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Stella Sandford & Alison Stone      Guest Editors

Christine Battersby      General Editor

Dept of Philosophy, University of Warwick, Coventry CV4 7AL, UK  
(C.Battersby@warwick.ac.uk)

Margaret Whitford      Book Reviews Editor

French Department, Queen Mary and Westfield College, Mile End Rd,  
London, E1 4NS, UK

Alessandra Tanesini      Administrative Editor

Philosophy Section, University of Cardiff, PO Box 94, Cardiff, CF1 3XB, UK  
(A.Tanesini@compuserve.com)

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## WOMEN'S PHILOSOPHY REVIEW

## HEGEL AND THE PROBLEM OF PARTICULARITY IN MORAL JUDGMENT

Jeffrey A. Gauthier

Among the more philosophically interesting points of intersection between feminism and Hegel's ethical thought is their common attention to the limitations of formal or abstract moral theory in providing a genuinely universal perspective. Hegel assailed the 'emptiness' of formal moral principles in his early arguments against Kant's categorical imperative as a criterion for moral action. In his later writings, Hegel explicitly moved to a historical account of ethical progress that emphasized the passions that advance universality as opposed to formal procedures for testing the universality of proposed actions. In a similar vein, feminists have called attention to the failure of allegedly universal moral theories to pick out the immorality of sexist institutions and practices prior to political activism. While some theorists have focussed on the inadequacies of traditional moral theory in attending to the wrongness of sexism,<sup>1</sup> others have argued specifically that only a politically engaged and even partisan perspective can recognize and overcome a socially embedded injustice such as that of sexism.<sup>2</sup>

In her paper 'The Practice of Moral Judgment', Barbara Herman defends Kantian proceduralism<sup>3</sup> against charges such as these, arguing specifically that Kant's moral theory can both account for moral change and provide a framework for moral perception in politically turbulent times. Interestingly, while Herman aims to present a plausible moral theory that is clearly and distinctively Kantian, she grants the distinctively Hegelian point that Kant's categorical imperative test must rely upon 'pre-procedural' moral content in the form of 'rules of moral salience' in order to arrive at concrete judgments (Herman 1993: 71). Likewise, Herman grants the point that sexist and racist assumptions—'concepts that institutionalized inequality'—have sometimes become embodied in these rules so that an agent correctly employing the test of the categorical imperative might be subject to moral error (Herman 1993: 88). Unlike Hegelian and feminist critics of Kant, however, Herman argues that the inclusion of

preprocedural assumptions in Kant's test need not diminish the scope of a Kantian theory of moral judgment.

In this paper, I argue that while Herman offers an innovative account of how novel moral discoveries come to be integrated within Kant's formal ethical theory, her account fails as a general defence of Kantianism because of its inability to provide for the epistemological conditions for making those discoveries. As I argue below, because Kant's theory of ethical justification is also a theory of ethical motivation, judgments following from the test of the categorical imperative must not merely accommodate moral progress but must be able to serve as the mainspring for moral progress. In arguing that the categorical imperative test cannot serve as such a mainspring, I rely upon observations derived from contemporary feminist theory and practice. If I am right, these feminist arguments not only parallel Hegel's observation that moral change requires passionate engagement over and above the (deceptively) cool detachment of proceduralism, they provide a more concrete and historically interesting ground for that observation than do Hegel's own often dubious historical examples. Moreover, by carefully articulating why the oppressed person cannot unproblematically assume the stance of the self-respecting moral agent, by showing how seemingly selfish or otherwise partial actions may be necessary for exposing false universality, and by recognizing the need for establishing alternative social support structures for transgressive agents, feminists have reshaped distinctively Hegelian themes in a manner that Hegel himself could never have foreseen.

### I. Abstract Universality

The charge that Kantian universalism may be more historically inflected and less universal than it lets on is hardly new. Hegel himself first developed this charge in his early essay *Natural Law* (1802/3) with his challenge to Kant's important argument that one could not universalize a maxim to steal a loaf (Kant 1788: 27–28). Moreover, Hegel's argument revealed a fundamental epistemological shortcoming in Kant's formalistic approach to morality. If Hegel is right, taking the application of a formal criterion (such as the categorical imperative test) as the sole stan-

standard for right action serves to obscure and thereby to privilege certain normative assumptions necessary to apply the test. It is precisely this point that grounds Hegel's turn away from formal morality and towards passionate engagement as a source of political progress. In light of this, it is worth considering the structure of Hegel's objection in greater detail.

