be the morally exceptional person of your community, the best moral person in the community. However, according to the universal formula, Kant will consider this maxim as an immoral one. The key point of the universal formula states that "those actions whose efficacy in achieving their purposes depends upon their being exceptional" would be morally forbidden. So, irrespective to the content of the maxim (and the relevant actions), according to Kantian view, your will of doing an *exceptional* action will be immoral due to the fact that it contradicts your will of that being a universal law.

The universal formula excludes the morally exceptional action as well; while we know, that is analytically true that "doing morally exceptional action would be a moral action."

One objection against maxim C

It's not clear why Kant has to say that Maxim C (if it is a maxim) involves a self-contradiction. On the practical contradiction interpretation, Maxim C can be universalized perfectly well. The fact that *everyone* adopts a maxim of moral perfection doesn't mean that it can't be realized, since some agents will inevitably be better moral agents than others. So it's not clear that Maxim C can't be universalized.

Response

It seems that if everyone adopts the maxim of moral perfection, it doesn't mean that it cannot be realized. At most, some agents will be better moral agents than others, and one agent can be the best one. So, it seems that there is no contradiction if all agents want to follow maxim C. However, there still is a contradiction between my purpose of "being an exceptional and perfect moral" person, and my "will" of that (maxim C) to be a universal law. Because, it is impossible that all

people be uniquely and "exceptionally" perfect moral agent. An exceptional and unique moral person refers only to one person. So, it is impossible for me to "will" an impossible action; that is contradictory to "will" an impossible action to happen in the world. It cannot happen in the world practically.

Maxim D: *Be the first person who helps his/her neighbors.*

That is "being the first person" is preferred, and it seems intuitive that being the first person in helping other people is morally prioritized as well. However, if this maxim becomes universal and all people (including my neighbors) decided to do that, then, in some cases, it entails to a contradiction both with my "will of action" and my "propose of the action." Consider the case that I have only one neighbor, and my neighbor helps me earlier than me, so she will be the "first person who helps his/her neighbors," and I can not be "the first person who helps his/her neighbors." So, this maxim, if became universalized, will contradict my "will" of doing" the action of "being the first one who helps her neighbor". Moreover, it contradicts my "purpose of doing" the same action as well. Because, in this case, my purpose of following Maxim D, is not only helping other persons but is also "being the first persons who help his/her neighbors." So, my goal will not be satisfied if my neighbor do it earlier. Therefore, the Maxim D, if gets universalized, will contradict my goal of the action as well.

Maxim B, C, and D are three moral maxims which lead to many moral actions in our everyday life; however, according to Kant's formula of universal law, they are considered as immoral actions. Becue, if they become universalized, in some cases, they will contradict the will and the purpose of doing the relevant actions.

These maxims will not be managed by the formula of humanity or autonomy. Because even though they will satisfy these two formulae, however, they still can not satisfy the FUL. According to the formula of humanity, you have to treat humanity as an end in itself, not as means for some other ends. In these three cases, we will exactly do the same. We want to be the "best and most morally exceptional person," "*better action in response to other people's kindness*," and "Be the first person who helps his/her neighbors." Because of our respect for the humanity pre se. However, they will not be considered as CI because they cannot pass all Kant's formulas, specifically FUL, for CI.

5. Wood's false positive and false negative examples

Wood, in Kant's Ethical Thought (1999,97-107) argues for the incompleteness of the universality formula. Wood reaches a different conclusion from mine. He does not hold the CI fails, but he believes that the FUL was not meant to be a sufficient description of the CI. In what follows, I will show what is the difference between my two categories and his ideas on false positive and false negative examples.

Wood states that false positives refer to the "actions that FUL and FLN should rule out as impermissible but which (allegedly) pass their tests and therefore show up as permissible. Any maxim that tells us to make a false promise but sufficiently restricts the conditions under which we do so would appear not to be excluded by the CC in the way that M2 is."

