

## The Truth about Kant on Lies

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As one philosopher has remarked, "one cannot help noticing the heat with which [Kant] treats the question of lying."<sup>1</sup> To this it must be added, one cannot help noticing the heat with which other philosophers treat the question of Kant on lying. More than any other element of his moral philosophy, Kant's writings on lies have elicited an unprecedented amount of abuse. One philosopher has accused Kant of being "hysterical" in his ethical writings on lies. Another has accused Kant of "repellent fanaticism"<sup>2</sup> in his essay *On a Supposed Right to Lie from Philanthropy* from 1797, where Kant argues that it would be a crime to lie to a would-be murderer even to save an innocent life.<sup>3</sup> Those scholars who have argued that this conclusion in his late work is not entailed by his philosophy of right have seen fit to accuse him of "bad temper in his old age."<sup>4</sup> This is surely a case of philosophers shedding more heat than light on a subject, however. A thorough examination of Kant's writings on lies—both in the ethics and in the philosophy of right—is required before accusing him of hysteria, fanaticism, or bad temper. The importance of this examination can hardly be underestimated, since it is still true that "some philosophical textbooks give such prominence to the Kantian view of the lie that the rest of Kant's

1. Nathan Rotenstreich, "On Lying," *Revue Internationale de Philosophie* 10 (1956), 420.

2. Bernard Williams, *Truth and Truthfulness: An Essay in Genealogy* (Princeton: Princeton University Press, 2002), 106.

3. W. I. Matson, "Kant as Casuist," *Journal of Philosophy* 51 (1954), 859. An eclectic assortment of critics of Kant's conclusion in the *Right to Lie* can be found in Heimo Hofmeister, "The Ethical Problem of the Lie in Kant," *Kant-Studien* 63 (1972), 353–68.

4. H. J. Paton, "An Alleged Right to Lie: A Problem in Kantian Ethics," *Kant-Studien* 45 (1954), 201. Many commentators express sympathy with Paton's verdict, if not outright agreement. Roger Sullivan, for example, says that "Perhaps there is some merit after all in the accusation that here he was being cantankerous!" *Immanuel Kant's Moral Theory* (New York: Cambridge University Press, 1989), 350 n. 24. Sally Sedgwick also comments: "More than any other passage in the essay, I admit that this one makes Paton's appeal to Kant's 'bad temper' and 'old age' extremely seductive"; "On Lying and the Role of Content in Kant's Ethics," *Kant-Studien* 82 (1991), 61.

ethics is either overshadowed and ignored, or summarily dismissed as inseparable from this obviously impossible notion.<sup>5</sup> This essay will contribute to that examination by arguing that there are three senses of a lie to be found in Kant's moral philosophy, and three corresponding duties not to lie.<sup>6</sup>

5. Hofmeister, "The Ethical Problem of the Lie in Kant," 353. Although the following instance of a rejection Kant's entire ethics (or a significant part thereof) due to his prohibition on lying is an old one, nevertheless it is instructive: "The notion of the test of universalisation as a practical criterion has been unanimously rejected by the critics, and doubtless with good reason. The arguments against it are probably familiar to every student in the elementary stages of moral philosophy. We have all been introduced very early to the figure of the innocent man pursued by murderers whose life can be saved by a timely lie. There is no need to work over this well-trodden ground again"; G. C. Field, "Kant's First Moral Principle," *Mind* 41 (1932), 19. It is interesting to note that a cheap edition of a translation of the *Groundwork* aimed at undergraduates is now accompanied by a translation of the *Right to Lie* as a supplementary text, giving the *Right to Lie* great prominence: *Grounding for the Metaphysics of Morals, with On a Supposed Right to Lie Because of Philanthropic Concerns*, trans. and ed. James W. Ellington (Indianapolis: Hackett, 1993).

6. References to Kant's works in this chapter are given parenthetically, using the abbreviations of individual works listed here. First are cited the volume and page number in the standard edition of Kant's works, *Kants gesammelte Schriften*, ed. Königlich Preußischen Akademie der Wissenschaften [subsequently Deutsche, now Berlin-Brandenburg Akademie der Wissenschaften], original ed. Wilhelm Dilthey (Berlin: Reimer [subsequently de Gruyter] 1900-), followed by the page number in the translation listed here. Unless otherwise indicated, all emphases are in the original.

- A: *Anthropology from a Pragmatic Point of View* [Anthropologie in pragmatischer Hinsicht] (1798), trans. Mary J. Gregor (The Hague: Nijhoff, 1974).
- AN: *Announcement of the Near Conclusion of a Treaty for Eternal Peace in Philosophy* [Verkündigung des nahen Abschlusses eines Traktes zum ewigen Frieden in der Philosophie] (1796), trans. Peter Fenves, in *Raising the Tone of Philosophy: Late Essays by Immanuel Kant, Transformative Critique by Jacques Derrida*, ed. Peter Fenves (Baltimore: Johns Hopkins University Press, 1993), 83–100.
- C: *Correspondence* [Kant's Briefwechsel], trans. and ed. Arnulf Zweig (Cambridge: Cambridge University Press, 1999).
- CPR: *Critique of Practical Reason* [Kritik der praktischen Vernunft] (1788), trans. Mary J. Gregor, in *Practical Philosophy*, trans. and ed. Mary J. Gregor and Allen W. Wood (Cambridge: Cambridge University Press, 1996), 133–271.
- G: *Groundwork of the Metaphysics of Morals* [Grundlegung zur Metaphysik der Sitten] (1785), trans. Mary J. Gregor, in *Practical Philosophy*, trans. and ed. Mary J. Gregor and Allen W. Wood (Cambridge: Cambridge University Press, 1996), 37–108.
- LE: *Lectures on Ethics* [Vorlesungen über Ethik] (1924), trans. Peter Heath and ed. Peter Heath and J. B. Schneewind (Cambridge: Cambridge University Press, 1997).
- MM: *The Metaphysics of Morals* [Die Metaphysik der Sitten] (1797), trans. Mary J. Gregor, in *Practical Philosophy*, trans. and ed. Mary J. Gregor and Allen W. Wood (Cambridge: Cambridge University Press, 1996), 353–603.
- M: *On the Miscarriage of All Philosophical Trials in Theodicy* [Über das Misslingen aller philosophischen Versuche in der Theodizee] (1791), trans. George di Giovanni, in *Religion and Rational Theology*, ed. and trans. Allen W. Wood and George di Giovanni (Cambridge: Cambridge University Press, 1996), 24–37.
- RL: *On a Supposed Right to Lie from Philanthropy* [Über ein vermeintes Recht aus Menschenliebe zu lügen] (1797), trans. Mary J. Gregor, in *Practical Philosophy*, trans. and ed. Mary J. Gregor and Allen W. Wood (Cambridge: Cambridge University Press, 1996), 611–15.

## WHAT IS A LIE?

Kant does not give a single answer to the question of what is a lie. Instead, he tells us what a lie is in the ethical sense, what a lie is in the juristic sense, and what a lie is in the sense of right.<sup>7</sup> Nevertheless, it is possible to say what is common to a lie in all three senses, as well as what differentiates a lie in one sense from a lie in the other senses. What is common to a lie in all three senses is that it is an intentional action of a certain kind. More specifically, it is *the making an untruthful statement with the intention that that statement be believed to be true*. This entails that three conditions must be met for a lie in all three senses.