In the *Critique of Practical Reason*, Kant had argued that a universal principle to steal loans when it suits one's purposes to do so contradicts itself. This is because the entire practice of paying out loans (and the system of private property on which it depends) would collapse under such a principle. The test of the categorical imperative demands that an agent will only those maxims that he could, at the same time, will as a universal law. Because the agent could obtain a loan and expect to reap private benefit from that theft only within a system of private property, it is inconsistent for him simultaneously to will a principle that would entail the non-existence of that system.<sup>4</sup> Thus, by means of 'the mere form of giving universal law', it is clear that the maxim is impermissible (1788: 27).

Hegel, however, disputes this interpretation, emphasizing that Kant's reading rests on the unstated assumption that the agent is merely pursuing a selfish motive in the act. Although a selfish agent would need the system of private property to realize his end, this is not the only possible motive for the act. If the agent actually intended to destroy the system of private property to achieve a moral or political objective for example, there would be no contradiction in willing the non-existence of property. This means that if the act of stealing a loan is categorically wrong, such a judgment cannot rest on the willing of the thief (which might or might not be consistent), but on an independent fact concerning the wrongness of undermining the system of private property. Unless we assume that the system of private property is itself moral, we are in no position to claim that a moral principle inconsistent with the existence of the system is immoral (1802/3: 436–437).<sup>5</sup> While Kant claims to have developed a formal test for morality based solely upon the will of the agent, the test can in fact yield its categorical injunction only by assuming ('smuggling in') an additional and untested normative claim concerning private property (Hegel 1802/3: 438).<sup>6</sup>

What will prove of greatest importance for the discussion to follow is the way in which Kant's test obscures its reliance upon contingent moral judgments in its attention to procedural detail. In this regard, it is critical to emphasize that in showing how Kant's formal criterion for morality employed historically contingent moral judgments in its procedure, Hegel did not mean simply to attack the validity of those judgments. Indeed, Hegel provides his own (openly historically inflected) justification for the existence of private property.<sup>7</sup> The problem with Kantian formalism lies rather with its pretence of offering a moral theory that is free from social and historical contingencies in its judgments. It is only by means of such 'trickery' that Kant can assert that the sole motive for the ethical life is that which takes the moral law (i.e. the principles following from the categorical imperative test) as its sole guide (1802/3: 438). If the formula of the moral law cannot be applied in the absence of contingent and thus defeasible moral judgments, then its deliverances are subject to error. This means that we have no assurance that acts endorsed by the procedure are truly moral, nor that acts condemned by it are necessarily immoral. Moreover, if the deliverances of the categorical imperative test can fail to embody genuinely universal principles, then the moral agent cannot rely upon those deliverances as an uncontested guide for moral knowledge. Most importantly for Hegel, this means that action from the motive of duty may fail to be genuinely universal while rebellious and even formally 'immoral' motives may be the vehicles for obtaining access to more universal judgments.

Such an insight links Hegel's early criticisms of Kant and Fichte with his later emphasis upon those times in history when universality found its vehicle in the passions and particular interests of individuals whose commitment to any 'moral law' was dubious at best. These were the historical moments in which the particular and even selfish motivations of persons brought about a shift in our understanding of the universal. Hegel concludes on the basis of such examples that, 'The special interest of passion is ... inseparable from the actualization of the universal ... This may be called the cunning of Reason—that it sets the passions to work for itself' (Hegel 1837: 43–44). Actions motivated by a kind of willing that might well fail the test of the categorical

imperative have been precisely what was needed to advance our conception of universality. Unfortunately, as Allen Wood has justly observed, Hegel's examples of these actions come most often from the standard iconography of European history, turning his historical account of the progress of universality into little more than a 'time to praise famous men' (Wood 1991: 230). Hegel's conventionalism notwithstanding, however, his integration of the passions into his account of the universal has implications for moral epistemology with direct relevance for feminism.