To shed light, he gives some examples. Consider a maxim of making false promises on August 21 to Hildreth Milton. This maxim, even if it gets universal, doesn't make it practically impossible. So, according to FUL, it would be permissible; however, we know that intuitively, it is not allowed.

Wood's false positive examples will be accommodated in my first categories of moral actions, which are not excluded by FUL. In the first category, I discussed the same examples which are not permissible or moral; however, they are included by the FUL. However, they are not a crucial counterexamples for CI, because they would be handled b Kant's other formulations like the formula of humanity (as I explained it.)

Moreover, Wood desire false negative as follows. For him, false negatives refers to "Maxims that seem intuitively innocent but which the CC or CW tests appear to disqualify." He also gives some examples for this thesis. Consider the following maxim.

Ma: "I will buy a clockwork train, but never sell one."

This maxim fails the universality test, because if no one sells a clockwork train, then no one, including the agent in Ma, can ever buy one clockwork. There is both conceptual and practical contradiction in this case. So, according to the formula of universal law, it is not a permissible maxim, whereas we know intuitively that it is pretty neutral, innocent, and permissible action.

As it is clear, in this case, Wood discusses some action with are neutral and permissible, yet is not included by the formula of universal law. So, even though this case would be a counterexample for fUL, but it doesn't make CI whole formulation refuted. Because (as I already showed in using Contraposition) according to Kant's formulation of CI,

2- if a maxim "cannot" be thought as a universal law for all rational beings, then it would not be an "moral" maxim.

Here, Wood's example (i.e., Ma) for false negative is not a counterexample for CI. Because Ma cannot be thought of as a universal law, and it is not a "moral" maxim as well. It is only neutral and permissible. So, even though it refutes FUL, but it doesn't violate the whole formulation of CI.

My second category of the counterexamples, however, is pretty different from Wood false negative ones. I didn't discuss in it some neutral or innocent actions which are not allowed by FUL. But, I discussed Maxim B, C, and D, which all are some "moral," (and not only neutral) actions, yet are not allowed by FUL. I discussed the exceptionally moral actions, which by definition, can't be thought as a universal rule, without contradictions.

Moreover, my second category of actions will violate Kant's formulation of CI as well. For example in the case of Maxim C,

Maxim C: I want to be the best and most morally exceptional person of my community.

According to 2 (abovmentieod), Maxim C would not be a "moral" maxim because it cannot be thought as a universal law; However, we know intuitively that Maxim C is "moral" maxim.

Therefore, I argued for the non-inclusiveness of Kantian Ethics, which is stronger than Wood's arguments against fUL.

Conclusion

According to Kant's practical moral theory, a maxim will be a CI only if it can pass all the three formulas, and one of them is FUL. In the first category, I discussed some immoral cases (e.g., the revenge case or suicide), which, even though will be included by the FUL; however, they will

be excluded by the formula of humanity. So, the first category's example will not a counterexample for all Kant's formulas for CI, because they don't pass all of them.

On the contrary, the second category's examples refer to moral cases which can not pass all Kant's formulas (specifically the FUL), and so will show that Kant's formula is not inclusive. Wood's false positive or false negative can be accommodated in this category.

The second category, which I discussed in the paper, shows some counterexamples that are intuitively moral one and has to be considered as CI; however, they don't pass all the three Kantian formulas. So, Kant's definition of CI is not inclusive, and the three formulas (specifically the FUL) is not a necessary condition for being moral or be consider as CI. Universality is not a necessary condition for moral action. We have some exceptional moral actions, which can not be thought of as universal laws.

The rationale of Kant's formula of universal law is the logical or rational concept of contradiction, and he uses this one of the main criteria in the definition of moral concepts. Morality can not be reducible to logic or rationality. They are two pretty distinctive concepts. Being a moral action doesn't necessary means that its action doesn't contradict itself if all the agents in a community will do it simultaneously.

The advantage of refusing the FUL is that it makes room for different version contextualism or particularism in practical reason theory (Afroogh 2019; Afroogh, 2021). Accordingly, we can think of a moral reason as some external considerations which are relevant to context rather than being universal for all the agents in all situations.

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