The first condition that must be met for a lie in all three senses is that a statement must be made. A person may be said to make a statement when a person believes that there is some expression, and some language, such that one of the standard uses of that expression in that language is that of expressing some proposition, and the person utters, writes, or signs that expression with the intention that it be believed that she intended to utter (etc.) that expression with that standard use.<sup>8</sup> Making a statement therefore requires the use of conventional signs, as opposed to natural or causal signs. A person lies "when a person gives signs indicative of thoughts that he does not have" (*LE*, 27:700 [p. 426]). Kant sometimes speaks of this statement condition in terms of words: "communication of one's thoughts to someone through words that yet (intentionally) contain the contrary of what the speaker thinks" (*MM*, 6:429 [p. 552]). However, conventional signs are not limited to spoken or written words; they include sign language, smoke signals, semaphore signals, Morse code, and so forth.<sup>9</sup> They also include nodding one's head, winking one's eye, and shrugging one's shoulders.<sup>10</sup> In the case of a person who does not utter (etc.) a declarative sentence, but who, for example, curses, or utters an interjection or an exclamation, or issues a command or an exhortation, or asks a question, or says "Hello," then, if it is not one of the standard uses of that expression in that language to express some proposition, and the person does not intend that it be believed that she intended to utter (etc.) that expression

7. The claim that there are three senses of a lie in Kant's moral philosophy is not original to this essay. John E. Atwell says about Kant that "he condemns lying on three grounds: (1) as a lying promise, it violates a perfect duty to others, and thus infringes someone else's rights; (2) as a lie in general, it violates a strict duty to oneself; and, as we shall see here, (3) a lie violates the rights of mankind"; *Ends and Principles in Kant's Moral Thought* (Dodrecht: Nijhoff, 1986), 193-94 (references omitted). These three grounds for the condemnation of lying correspond to the three senses of a lie, namely, a lie in the juristic sense, a lie in the ethical sense, and a lie in the sense of right.

8. Roderick M. Chisholm and Thomas D. Feehan, "The Intent to Deceive," *Journal of Philosophy* 74 (1977), 150.

9. Sissela Bok, *Lying: Moral Choice in Public and Private Life* (New York: Random House, 1978), 13.

10. Chisholm and Feehan, "Intent to Deceive," 149.

with that standard use, it follows that she is not making a statement when she does any of these things. If she is not making a statement when she does any of these things, it follows that she cannot be lying when she does any of these things, although she may be attempting to deceive.<sup>11</sup>

Kant gives at least two examples of actions in which nonconventional signs are used in an attempt to deceive. The first is packing one's bags—a natural sign of intending to leave on a journey—in order to have a thief falsely believe that one is intending to leave, so that one may catch the thief: “a pretended journey, to uncover and thwart a crime” (*LE*, 27:699–700 [p. 426]). The second involves the Scottish speculator John Law, whose company for investment in Louisiana, *Compagnie Perpetuelle des Indes*, went bankrupt. Law continued to build his house in France—a natural sign of intending to stay—in order to have people falsely believe that he was not leaving, so that he could flee France. In neither case is a lie told, since in neither case is a statement made:

if I pack my bags, for example, people will think I am off on a journey, and that is what I want them to believe; but they have no right to demand any declaration of will from me. That is what the famous John Law did; he kept on building, and when everyone was thinking: He'll never leave, off he went. (*LE*, 27:447 [p. 202–3])

Since a lie in all three senses requires that a statement be made, there can be no so-called lies of omission or concealment lies, according to Kant. In *Anthropology from a Pragmatic Point of View*, after stating that “the mere fact that any prudent man finds it necessary to conceal a good part of his thoughts makes it clear enough that every member of our race is well advised to be on his guard and not to reveal himself completely” (*A*, 7:332 [p. 192]), Kant distinguishes between three different things: dissimulation (concealment, reticence), that is, intentionally not making a statement, which may involve *no* deception; deception, which may involve keeping silent with the intention that something false be believed to be true, that is (deception by omission), and hence, that may involve *no* lying; and finally, lying:

So it already belongs to the basic composition of a human creature and to the concept of his species to explore the thoughts of others but to withhold one's own—a nice quality that does not fail to progress gradually from *dissimulation* to *deception* and finally to *lying*. (*A*, 7:153 [p. 32])

Kant does insist that lying requires that a statement be made:

This reticence, however, this want of candor—a candor that, taking mankind en masse, we cannot expect of people, since everyone fears that to reveal himself completely would make him despised by others—is still very

11. For the contrary argument that it is possible to lie by using, for example, interrogatives and imperatives, see Henry S. Leonard, “Interrogatives, Imperatives, Truth, Falsity and Lies,” *Philosophy of Science* 26 (1959), 172–86.

different from that lack of sincerity that consists in dishonesty in the actual expression of our thoughts. (C, 11:332 [p. 411])

Kant believes that it is possible to tell an "internal lie" or "inner lie," to lie to one's "inner judge, who is thought of as another person" (MM, 6:429–30 [p. 552–53]). Since, in the case of an "internal" lie, one lies to one's "inner judge," who is "thought of as another person," but who is not another person, an "internal" lie is understood by Kant to be a lie to oneself. That is, Kant holds that it is possible to make an untruthful statement to oneself with the intention that one believe it to be true. Although he says that "to deceive oneself on purpose seems to contain a contradiction" (MM, 6:430 [p. 553]), he does not believe that it contains a contradiction. Hence, it is possible to lie, in one sense of lie, namely, the ethical sense of lie, without this being an external or public action. However, even in the case of the "internal lie," one must "profess," or make a statement, to one's "inner judge," in order to tell such a lie. Hence, even in the case of an "internal lie," one must make a statement:

Insincerity is mere lack of *conscientiousness*, that is, of purity in one's professions before one's *inner* judge, who is thought of as another person when conscientiousness is taken quite strictly; then if someone, from self-love, takes a wish for the deed because he has a really good end in mind, his inner lie, although it is indeed contrary to his duty to himself, gets the name of frailty, as when a lover's wish to find only good qualities in his beloved blinds him to her obvious faults.—But such insincerity in his declarations, which a human being perpetrates upon himself, still deserves the strongest censure. (MM, 6:430 [p. 553–54])

The second condition that must be met for a lie in all three senses is that the statement that is made must be believed to be false by the person who makes the statement. That is, the statement that is made must be untruthful. Importantly, it is not required that the statement *be* false. The statement that is made may be true. However, if the statement that is made, whether true or false, is *believed* to be false by the person who makes it, then the statement that is made is untruthful:

One cannot always stand by the *truth* of what one says to oneself or to another (for one can be mistaken); however, one can and must stand by the *truthfulness* of one's declaration or confession, because one has immediate consciousness of this. For in the first instance we compare what we say with the object in a logical judgment (through the understanding), whereas in the second instance, where we declare what we hold as true, we compare what we say with the subject (before conscience). Were we to make our declaration with respect to the former without being conscious of the latter, then we lie, since we pretend to something else than what we are conscious of. (M, 8: 267–68 [p. 34])

Since untruthfulness is required for a lie in all three senses, it follows that it is not a lie, in any of the three senses, if someone makes a truthful, but false, statement. However, it may be a lie, in all three senses, if someone

makes an untruthful, but true, statement. In particular, it may be a lie, in all three senses, if someone makes an untruthful, but true, statement with the intention that it be believed to be true.