The failure of universalist procedures of moral justification to pick out oppressive practices as wrong, and the need for alternative ways of discovering their wrongness, have generated an important line of criticism against those procedures by feminist theorists. As Catharine MacKinnon succinctly states the feminist case against abstract universalism, 'The generalized, universal, or agreed-upon never did solve the disagreements, resolve the differences, cohere the specifics, and generalize the particularities' (MacKinnon 1989: xv). Indeed, much of the work of MacKinnon and other feminist legal scholars has been dedicated to exposing the various ways in which a distinctively white and masculine point of view has found embodiment in the procedurally neutral outcomes of the legal system.<sup>8</sup> The failure of that system to provide an adequate means for women to protect themselves against job discrimination, sexual harassment, and even rape and sexual assault (especially when the assailant is known to the woman) all betray the false universality of the law. Perhaps foremost among the reasons for this failure is the fact that women have not been consistently recognized as moral agents deserving of respect prior to the application of the procedures. As Simone de Beauvoir once observed, a man's 'relations with woman ... lie in a contingent region, where morality no longer applies, where conduct is a matter of indifference' (Beauvoir 1949: 613).

Inasmuch as formal procedures have failed to pick out a broad range of practices that abet the subordination of women, the identification of these practices as part of a system of oppression has depended on the passionate and often partisan work of feminist activists. The 1969 'Principles' of the Redstockings stated this in the form of a principle, 'We take the woman's side in everything. We ask not if something is "reformist," "radical,"

"revolutionary," or "moral." We ask, is it good for women or bad for women?' (Morgan 1970: 583). In eschewing objective criteria of assessment, it was not the aim of feminists to produce a purely 'subjective' account of sexism, but rather to get beyond the already sexist assumptions that inhabited allegedly neutral criteria—including moral criteria. This meant that these feminists took up the unabashedly partial hypothesis that women were oppressed and that women's descriptions of that oppression were to take priority over any other. By means of this working assumption the full scope of the injustice of sexism came to the fore. In the words of MacKinnon once again, 'a working assumption [became] a working discovery' as the partiality granted to women's accounts permitted the injustices needed to 'objectively' ground the appeal to partiality to come into view (MacKinnon 1989: 86). While feminist consciousness-raising groups may seem to bear little resemblance to the 'great men' of Hegel's historiography, they share something in common that is of vital importance as concerns universality. In each case, the partisan activity of the agent<sup>9</sup> is one of the conditions for discovering the objective grounds for the partisanship. Because of this, the Kantian demand that we act only on those maxims that we can ground prior to our acting would have precluded the discovery.

At this point, it is important to recall that the line of criticism against Kantian universalism that I have been pursuing began with the argument that formal procedures such as the categorical imperative fail to achieve their universalist goal because of their inability to rise above the historically contingent assumptions that are needed to apply the procedures. Suppose, however, that Kantians were to admit that the test of the categorical imperative could not function apart from the use of socially and historically contingent assumptions. Suppose further that these same theorists could admit that those assumptions could serve to encode a false ideological picture of women and men. Could one develop a recognizably Kantian theory whilst all the while divorcing oneself from the objectionable 'false universalism' that characterizes traditional theories? As noted above, Barbara Herman has argued that the introduction of social and historically contingent background assumptions, or 'rules of moral salience' (*RMS*), in the formal procedure of the categorical

imperative is inevitable, and that this fact need not count against the procedure's central place in ethical theory. Thus it is important to take up her argument in greater detail.

## II. Rules of Moral Salience

Herman's case that background rules are necessary for Kantian proceduralism rests on her analysis of the procedure itself. Because the categorical imperative is not a rule but a principle for assessing agents' maxims for action, there is a need for already extant rules or conventions to govern the application of the principle. For example, the moral agent must rely upon certain non-moral 'rules of relevance' in deciding which features of an action need to be a part of its maxim (Herman 1993: 75). It is essential to distinguish the parts of an action that are the genuine conditions of its performance from those that are merely incidental if one is adequately to describe the subjective principle of an act.<sup>10</sup> To use the test of the categorical imperative, one must know, for example, that the desired end of an act is relevant to its performance in a way that the action's being performed at 3:15 p.m. ordinarily is not.

Even more important as concerns the Hegelian and feminist objections discussed above is Herman's acknowledgement that an agent must already possess certain kinds of background moral knowledge if she is to use the categorical imperative test. To describe any proposed action for moral assessment, the agent must be able to pick out the features of that action that pose a moral risk, i.e., the aspects of the action that are 'morally salient'. The reasons for this are twofold. First, an agent has to know which of her actions need to be subjected to moral judgment. Being able to see why tying a noose around my neighbour's neck raises moral questions that tying my shoes does not is a necessary condition for any further moral inquiry. Herman notes that Kant himself acknowledged the need for this kind of background moral knowledge in his examples in the *Groundwork*. In those cases, an awareness of the potential conflict between universality and inclination serves as the motivation for subjecting the proposed action to moral scrutiny in the first place.<sup>11</sup> Secondly, moral knowledge is necessary for an agent to describe a proposed

action in such a way that its principle or maxim can accurately be assessed. As Herman remarks, 'An agent who came to the CI [categorical imperative] procedure with no knowledge of the moral characteristics of actions would be very unlikely to describe his action in a morally appropriate way' (Herman 1993: 75). This points to the need for moral understanding that is independent of the judgments rendered by means of the test of the categorical imperative.

According to Herman, *RMS* provide such an understanding, functioning as 'preprocedural intuition[s] or convention[s]' that alert the agent to situations of moral risk, and thereby permit her to arrive at descriptions of a proposed action that are suitable for moral assessment (Herman 1993: 84). *RMS* do not specify rules or duties in the manner of a formal procedure, but serve to make the agent aware of the moral dimensions of various situations. *RMS* structure the agent's moral sensitivity or perception so that some acts stand out as in need of moral attention (e.g., requiring the scrutiny of the test of the categorical imperative), while others fade into the background or perhaps even disappear altogether (as in the case of cultural taboos). Though *RMS* do not arise as a result of formal moral judgment, because they shape the structure of moral perception *RMS* exercise an influence on procedural moral judgments. Herman contends that issues such as 'who is a moral agent or end-in-himself', the conditions of agency for moral agents and what can interfere with those conditions, and the 'marks of reasonable claims and constraints' are all preprocedurally decided by *RMS* (Herman 1993: 86).

Though *RMS* arise in the context of culturally specific norms and mores, it does not follow from this that *RMS* are immune from the universal constraints of the moral law in either their formation or their function. Noting that for Kant the moral law is a 'fact of reason' exerting an influence on the decision structure of all rational agents whether or not they are aware of the procedural tests of the categorical imperative, Herman argues that *RMS* 'express the same fundamental concept (the Moral Law) that the CI procedure represents for purposes of judgment' (Herman 1993: 85). Herman finds the rational basis of *RMS* in the rationally irresistible 'conception of oneself as a moral agent among others' (Herman 1993: 87). That universal conception in

turn places a demand on any society for a provisional solution to the problem of how persons are to interact as moral agents, one that finds expression in the *RMS*: 'The *RMS* are to be viewed as a set of rules that encode a defeasible solution to questions about the nature of moral agents, the appropriate descriptive terms that capture morally salient features of our situations, our decisions, and so on' (Herman 1993: 87). Although the need for *RMS* derives from the necessity of the moral law itself, any particular set of *RMS* represents a merely provisional and contingent reply to this demand, subject to continuing moral scrutiny through history.

It is in the process of revising *RMS* to match our developing awareness of the demands of moral agency that Herman finds an explanation for critical political concepts associated with class, race, and gender. Because they develop preprocedurally in the institutions and practices of a particular cultural order, *RMS* can be a prime repository for deep-seated cultural prejudices. Moreover, because they govern our capacity to perceive the moral significance of persons and events prior to making conscious moral judgments, *RMS* may permit 'errors of moral judgment that will not be caught by the CI procedure' (Herman 1993: 89). This does not mean, however, that *RMS* are impervious to moral criticism. Because the defective *RMS* expressed a solution to a problem that was grounded in our awareness of the demands of the moral law, like-grounded moral concepts that criticize existing social structures, such as racism or sexism, afford a means for exposing those defects. Herman writes:

I do not know (historically) what prompted such notions as 'racist' or 'sexist' to emerge in contemporary Western culture and become moral notions (terms of moral criticism). One way of understanding what happened when they did, when they came to shape a part of our sense of a moral ideal, is to see these categories as having been incorporated in the prevailing *RMS*.