In the *Right to Lie*, Kant gives an example of someone making a truthful, but false, statement with the intention that it be believed to be true, and an example of someone making an untruthful, but true, statement with the intention that it be believed to be true. In the first case, a person falsely believes that his friend is in his house, and answers "Yes" to a would-be murderer on his doorstep asking if his friend is in his house. In the second case, the same person, with the same false belief, answers "No." In the first case, the person does not lie, in any of the three senses of lie. In the second case, the person does lie, both in the sense of right and in the ethical sense:

It is still possible that, after you have honestly answered "yes" to the murderer's question as to whether his enemy is at home, the latter has nevertheless gone out unnoticed, so that he would not meet the murderer and the deed would not be done; but if you had lied and said that he is not at home, and he has actually gone out (though you are not aware of it), so that the murderer encounters him while going away and perpetrates his deed on him, then you can by right be prosecuted as the author of his death. (*RL*, 8:427 [p. 612])

Since untruthfulness is required for a lie in all three senses, it follows that it is not a lie in any of the three senses to make a truthful statement with the intention that some believed-false statement be believed to true. Kant gives an example of making a truthful statement with the intention that a believed-false statement be believed to be true in the course of discussing intentionally deceptive truthfulness:

A moral casuistic would be very useful, and it would be an undertaking much to the sharpening of our judgement, if the limits were defined, as to how far we may be authorized to conceal the truth without detriment to morality. Along with lying we may include: (a) *aequivocatio moralis*, i.e. moral ambiguity, insofar as it is deliberately employed to deceive the other; for example, a Mennonite swore an oath that he had handed over the money he owed to his creditor, and in a literal sense he could swear this, for he had hidden that very sum in a walking stick and asked his adversary to hold it. (*LE*, 27:701–2 [p. 428])

In this example the Mennonite makes a believed-true statement, that he has given the creditor the money he owes, with the intention that a believed-false statement—that it is not the case that he has given the creditor the money he owes—be believed to be true. The Mennonite is not lying in any of the three senses, although he is attempting to deceive.<sup>12</sup>

12. For more on the distinction between lies and intentional deception, see my "Kant and Maria von Herbert: Reticence vs. Deception," *Philosophy* 81 (2006), 417–44, and "A Definition of Deceiving," *International Journal of Applied Philosophy* 21 (2007), 181–94. Note that Kant does not consider the case of someone making an untruthful statement without the intention that that statement be believed to be true, but with the intention that some other believed false statement be believed to be true.

The third condition that must be met for a lie in all three senses is that it must be intended that the untruthful statement be believed to be true. To make an untruthful statement with the intention that it be believed to be true is to have an intention to deceive about the contents of the untruthful statement. Hence, an intention to deceive about the contents of the untruthful statement is necessary for a lie in all three senses. Making an untruthful statement *without* the intention that it be believed to be true—without an intention to deceive about the contents of the untruthful statement—is not a lie in any of the three senses:

A white lie is often a *contradictio in adjecto* [contradiction in terms]; like pretended tipsiness, it is *untruth* that breaches no *obligation*, and is thus properly no *lie*. *Joking* lies, if they are not taken to be true, are not immoral. But if it be that the other is *ever* meant to *believe* it, then, even though no harm is done, it is a lie, since at least there is always deception. (*LE*, 27:62 [p. 28])

One example that Kant gives of making an untruthful statement that is not intended to be believed to be true is writing “your obedient servant” at the end of a letter: “Can an untruth from mere politeness (e.g., the “your obedient servant” at the end of a letter) be considered a lie? No one is deceived by it” (*MM*, 6:431 [p. 554]). Another example that Kant gives of making an untruthful statement that is not intended to be believed to be true is bragging or telling a tall tale: “Hence the telling of tall stories, or braggings in company, demean us, and can only pass as a jest if the judgment of others about the content of their truth cannot be in doubt” (*LE*, 27:700 [p. 427]). Other examples Kant gives of making untruthful statements that are not intended to be believed to be true are giving compliments, being gallant, and making excessively warm protestations of friendship:

*Courtesy* (*politesse*) is a semblance of graciousness that inspires love. *Manifestations of deference* (compliments) and the whole of *courtly* gallantry, along with the warmest verbal protestations of friendship, are not always the *truth* (“My dear friends: there is no such thing as a friend.” Aristotle); but this still does not make them *deception*, because everyone knows how to take them, and especially because these tokens of benevolence and respect, though empty at first, gradually lead to real attitudes of this kind. (*A*, 7:152 [p. 31])<sup>13</sup>

Although it is necessary for a lie in all three senses that the untruthful statement that is made be *intended* to be believed to be true, it is not necessary for a lie in any of the three senses that it be *believed* to be true. That

13. Kant may not be consistent on this matter, however. In his lectures he says that courtiers and politicians are lying in the ethical sense (at the very least): “If untruth presupposes cleverness and skill, we get *artful* lying and repute; courtiers and politicians, for example, have to achieve their aims by lying, and everyone should flee any position in which untruth is indispensable to him” (*LE*, 27:62 [p. 28]).

is, although an intention to deceive about the contents of the untruthful statement is necessary for a lie in all three senses, deception is not necessary for a lie in any of the three senses. This is true for two reasons. First, an untruthful statement that is made with the intention that it be believed to be true may be true. However, if an untruthful but true statement is believed to be true, then deception about its contents does not occur.<sup>14</sup> Nevertheless, this may be a lie, in all of the three senses. For example, untruthfully answering "No" to the would-be murderer's question about whether one's friend is in one's house, with the intention that he believe it to be true, when, unbeknownst to one, one's friend has left one's house, is a lie in the ethical sense and in the sense of right, even though the would-be murderer is not deceived about one's friend whereabouts if he believes what one says to be true. Second, an untruthful statement (whether true or false) that is made with the intention that it be believed to be true may not be believed to be true—it may be disbelieved. For example, to modify the foregoing case, if one's friend is in one's house, and one untruthfully answers "No" to the would-be murderer's question about whether one's friend is in one's house, with the intention that he believe it to be true, then the would-be murderer may not believe one's answer to be true. However, one is lying in this case, in the ethical sense and in the sense of right. Unlike "deceive," which is a success or achievement verb, "lie" is not a success or achievement verb, in any of the three senses. Lying is not a perlocutionary act, in any of the three senses. Lying does not require a response of any kind, and in particular, does not require the response of being believed to be true, in order for it to be lying, in any of the three senses.<sup>15</sup>

Granted that what is common to a lie in all three senses is that it is the making an untruthful statement with the intention that that statement be believed to be true, it is now possible to distinguish between a lie in the ethical sense, a lie in the juristic sense, and a lie in the sense of right.

### A LIE IN THE ETHICAL SENSE: *FALSILOQUIUM DOLOSUM*

A lie in the ethical sense is extremely broad in scope. It is simply the making an untruthful statement with the intention that that statement be believed to be true. As Kant says: "In the ethical sense it compromises

14. It may well be that, in such a case, the person is deceived about what the liar believes and about what the liar intends. However, it is possible to imagine a case in which one knows that someone will lie about some matter, but one also knows that the person is mistaken about this matter, and that the lie will be true, although one does not know what the lie will be. In such a case, when one believes to be true what the liar says, one is not being deceived about anything.

15. D. S. Mannison, "Lying and Lies," *Australasian Journal of Philosophy* 47 (1969), 135. Charles Fried, however, calls a "case in which the hearer not only does not believe what he is being told, but does not even believe that the speaker believes it" an "attempted lie" rather than a lie; *Right and Wrong* (Cambridge, Mass.: Harvard University Press, 1978), 59.



every intentional untruth, or every intentionally false [declaration]<sup>16</sup> of my disposition" (*LE*, 27:605 [p. 351]). A lie in the ethical sense is, as Kant would say, a *falsiloquium dolosum* (intentionally deceptive untruthful statement): "Lying (in the ethical sense of the word), intentional untruth as such" (*MM*, 6:430 [p. 553]).

Importantly, a lie to oneself, an "internal lie," is a lie in the ethical sense:

It is possible that not everything a person holds to be true is *true* (for everyone can *err*), but in everything that one says, one must be *truthful* (one ought not to *deceive*); it may be that a confession is merely inward (before God) or also outward. The transgression of this duty of truthfulness is called *lying*, and, for this reason, there can be external lying as well as internal mendacity; as a result, it can happen that both sorts of mendacity are united or that they contradict each other. But lying, whether it be inward or outward, is of two kinds: (1) if one states something to be true that one knows to be untrue; (2) if one states something to be *certain* that one nevertheless knows to be subjectively uncertain. (*AN*, 8:421–42 [p. 93])

A lie to oneself is intentionally harmless to others. Hence, a lie in the ethical sense may be intentionally harmless to others, since it may be a lie to oneself. However, actions that are intentionally harmless to others are not punishable by law. Hence, a lie in the ethical sense may not be punishable by law, since it may be a lie to oneself. As he says: "*In ethics*, though, every *falsiloquium*, every knowing deception, is impermissible, even though it be not immediately coupled with an injury, and would not be imputable *coram foro juridico* [before a court of law]" (*LE*, 27:700 [426–27]).