Existing rules of salience bearing on racial and sexual matters were found to be insufficient—to encode concepts that institutionalized inequality ... Deeply held views about the nature of blacks or women had to be unmasked and corrected, prejudices and fears overcome, so that their full moral status could be acknowl-

edged and seen ... constituting a practical adjustment in the concept of 'person as an end-in-himself' ... The terms of criticism are based in the same moral conception of persons that supports the rules and categories needing revision (Herman 1993: 88–89).

Because *RMS* are only provisional and have their basis in the same 'moral law' that grounds social critical categories such as sexism or racism, *RMS* remain subject to political critique regardless of their cultural standing.

By acknowledging that the ideological moral blindness associated with institutionalized injustice may be generated within the underlying assumptions that moral agents rely upon when they test their maxims, Herman has provided an explanation for why sexist and racist practices so long escaped moral scrutiny within the Kantian tradition. To the extent that a racist or sexist ideology is 'encoded' into *RMS* that govern the application of the categorical imperative, the test will remain insensitive to certain kinds of racism or sexism. This may be because the *RMS* fail to pick out a practice or feature of an action as morally salient (e.g., when it does not occur to a moral agent to subject a cultural practice such as sexual harassment or rape within marriage to moral scrutiny), or because the harm that comes to individuals or groups as a result of the action or practice is not recognized as a harm.<sup>12</sup> It is worth noting that this 'failure of perception' may not be limited to oppressive agents, but could characterize the conscious attitudes of the victims of oppression as well, a point to which I shall return below. Nevertheless, because the critique that permits the discovery of defective *RMS* derives from the same (universal) moral ground as the provisional moral rules, none of this constitutes a challenge to Kantian universalism.

### III. Rules of Moral Salience and Moral Epistemology

Rather than reject what may be the strongest Hegelian objection to Kantian proceduralism, Herman has resourcefully attempted to incorporate it into an account of how the presence of contingent rules could be accommodated by a recognizably Kantian moral theory. This enables her to explain both why the 'moral errors' occasioned by ideology can long go unnoticed even by

otherwise competent moral agents, and why the correction of those errors itself becomes a moral imperative once they are discovered. As Herman states in the passage cited above, however, she is limiting her consideration to explanations of what happens after the discovery of defects in the background rules governing the categorical imperative test, and setting aside the question of how agents came to discover that certain rules were racist or sexist.

While such agnosticism as regards the context of discovery might be acceptable for a teleological moral theory (in which it is the consequences rather than the motives of action that take on direct moral significance), it is not so easy for a 'clearly and distinctively Kantian' analysis to brush this issue aside. As Herman herself has emphasized in other writings, Kant's moral theory is distinguished not only by the primacy of the moral law in its conception of ethical justification, but by the supreme importance that it assigns to the motive of duty: '[T]he motive of duty must be by itself sufficient to bring about all that is morally required' (Herman 1993: 32).<sup>13</sup> In acknowledging that *RMS* are necessary for reaching moral judgments on the basis of the categorical imperative, Herman puts a new spin on this doctrine. If treating all persons as ends-in-themselves is morally required, and if ideologically grounded defects to *RMS* systematically impede our capacity to perceive whole classes of persons as ends-in-themselves, then the motive of duty must be sufficient to induce what is necessary to correct those defects.

To act from the motive of duty, an agent must will only those actions that she judges to be consistent with the test of the categorical imperative (Herman 1993: 24, 95–96, 202). Herman points out, however, that because one cannot develop and test a maxim without invoking untested *RMS*, and because *RMS* can be the site of deep-seated oppressive attitudes such as sexism or racism, agents who rely exclusively on that test as a guide for action may be unaware of the manner in which racism and sexism inform their judgments. Under such conditions, 'agents using mistaken *RMS* may make errors of moral judgment that will not be caught by the CI procedure' (Herman 1993: 89). Until quite recently, for example, a man who made patronizing judgments about women and acted in accord with such judgments, could have developed a principle of action consistent with