### A LIE IN THE JURISTIC SENSE: *FALSILOQUIUM DOLOSUM IN PRAEJUDICIUM ALTERIUS*

A lie in the juristic sense is much narrower in scope than a lie in the ethical sense. It is the making of an untruthful statement to a particular other person (or particular other persons) with the intention that this person believe that statement to be true and be harmed by believing that statement to be true: "jurists insist upon adding for their definition, that it must harm another (*mendacium est falsiloquium in [praejudicium]*)<sup>17</sup> *alterius* [a lie is an untruthful statement that harms another]" (*MM*, 8:426 [p. 612]).

16. I have substituted "declaration" for "statement," since the word used by Kant is *Erklärung*, which is best translated as "declaration."

17. Although it says "praejudicium" in the text, there is good reason to believe that there is a misprint in the Latin in *Kants gesammelte Schriften* here (possibly as a result of a misprint in the original publication) and that it should be *praejudicium*.

In one place in his lectures on ethics, Kant calls a lie in the juristic sense a *falsiloquium in praejudicium alterius*: "In law a *mendacium* is a *falsiloquium in praejudicium alterius*, and cannot be anything else there" (LE, 27: 448 [p. 203]). In several other places in his lectures, Kant is more precise, and says that a lie in the juristic sense is a *falsiloquium dolosum in praejudicium alterius*, an intentionally deceptive untruthful statement that harms another: "The jurist recognizes and applies this only insofar as it involves a violation of the duties towards others (*officii juridicorum* [juridical duties]), and he understands thereby a *falsiloquium dolosum in praejudicium alterius*; he is therefore looking to the consequences and relation to others" (LE, 27:604–45 [p. 350–51]).

In *sensu juridico* [legal/juridical sense] the *mendacium* is a *falsiloquium dolosum in praejudicium alterius*, but in *sensu ethico* [ethical sense] it is already any deliberate untruth. (LE, 27:701 [p. 427])

In his lectures, Kant explains the distinction between a lie in the ethical sense and a lie in the juristic sense:

Hence an untruth differs from a lie in this, that both, indeed, contain a *falsiloquium*, i.e., a declaration whereby the other is deceived, but the latter is uttered with an associated intention to injure the other by the untruth. Hence, too, a lie is subject to judicial reprimand, at least an offence, but not as an untruth. In ethics, though, every *falsiloquium*, every knowing deception, is impermissible, even though it be not immediately coupled with an injury, and would not be imputable *coram foro juridico* [before a court of law]. (LE, 27:700 [p. 426–27])

By an intention to harm a particular other person Kant means an intention that this person's rights be violated. A lie in the juristic sense, therefore, is the making an untruthful statement to a particular other person (or particular other persons) with the intention that this person believe that statement to be true and that this person's rights be violated by believing that statement to be true.

In the *Doctrine of Right*, part 1 of *The Metaphysics of Morals*, Kant says that the original right that belongs to every person by virtue of her or his humanity is the right to freedom. The right to freedom is the right to act without the interference of others "insofar as it can coexist with the freedom of every other in accordance with a universal law" (MM, 6:237 [p. 393]). This right to freedom includes the right to act towards others in such a way that "does not in itself diminish what is theirs." Making an untruthful statement to a particular other person with the intention that this person believe it to be true "does not in itself diminish what is theirs":

This principle of innate freedom already involves... his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it—such things as merely communicating his thoughts to them, telling or promising them something, whether what he

says is true or sincere or untrue and insincere (*veriloquium aut falsiloquium* [truthful statement or untruthful statement]); for it is entirely up to them whether they want to believe him or not. (*MM*, 6:237–38 [p. 393–94])

By “diminish what is theirs” Kant means deprive the particular other person of what is rightfully hers or his. What is rightfully a person’s includes the person’s property, and through contract, the promised performance of something by a person (*MM*, 6:245–87 [p. 401–34]). Making an untruthful statement to a particular other person with the intention that this person believe it to be true does not, by itself, entail intending that this person be deprived of what is rightfully hers or his by believing it to be true. Not every untruthful statement is such that, if a person believes it to be true, it deprives this person of what is rightfully hers or his. However, certain untruthful statements are such that, if a person believes them to be true, they deprive this person of what is rightfully hers or his. In the case of such an untruthful statement, making this untruthful statement to a particular other person with the intention that this person believe it to be true does entail intending that this person be deprived of what is rightfully hers or his by believing it to be true:

Telling an untruth intentionally, even though merely frivolously, is usually called a *lie* (*mendacium*) because it can also harm someone, at least to the extent that if he ingenuously repeats it others ridicule him as gullible. The only kind of untruth we want to call a lie, in the sense *bearing upon rights*, is one that directly infringes upon another’s right, e.g., the false allegation that a contract has been concluded with someone, made in order to deprive him of what is his (*falsiloquium dolosum*). (*MM*, 6:238 n. 1 [p. 394 n. 1])

Making the untruthful statement to a particular other person, “I have fulfilled my contract with you,” with the intention that this person believe it to be true, entails intending that this person be deprived of what is rightfully his or hers by this person believing it to be true, namely, the promised fulfillment of the contract. It entails intending that this person’s rights be violated by believing it to be true. Hence, making the untruthful statement to a particular other person, “I have fulfilled my contract with you,” with the intention that this person believe it to be true, is a lie in the juristic sense. It is a *falsiloquium dolosum in praejudicium alterius*, and it is punishable by law.

Every lie in the juristic sense is also a lie in the ethical sense. However, most lies in the ethical sense are not also lies in the juristic sense.

#### A LIE IN THE SENSE OF RIGHT: *FALSILOQUIUM DOLOSUM IN PRAEJUDICIUM HUMANITATIS*

A lie in the sense of right is broader in scope than a lie in the juristic sense, but narrower in scope than a lie in the ethical sense. It is the making of an untruthful statement to others with the intention that others believe that

statement to be true and that "humanity generally" be harmed by them believing that statement to be true:

Thus a lie, defined merely as an intentionally untrue declaration to another, does not require what jurists insist upon adding for their definition, that it must harm another (*mendacium est falsiloquium in [praejudicium]<sup>18</sup> alterius*). For it always harms another, even if not another individual, nevertheless humanity generally, inasmuch as it makes the source of right unusable [*sic*]. (*RL*, 8:426 [p. 612])

In his lectures, Kant refers to a lie "from the moral viewpoint," which includes right, as a *falsiloquium in praejudicium humanitatis*, an untruthful statement that harms humanity:

A *mendacium* is thus a *falsiloquium in praejudicium humanitatis* even when it is not also in violation of any particular *jus quaesitum* [special right] of another. In law a *mendacium* is a *falsiloquium in praejudicium alterius*, and cannot be anything else there, but from the moral viewpoint it is a *falsiloquium in praejudicium humanitatis*. (*LE*, 27:448 [p. 203])

By an intention to harm "humanity generally" is meant an intention to violate a "right of mankind," or a right of "humanity generally," namely, the right to enter into and maintain a society:

It is therefore possible for a *falsiloquium* to be a *mendacium*—a lie—though it contravenes no right of any man in particular. Whoever may have told me a lie—I do him no wrong if I lie to him in return, but I violate the right of mankind; for I have acted contrary to the condition, and the means, under which a society of men can come about, and thus contrary to the right of humanity. (*LE*, 27: 448 [p. 203])

It is required, for a society to come about and to continue in existence, that there be rights based on contracts. To make an untruthful statement to others with the intention that others believe it to be true is to act in a way such that "statements (declarations) in general are not believed," and hence, that trust in contracts is undermined, and hence, that rights based on contracts are undermined:

I nevertheless do wrong in the most essential part of duty *in general* by such falsification, which can therefore be called a lie (though not in the jurist's sense); that is, I bring it about, as far as I can, that statements (declarations) in general are not believed, and so too that all rights which are based on contracts come to nothing and lose their force; and this is a wrong inflicted upon humanity generally. (*RL*, 8:426 [p. 612])

Making any untruthful statement to others with the intention that others believe it to be true entails intending to undermine rights based on contracts. Therefore, making any untruthful statement to others with the intention that others believe it to be true entails intending to harm

18. See note 17.

"humanity generally." Hence, any untruthful statement made to others with the intention that others believe it to be true is a lie in the sense of right, or a *falsiloquium in praejudicium humanitatis*—or better, a *falsiloquium dolosum in praejudicium humanitatis*.

Every lie in the juristic sense is a lie in the sense of right. However, not every lie in the sense of right is a lie in the juristic sense. In the case of some untruthful statements made to others with the intention that others believe them to be true, there is not an intention that *particular* other persons be harmed by believing them to be true, since there is not an intention that *particular* other persons believe them to be true. Nevertheless, in these cases, since there is an intention that others believe them to be true, there is an intention that "humanity generally" be harmed. These lies are lies in the sense of right, but they are not lies in the juristic sense:

The question arises, whether a lie that affects nobody's interests, and does nobody any harm, is likewise a lie? It is, for I promise to speak my mind, and if I fail to speak it truly, I do not, indeed, act in *praejudicium* of the particular individual concerned, but I do so act in regard to humanity. (*LE*, 27:449 [p. 204])

Kant gives several examples of lies in the sense of right that are not lies in the juristic sense. One is the lie to the would-be murderer that one's friend is not in one's house. This is a lie in the sense of right, but it is not a lie in the juristic sense. Since the would-be murderer has forfeited his rights by setting out on a course of murder, one cannot intend to violate his rights by making the untruthful statement "No" to him with the intention that he believe it to be true. One is, however, intending to violate the right of humanity:

I indeed do no wrong to him who unjustly compels me to make the statement if I falsify it, I nevertheless do wrong in the most essential part of duty in *general* by such falsification, which can therefore be called a lie (though not in the jurist's sense). (*RL*, 8:426 [p. 612])

Another example of a lie in the sense of right that is not a lie in the juristic sense is the lie to someone who has lied to one. Since the liar has forfeited his rights by his lie, one cannot intend to violate his rights by making an untruthful statement to him with the intention that he believe it to be true. One is only intending to violate the right of humanity: "Whoever may have told me a lie—I do him no wrong if I lie to him in return, but I violate the right of mankind" (*LE*, 27:447 [p. 203]).

Another example of a lie in the sense of right that is not a lie in the juristic sense is that of publishing an untruthful statement about an event with the intention that it be believed to be true by others. Here there is no particular other person to whom the untruthful statement is made with the intention that it be believed to be true, and hence, no intention to violate the rights of a particular other person. However, it is intended that the right of humanity be violated:

If a man publishes a false report, he thereby does no wrong to anyone in particular, but offends against mankind, for if that were to become general, the human craving for knowledge would be thwarted; apart from speculation, I have only two ways of enlarging my store of information: by experience, and by testimony. But now since I cannot experience everything myself, if the reports of others were to be false tidings, the desire for knowledge could not be satisfied. (*LE*, 27:447–48 [p. 203])

Every lie in the sense of right, every *falsiloquium dolosum in praejudicium humanitatis*, is punishable by law. This means that any untruthful statement made to others with the intention that it be believed to be true, even if it is not made with the intention to violate the rights of a particular other person—either because it is not made to a particular other person, or because the particular other person to whom it is made has forfeited her or his rights—is punishable by law. As Kant says about the lie in the sense of right to the would-be murderer:

Such a well-meant lie... can be condemned as wrong even in accordance with external laws. That is to say, if you have *by a lie* prevented someone just now bent on murder from committing the deed, then you are legally accountable for all the consequences that might arise from it. (*RL*, 8:427 [p. 612])

As another commentator has said about this example: "But suppose, what is more likely to occur, that the house-owner lies to the would-be murderer, the innocent friend is saved, and soon thereafter the police apprehend the intruder. Everything turns out well—except, according to Kant, the house-owner may be charged with violating the juridical duty not to lie."<sup>19</sup> In order not to confuse the second and third senses of lie here, however, it is preferable to refer to the "juridical duty not to lie" as the duty of right not to lie.

While every lie in the sense of right is also a lie in the ethical sense, not every lie in the ethical sense is also a lie in the sense of right. In particular, lies to oneself are not lies in the sense of right.

With a lie in the ethical sense, a lie in the juristic sense, and a lie in the sense of right explained, it is possible to look at the different duties not to lie in the *Groundwork of the Metaphysics of Morals*, the *Critique of Practical Reason*, *The Metaphysics of Morals*, and *On a Supposed Right to Lie from Philanthropy*.

## THE DUTY NOT TO LIE IN THE *GROUNDWORK* AND THE *CRITIQUE OF PRACTICAL REASON*

It is a matter of some controversy as to which duty not to lie is at issue in the *Groundwork of the Metaphysics of Morals*. In the preface, Kant gives as an example of a moral law "'thou shalt not lie'" (*G*, 4:389 [p. 44–45]).

19. Atwell, *Ends and Principles in Kant's Moral Thought*, 200.

However, he does not explain which sense of lie he has in mind, and hence, which duty not to lie he has in mind.

In Section I he asks "may I, when hard pressed, make a promise with the intention not to keep it?" (G, 4:402 [p. 57]) As later versions of the same example make clear, by "hard pressed" he means hard pressed for money, and by "a promise with the intention not to keep it" he means a lying promise to get money. Kant argues that "I could indeed will the lie, but by no means a universal law to lie" (G, 4:403 [p. 57]), and concludes that one must "be truthful from duty" (G, 4:402 [p. 57]). Granted that a duty to "be truthful" is a duty not to lie (as opposed to a duty to be candid),<sup>20</sup> his conclusion is that there is a duty not to lie. However, once again, he does not say which sense of a lie he has in mind, and hence, which duty not to lie he has in mind. The example of a lie that he gives—a lie to get money—is an untruthful statement made to a particular other person with the intention that this person believe it to be true and be harmed by believing it to be true (by depriving him of what is rightfully his, namely, his money). It is a lie in all three senses of a lie. Hence, the duty not to lie in question could be a broad ethical duty, a narrower duty of right, or an even narrower juristic duty.

In section 2, Kant gives examples of "duties to ourselves and to other human beings" that are "perfect and imperfect" (G, 4:421 [p. 73]). Here he argues that a person who acts in accordance with the maxim "when I believe myself to be in need of money I shall borrow money and promise to repay it, even though I know that this will never happen" (G, 4:422 [p. 74]) violates a "necessary duty to others or duty owed them" (G, 4:429 [p. 80]), that is, a perfect duty to others.<sup>21</sup> Since this is the example of a lie that he gives in section 1, and since he makes the same argument against this lie that he makes in section 1 (that a maxim of making a lying

20. Kant can be said to agree with Marcus Singer that the dictum "one ought to tell the truth" is "subject to certain understood but unstated conditions," namely, "if one is called upon to speak, or if one says something, then one should tell the truth; if one is asked a question, and one decides to answer it, then one should answer it truthfully. The rule as so stated clearly does not require anyone to answer every question that he is asked... The positive formulation of the rule, as well as the negative formulation, leaves it open to one to be silent.... The rule 'One ought to tell the truth' is logically and morally equivalent to the rule 'One ought not to lie'"; "Negative and Positive Duties," *Philosophical Quarterly* 15 (1965), 99–100. In the *Doctrine of Virtue*, pt. 2 of *The Metaphysics of Morals*, Kant clearly distinguishes between being truthful and being candid: "Between truthfulness and lying (which are *contradictorie oppositis* [contradictory opposites]) there is no mean; but there is indeed a mean between candor and reticence (which are *contrarie oppositis* [contrary opposites]), since one who declares his thoughts can say only what is true without telling the *whole truth*" (MM, 6:433 n. 1 [p. 556n. 1]). For more on the distinction between truthfulness and candor, see my "Kant on Lies, Candour and Reticence," *Kantian Review* 7 (2003), 102–33.