the prevailing *RMS* that would pass the test of the categorical imperative. In the unlikely event that he was sufficiently free from the prevailing assumptions to perceive patronizing actions toward women as worthy of moral scrutiny at all, it is likely that the same (unquestioned) assumptions concerning the disparate nature of women's and men's moral capacities<sup>14</sup> would have sufficed to make a maxim of patronizing behaviour universalizable. This problem occasions a deeper difficulty. Because Kantian theory ultimately judges acts according to how they are willed, and because the procedure of the categorical imperative informed by *RMS* is the test for how an act is willed, it seems possible for an agent who is acting on the basis of morally deficient *RMS* to permissibly will an objectively wrong action. As concerns the agent who could find nothing wrong in a maxim that we might consider patronizing toward women, 'If moral judgment is tied to maxims, *RMS*, and the CI procedure, then we seem compelled to say that he has acted permissibly' (Herman 1993: 91).

Although she does not take up precisely how moral agents could disabuse themselves of ideologically rooted 'moral errors' in any detail, Herman suggests that agents are not entirely without recourse in this regard. With the awareness that errors in *RMS* can involve deeply rooted political ideology, Kantian moral agents have a duty to develop mechanisms suitable for reducing the possibility of such errors. Herman suggests, for example, that '[i]t would be reasonable to attend to claims made by and on behalf of those omitted from equal consideration, to consider who benefits from their exclusion, and so on' (Herman 1993: 88). Beyond this, Herman states that moral agents need not be entirely in the grip of the prevailing *RMS*, especially if they are aware that such rules are only defeasible solutions to a problem posed by the moral law. Once they are aware that the concepts governing the moral perception of their time and place are subject to moral critique, 'agents will be able to consider whether the moral categories they use are in fact compatible with the respect owed toward persons' (Herman 1993: 90).

It must be said that Herman's optimism concerning moral agents' capacity to detect and overcome defects in *RMS* seems at odds with the historical intransigence of ideologies of oppression. Extremely perceptive Kantians (beginning with Kant him-

self), have proven unable to extricate themselves from profoundly sexist assumptions. Moreover, by making a good will the sole criterion of the right, Kantianism directs the agent's moral attention to the conscious intentions of an act rather than to its objective function as part of a broader system. One of the features of systems of oppression such as racism and sexism that makes them so difficult to change is the fact that even thoughtful and perceptive moral agents can perpetuate the systems without consciously willing any racist or sexist principles at all.

Even if the motive of duty were entirely effective in moving oppressors to reconsider their judgments and actions in reaction to feminist criticisms, however, a far more important question concerns whether or not that same motive can move those 'omitted from moral consideration' to recognize the injustices performed against them, and compel them to demand the respect that they are due as moral agents. As a matter of historical fact, changes in the moral perceptions of the powerful, if they occur at all, come in response to the demands of the morally and politically disenfranchised. The suspicion of the moral point of view shared by Hegel and many feminists concerns the manner in which the motive of duty, necessarily informed by the prevalent assumptions of a given time and place, can come to embody an oppressive conception of agency. To the extent that the prevalent interpretation of the moral point of view does not fully recognize the moral agency of a class of persons, it may take an extraordinary effort for a member of an oppressed group to recognize the limitations imposed upon her as an injustice. Moreover, by restricting an oppressed agent to the performance of actions that could be endorsed by the motive of duty, Kantianism may rule out precisely the non-moral or even immoral acts of passion that would serve as the goad to moral progress.

In her perceptive study of the moral epistemology of the oppressed, Susan Babbitt emphasizes that the background conceptions of personhood and identity that govern our moral perception are bound up in myths and fantasies that define the lived possibilities of entire groups of people. Gaining epistemic access to different sets of possibilities may involve transgressive acts, the full implications of which cannot be grasped in advance, even by the agents themselves. Babbitt centres much of her discussion on