21. As Mary J. Gregor points out, "Less frequently, Kant uses... 'necessary' as synonymous with 'perfect' duty"; *Laws of Freedom* (Oxford: Blackwell, 1963), 97.

promise in order to get money cannot be universalized), it can be argued that the duty not to lie at issue in the *Groundwork* is a perfect duty to others not to lie to others. This would appear to make the duty in question either a duty of right or a juristic duty, and not a (directly) ethical duty.<sup>22</sup> Two reasons can be given in support of this conclusion. First, an ethical duty not to lie would prohibit all lies in the ethical sense, including lies to oneself; however, the perfect duty to others not to lie to others does not prohibit all lies in the ethical sense, since it does not prohibit lies to oneself.<sup>23</sup> Second, in *The Metaphysics of Morals* Kant does not allow for perfect duties to others that are ethical duties.<sup>24</sup>

This leaves the question of whether the duty not to lie in the *Groundwork* is a duty of right or a juristic duty. Some commentators have argued that the duty at issue is a juristic duty:

The illustration of perfect duties to others—the duty not to promise falsely—is a prototype for the duties of justice which are later elaborated in the *Rechtslehre*. The action such duties demand (in this case not making false promises) is relatively well-defined and is owed to specifiable others; it can be legally enforced, for example, by giving those who are defrauded by false promisers rights of redress which can be pursued in the courts.<sup>25</sup>

22. In the *Doctrine of Right*, Kant says that all duties of right (and all juristic duties) are indirectly ethical duties: "So while there are many directly ethical duties, internal lawgiving makes the rest of them, one and all, indirectly ethical" (*MM*, 6:221 [p. 385]).

23. At least one commentator has argued that the perfect duty to others at issue in the *Groundwork* cannot be a duty not to lie, but must be a duty to keep promises to others, on the basis that the duty in question is a duty to others, and not a duty to oneself: "I take it that a lying promise, as Kant calls it, is a promise one never intends to keep. Qua promise its not being kept is a violation of duty to the promisee, and hence is classified as a violation of a perfect duty to another. In contrast, as we shall see below, when Kant discusses lying in the *The Metaphysics of Morals*, he discusses it as a violation of a duty to oneself"; Nelson Potter, "Duties to Oneself, Motivational Internalism, and Self-Deception in Kant's Ethics," in *Kant's Metaphysics of Morals*, ed. Mark Timmons (Oxford: Oxford University Press, 2002), 373 n. 7; emphases in original). However, this is wrong. Kant is well aware of the distinction between making a lying promise and breaking a promise made truthfully: "There are also lies whereby the other is cheated. To cheat is to make a lying promise. Breach of faith is when we promise something truthfully, but do not have so high a regard for the promise as to keep it" (*LE*, 27:449 [p. 204]). As Otfried Höffe has said, "in the case of false promises, Kant is not, as is often assumed, concerned with the injunction to keep promises under all circumstances. . . . Kant is not concerned with the observable sequence of events, in which a promise is made and then kept or broken, but is instead concerned with honesty as the subjective principle determining the will. He asks whether it is morally permissible for someone in need to give a promise that he does not intend to keep. The false promise. . . is seen as an instance of lying and deceit; *Immanuel Kant*, trans. Marshall Farrier (Albany: State University of New York Press, 1994), 154.

24. Despite what is said here, for an argument that the duty not to lie at issue in the *Groundwork* is an ethical duty, see my "Kant and the Perfect Duty to Others Not to Lie," *British Journal for the History of Philosophy* 14 (2006), 653–85.

25. Onora O'Neill, "Kant's Virtues," in *How Should One Live? Essays on the Virtues*, ed. Roger Crisp (Oxford: Clarendon Press, 1996), 83.



Most lies are not lies in the juristic sense. A lie to obtain money is a lie in all three senses of a lie, and therefore is a lie in the juristic sense of a lie. Kant surely did not choose his example of a lie in the *Groundwork* lightly. There is some reason to hold, therefore, that the duty not to lie to others in the *Groundwork* is a juristic duty. Nevertheless, it is not certain that the duty is a juristic duty.

It is also not certain what kind of duty not to lie is at issue in the *Critique of Practical Reason*. Indeed, it is not certain that there is a single duty not to lie at issue in the *Critique*. In the *Critique*, Kant gives, as an example of a duty, "[one] ought never to make a lying promise" (CPR, 21 [p. 154]). He also gives, as example of a lie, giving untruthful testimony in court, and argues for a duty to be truthful on the basis of this example:

When the maxim on which I intend to give testimony is tested by practical reason, I always consider what it would be if it were to hold as a universal law of nature. It is obvious that in this way everyone would be necessitated to truthfulness. For it cannot hold with the universality of a law of nature that statements should be allowed as proof and yet be intentionally untrue. (CPR, 5:44 [p. 175])

It is not clear if giving untruthful testimony in court with the intention that it be believed to be true is necessarily a lie in the juristic sense. If, in such a case, there is necessarily a particular other person or persons to whom the untruthful testimony is given with the intention that she or he believe it to be true and be deprived of her or his rights, then it is necessarily a lie in the juristic sense. If that is so, then a duty not to lie in which everyone would be "necessitated to truthfulness" in giving testimony in court could be a juristic duty. However, if, in such a case, there is not necessarily a particular other person or persons to whom the untruthful testimony is given with the intention that she or he believe it to be true and deprived of her or his rights, then it is not necessarily a lie in the juristic sense. If that is so, then a duty not to lie in which everyone would be "necessitated to truthfulness" in giving testimony in court could be either a duty of right or an ethical duty, although it seems more likely to be a duty of right.

Later in the *Critique*, Kant appears to consider an example of an intentionally "harmless" lie:

Has not every even moderately honorable man sometimes found that he has abstained from an otherwise harmless lie by which he could either have extricated himself from a troublesome affair or even procured some advantage for a beloved and deserving friend, solely in order not to have to despise himself secretly in his own eyes? When an upright man is in the greatest distress, which he could have avoided if he could only have disregarded duty, is he not sustained by the consciousness that he has maintained humanity in its proper dignity in his own person and honored it, that he has no cause to shame himself in his own eyes and to dread the inward view of self-examination? (CPR, 5: 87–88 [p. 210–11])

However, by "harmless lie" here Kant surely means harmless to the particular individual to whom the lie is told, since such a lie would still be harmful to humanity. The duty not to lie here could therefore be a duty of right not to lie or an ethical duty not to lie. However, given what Kant says about it—"solely in order not to despise himself secretly in his own eyes"—it seems that he is talking about an ethical duty not to lie.

Nevertheless, it is not certain what duty not to lie at issue in the *Critique*, or indeed, that there is a single duty not to lie at issue in the *Critique*.

### THE JURISTIC DUTY NOT TO LIE IN THE *DOCTRINE OF RIGHT*

The *Doctrine of Right* is exclusively concerned with a lie in the juristic sense, a *falsiloquium dolosum in praejudicium alterius*. As Kant says, "in the doctrine of right an intentional untruth is called a lie only if it violates another's right" (*MM*, 6:429 [p. 552]).

Kant does not mention a specific duty not to lie in the *Doctrine of Right*, nor does he provide an argument for such a duty. The reason for this is that there is no further wrong in telling a lie in the juristic sense than that of intending to harm a particular person by depriving that person of what is rightfully hers or his. Harming a person by depriving that person of what is rightfully hers or his is wrong insofar as it is a violation of her or his property rights, her or his contract rights, and so on. The wrongness of telling a lie in the juristic sense, therefore, just is the wrongness of intending to violate a person's property rights, rights based on contract, and so on. An argument for a duty not to lie in the juristic sense is thus superfluous.

Nevertheless, there is a juristic duty not to lie in the *Doctrine of Right*. It is a duty of omission of narrow obligation. It is a duty to refrain from performing an external action (viz., making an untruthful statement to a particular other person with the intention that this person believe that statement to be true and be harmed by believing it to be true). It is a duty that makes no reference to the person's motivation for fulfilling the duty. It is a duty that may be legislated by someone other than the person who has to fulfill it (in particular, by the state), and the person may be compelled to fulfill the duty by coercion.

### THE ETHICAL DUTY NOT TO LIE IN THE *DOCTRINE OF VIRTUE*

The *Doctrine of Virtue*, part 2 of *The Metaphysics of Morals*, is exclusively concerned with a lie in the ethical sense, a *falsiloquium dolosum*. Here Kant pointedly distinguishes between a lie in the juristic sense and a lie in the ethical sense:

In the doctrine of right an intentional untruth is called a lie only if it violates another's right; but in ethics, where no authorization is derived from

harmlessness, it is clear of itself that no intentional untruth in the expression of one's thoughts can refuse this harsh name. (*MM*, 6:429 [p. 552])

Since a lie in the sense of right also does not necessarily violate the rights of a particular other person (although it necessarily "harms... humanity generally"; *RL*, 8:426 [p. 612]), the claim that a lie in the ethical sense does not necessarily violate the rights of a particular other person is insufficient to distinguish between a lie in the ethical sense and a lie in the sense of right. However, Kant also says that a lie to oneself is a lie in the sense of ethics, even though it is intentionally harmless to others:

A lie can be an external lie (*mendacium externum*) or also an internal lie.—By an external lie a human being makes himself an object of contempt in the eyes of others; by an internal lie he does what is still worse: he makes himself contemptible in his own eyes and violates the dignity of humanity in his own person. And so, since the harm that can come to others from lying is not what distinguishes this vice (for if it were, the vice would consist only in violating one's duty to others), this harm is not taken into account here. (*MM*, 6:429 [p. 552])

Although a lie to oneself is intentionally harmless to others, Kant does add that the telling of lies to oneself is the source of telling lies to others, which are intentionally harmful to others:

But such insincerity in his declarations, which a human being perpetrates on himself, still deserves the strongest censure, since it is from such a rotten spot (falsity, which seems to be rooted in human nature itself) that the ill of untruthfulness spreads into his relations with other human beings as well, once the highest principle of truthfulness has been violated. (*MM*, 6:430–31 [p. 554])

The "duty of truthfulness" (*MM*, 6: 404 [p. 532]) in the *Doctrine of Virtue* is an ethical duty not to lie. The ethical duty not to lie is a duty to oneself not to lie to oneself or to others. As Kant says in the *Anthropology*, "the sole proof a man's consciousness affords him that he has character is his having made it his supreme maxim to be truthful, both in his admissions to himself and in his conduct toward every other" man (*A*, 7:295 [p. 160]). The wrongfulness of lying, in the ethical sense, consists in what one does to oneself when one lies. The human being, as a natural being, has a natural capacity to communicate her or his thoughts. The human being, as a moral being, can use the human being, as a natural being, to communicate her or his thoughts (either to herself or himself or to others). This is an end that is "in agreement with" the end that the human being has as a natural being. However, the human being, as a moral being, can also use the human being, as a natural being, to communicate what are not her or his thoughts (either to herself or himself or to others). This is an end that is contrary to the end that the person has as a natural being. To do this is to lie, in the ethical sense. When one lies, one (as a moral being)

uses oneself (as a natural being) as a mere means to an end. When one lies, one (as a moral being) treats oneself (as a natural being) as a "speaking machine," that is, as a thing:

But communication of one's thoughts to someone through words that yet (intentionally) contain the contrary of what the speaker thinks on the subject is an end that is directly opposed to the natural purposiveness of the speaker's capacity to communicate his thoughts.... The human being as a moral being (*homo noumenon*) cannot use himself as a natural being (*homo phaenomenon*) as a mere means (a speaking machine), as if his natural being were not bound to the inner end (of communicating thoughts), but is bound to the condition of using himself as a natural being in agreement with the declaration (*declaratio*) of his moral being and is under an obligation to himself to *truthfulness*. (MM, 6:429–30 [p. 553])

Since to lie is to treat oneself as a thing, it follows that to lie is to treat oneself as something less than a human being: "By a lie a human being throws away and, as it were, annihilates his dignity as a human being" (MM, 6: 429 [p. 552–53]). However, one is a human being, and to treat oneself as something less than a human being, that is, as a thing, is a wrongful act against oneself: "But his way of pursuing this end is, by its mere form, a crime of a human being against his own person and a worthlessness that must make himself contemptible in his own eyes" (MM, 6:430 [p. 553]). From this it follows that one has a duty to oneself not to lie to oneself or to others: "The human being as a moral being... is under obligation to himself to *truthfulness*" (MM, 6:430 [p. 553]).<sup>26</sup>

The ethical duty not to lie in the *Doctrine of Virtue* is a duty of omission of wide obligation. It is a duty to refrain from acting on maxims of making an untruthful statement with the intention that that statement be believed to be true—which may be maxims of internal lying (lying to oneself) or maxims of external lying (lying to others)—from the motive of duty. It is a duty that may only be legislated by the person who has to fulfill it. It is a duty that requires that the person fulfill it through self-constraint. The violation of this duty, that is, acting on a maxim of lying, is a vice (MM, 6:428 [p. 552]). Indeed, lying is the greatest violation of the duty to oneself as a moral being to preserve oneself as a moral being: "The greatest violation of a human being's duty to himself regarded merely as a moral being (the humanity in his own person) is the contrary of truthfulness, *lying*" (MM, 6:429 [p. 552]). The fulfillment of this duty is a virtue: "*Truthfulness* in one's declarations is also called *honesty* and if the declarations are promises, *sincerity*; but, more generally, truthfulness is called *rectitude*" (MM, 6:429 [p. 553]).

26. Nelson Potter has said in various places that "somewhat surprisingly Kant regards lying, not as a violation of a duty to another, but as a violation of a duty to oneself; "How to Apply the Categorical Imperative," *Philosophia* 5 (1975), 415 n. 5 (and "Duties to Oneself in Kant's Ethics," 386). However, the ethical duty not to lie must be a duty to oneself, in order to prohibit lies to oneself.

THE DUTY OF RIGHT NOT TO LIE IN THE *RIGHT TO LIE*

The *Right to Lie* is exclusively concerned with a lie in the sense of right, a *falsiloquium dolosum in praejudicium humanitatis*. The case Kant is concerned with in this essay is a case raised by Benjamin Constant<sup>27</sup>, that of making the untruthful statement “No” to a would-be murderer asking if one’s friend is in one’s house, with the intention that the would-be murderer believe the untruthful statement to be true. This is not a lie in the juristic sense, since in so acting one is not intending to violate the rights of the would-be murderer (he has forfeited his rights by setting out on a course of murder). However, it is a lie in the sense of right, since one is necessarily intending to violate the right of humanity:

although I indeed do no wrong to him who unjustly compels me to make the statement if I falsify it, I nevertheless do wrong in the most essential part of duty *in general* by such falsification, which can therefore be called a lie (though not in the jurist’s sense); that is, I bring it about, as far as I can, that statements (declarations) in general are not believed, and so too that all rights which are based on contracts come to nothing and lose their force; and this is a wrong inflicted upon humanity generally. (RL, 8:426 [p. 612])

It is a right of “humanity generally” to enter into and maintain a society. This right is violated by any untruthful statement made to others with the intention that it be believed to be true, since in so acting one is necessarily intending to bring it about that “statements (declarations) in general are not believed,” and hence, that trust in contracts is undermined, and hence, that rights based on contracts are undermined, and hence, that society is undermined, since rights based on contracts are required to create and maintain a society. The duty of right not to lie is the basis for all duties (and correlative rights) based on contracts: “truthfulness is a duty that

27. Constant’s *On Political Reactions* [Des réactions politiques], first published in 1796, was translated into German and published in the journal *Frankreich im Jahr 1797*. As Kant says, in this work, Constant claimed that “a German philosopher” had maintained that “it would be a crime to lie to a murderer who asked us whether a friend of ours whom he is pursuing has taken refuge in our house” (RL, 8:425 [p. 611]). Allen Wood has said that “Constant is perhaps responding to an example Kant was to use in the *Doctrine of Virtue*—a servant lies to the police in saying that his master is not at home, and this lie enables his master to slip away and commit a crime; *Kantian Ethics* (Cambridge: Cambridge University Press, 2007), 244. Wood criticizes Constant for ignoring the fact that “the example occurs in a casuistical question not about lying as a violation of right but lying as a violation of a perfect duty to oneself, grounded on self-respect” and says that “Constant’s reworking of the example totally changes the issue that is supposed to be raised by it” (326 n. 10). However, Constant could not have been responding to Kant’s example in the *Doctrine of Virtue*, since Constant’s *On Political Reactions* was published in 1796, a year before the *Doctrine of Virtue*. Kant himself says, in reply to Constant, “I hereby grant that I actually said this somewhere or other, though I cannot now recall where” (RL, 8:425 [p. 611]), but there is no trace of this example in Kant’s writings or lectures prior to the *Right to Lie*.

must be regarded as the basis of all duties to be grounded on contract, the law of which is made uncertain and useless if even the least exception to it is admitted" (RL, 8:427 [p. 613]).

Some commentators have claimed that the duty at issue in the *Right to lie* is the ethical duty not to lie: "Kant's notorious argument that one must not lie even to a would-be murderer in order to protect the life of his innocent target thus does not turn on a claim that one owes the truth to the murderer, but on the claim that one owes it to oneself only to tell the truth."<sup>28</sup> However, when Kant says here that "truthfulness in statements that one cannot avoid is a human being's duty to everyone" (RL, 8:426 [p. 612]), and that "to be truthful (honest) in all declarations is therefore a sacred command of reason prescribing unconditionally, and one not to be restricted" (RL, 8:427 [p. 612]), the duty he has in mind is the duty of right not to lie. As he says in a footnote:

I prefer not to sharpen this principle to the point of saying: "Untruthfulness is a violation of duty to oneself." For this belongs to ethics, but what is under discussion here is a duty of right. The doctrine of virtue looks, in this transgression, only to *worthlessness*, reproach for which a liar draws upon himself. (RL, 8:426 n. 1 [p. 612 n. 1])

The duty not to lie is a duty of omission of narrow obligation. It is a duty to refrain from performing an external action (*viz.*, making an untruthful statement to others with the intention that others believe that statement to be true). It is a duty that makes no reference to the person's motivation for fulfilling the duty. It is a duty that may be legislated by someone other than the person who has to fulfill it (in particular, by the state), and the person may be compelled to fulfill the duty by coercion.

It has been said about the duty of right not to lie that it is concerned with "*Deklarationen* (declarations), and *Erklärungen* (statements)," rather than with "*Aussagen* (acts of speech, speakings)," and hence that it is "a formal duty to speak truthfully when you speak in such a way that you will likely be taken by others to be speaking your mind," with the result "not all acts of speech, not all utterances, are covered by the formal duty."<sup>29</sup> However, this is just to say that the duty is only concerned with the making of untruthful statements to others with the intention that they believe them to be true, and that it does not prohibit non-intentionally-deceptive untruthful statements, such as jokes, polite untruths, and tall tales.<sup>30</sup>

28. Paul Guyer, *Kant* (New York: Routledge, 2006), 403 n. 14.

29. Paul Griffiths, *Lying: An Augustinian Theology of Duplicity* (Grand Rapids, Mich.: Brazos Press, 2004), 192.

30. Allen Wood has said that "the term 'declaration' (*Aussage, Deklaration, Latin declaratio*)" only refers to a statement that is made "in a context where others are warranted or authorized (*befugt*) in relying on the truthfulness of what is said, and makes the speaker liable by right, and thus typically subject to criminal penalties or civil damages, if what is said is knowingly false" (*Kantian Ethics*, 241). However, in the *Doctrine of Virtue*, when Kant says that "The human being . . . is bound to the condition of using himself as

Although Kant does not discuss the duty of right not to lie in the *Doctrine of Right*, he does discuss the duty in the lectures on moral philosophy in 1784–85 (*LE*, 27:446–50 [p. 202–5]). This undermines the claim that the argument in the *Right to Lie* for the duty of right not to lie is primarily a response to Constant,<sup>31</sup> as well as the claim that it is a product of bad temper in his old age.<sup>32</sup>

Some commentators have argued that there is an “apparent discrepancy”<sup>33</sup> between the *Right to Lie* and the *Doctrine of Right*. They argue that Kant “explicitly accepts here [*Doctrine of Right*] the view which he rejects in the essay ‘On the Right to Lie’—the view, namely, that in law an untruth is a lie only if it is to the prejudice of some one else (*in praejudicium alterius*).”<sup>34</sup> They argue that, according to the *Doctrine of Right*, there is a right to tell lies to others, even if such lies are vicious, so long as they are not intended to violate the rights of particular other persons: “lying is always morally wrong, but he also thinks that as long as a lie is not intended to deprive someone of her rights or property it should not be prohibited by law.”<sup>35</sup> Since the *Doctrine of Right* “expressly permits lying”<sup>36</sup> to others, when it is not intended to violate the rights of particular other persons, and since the *Right to Lie* expressly prohibits lying to others, there is an apparent discrepancy between the *Right to Lie* and the *Doctrine of Right*.

However, there is no apparent discrepancy between the *Right to Lie* and the *Doctrine of Right*. When, in the *Doctrine of Right*, Kant says that “the only kind of untruth we want to call a lie, in the sense bearing upon rights [*im rechtlichen Sinne*], is one that directly infringes upon another’s right, e.g., the false allegation that a contract has been concluded with someone, made in order to deprive him of what is his (*falsiloquium*

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a natural being in agreement with the declaration (*declaratio*) of his moral being” (*MM*, 6:430 [p. 553]), he is referring to declarations to oneself and to God as well as to others. A declaration (*declaratio*) does not, therefore, only refer to a statement made in a context where others are warranted or authorized in relying on the truthfulness of what is said.

31. See Robert J. Benton, “Political Expediency and Lying: Kant vs. Benjamin Constant,” *Journal of the History of Ideas* 43 (1982), 135–44.

32. As Manfred Kuehn says, “while some have wanted to explain it [*Right to Lie*] away as a product of Kant’s old age, it seems clear that it represents his considered view on the subject, and that he would have presented essentially the same arguments at the time he was writing the *Groundwork*; *Kant: A Biography* (Cambridge: Cambridge University Press, 2001), 403.

33. Sedgwick, “On Lying and the Role of Content in Kant’s Ethics,” 58.

34. Paton, “An Alleged Right to Lie,” 199–200.

35. Allen D. Rosen, *Kant’s Theory of Justice* (Ithaca, N.Y.: Cornell University Press, 2003), 70 n. 88.

36. Hiram Caton, “Truthfulness in Kant’s Metaphysical Morality,” in *Essays in Metaphysics*, ed. Carl G. Vaught (University Park: Pennsylvania State University Press, 1970), 38 n. 57.

*dolosum*)" (MM, 6:238n. 1 [p. 394 n. 1]), he is talking about a lie in the juristic sense. He is saying that the only kind of intentionally deceptive untruthful statement that is called a lie, in the juristic sense, is one that is intended to directly violate the rights of a particular person (a "particular *jus quaesitum* [special right] of another" (LE, 27:448 [p. 203])). This is compatible with saying that the kind of intentionally deceptive untruthful statement that is called a lie, in the sense of right, is one that is intended to violate the right of humanity ("*Recht der Menschheit*" (LE, 27:447 [p. 203])). It is just that every intentionally deceptive untruthful statement made to others is a lie in the sense of right.

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