the story of Sethe, the runaway slave in Toni Morrison's novel *Beloved*. In a moment of passion, Sethe attempts to kill her children rather than allow them to be taken back into slavery, an act that results in the death of her daughter and in her two sons running away. Sethe's action, while it may make 'moral sense' to us, was neither the result of moral reflection on Sethe's part, nor was it clearly intended to achieve any moral end beyond the expression of Sethe's love for her children—a love that was itself impossible within the limits imposed by slavery (Babbitt 1996: 117). Neither the socially unacceptable act of killing her children, nor the socially acceptable one of permitting them to be enslaved, was consistent with the love she felt, nor with the 'moral law.' It was only by means of the former act, however, that the immorality of permitting them to be sold could concretely emerge—for Sethe herself as much as for those who could comprehend the meaning of her action. Babbitt points out that the very possibility of 'moral reflection' requires a conception of oneself as a moral agent, as a person deserving of respect. Yet it is precisely this conception that was unavailable to Sethe (Babbitt 1996: 45).<sup>15</sup>

Systems of oppression such as slavery, sexism, or racism effectively deny moral status to whole classes of persons, i.e., they generate *RMS* that fail to acknowledge or lend concrete recognition to the moral status of members of the oppressed classes. Because of this, the most morally significant action that a member of such a class can perform will be that which effectively challenges the framework through which she is rendered morally invisible. As Babbitt points out, however, such an act is necessarily an 'ethical and epistemological gamble' (Babbitt 1996: 25). Not only is it liable to be falsely perceived as merely crazy or selfish, but the agent herself will lack a concrete sense of her own moral justification prior to the act. For Sethe, it was only by means of her impassioned act of attempting to kill her own children that she came to 'know that slavery is worse than death' (Babbitt 1993: 52).<sup>16</sup> Moreover, it was only by means of her realization of that fact that she gained the concrete sense of self-respect that made it possible for her to claim her own rights as a moral agent and, thereby, to challenge the false universality of the prevailing moral assumptions. Acting was the precondition of knowing.



The fact that a member of an oppressed group may need to find support for a socially transgressive action in order to come to self-realization as a moral agent grounds the self-conscious stance of partiality adopted by many feminist support agencies. A woman who is in an abusive relationship with her spouse, for example, is likely to feel a similar absence of morally acceptable choices, and thereby be deprived of recognition as an authentic moral agent. In this case, the social expectations placed upon her to be a 'good wife', the relationship of economic dependence that she and any children may have with respect to the husband, and the love that she may feel for him, all make abandoning him a difficult and seemingly irresponsible task. Staying with him, on the other hand, entails being subjected to a form of terrorism inconsistent with self-respect as a moral agent. The woman who attempts to follow the motive of duty in such an (impossible) situation will try to escape the dilemma by trying to control her husband's rage, an attempt that is not only doomed to fail, but the failure of which is likely to generate self-blame (Walker 1979: 8; Schechter 1982: 316). It is only by means of what is likely to seem to her to be the rebellious and extraordinarily selfish act of leaving her husband that the moral impossibility of the expectations that were placed upon her can come into relief.<sup>17</sup> In order to aid the battered woman in coming to that realization, feminists have tried to provide an alternative social context in which a woman who leaves her abuser can find support. In contrast to the unremittingly hostile world in which Sethe was forced to make her 'ethical gamble', the shelter is intended to provide the moral and material means that the survivor will need if her gamble is to pay off. Self-consciously 'taking the woman's side' is critical to the process of lending social recognition to the new sense of moral agency taking shape in the woman who has made the difficult and dangerous choice to leave an abuser.<sup>18</sup>

Examples such as these demonstrate why the 'motive of duty' is insufficient to bring about the changes in moral agency among the oppressed that would be necessary for moral progress. Most importantly, self-recognition as an autonomous moral agent is effectively unavailable to oppressed agents who lack any available choices that are expressive of genuine autonomy and self-respect.<sup>19</sup> General epistemic access to a morally autonomous self

that could reflect on its choices from a 'moral point of view' requires a social order in which all agents find their autonomy consistently recognized and supported by society. As Hegel argued, autonomy can exist only insofar as the community provides for the adequate expression of the interests and desires of its members (Hegel 1821: 122-25, 130). This means that if the motive force of moral progress lies with the oppressed (as I have suggested that it does), then the motive of duty alone will be insufficient to bring about the changes necessary to correct or improve morally defective background rules for applying Kant's test of the categorical imperative. In the absence of morally uncertain acts of passion that serve to expose the inadequacy of the prevailing assumptions behind the moral law, the defects of those assumptions will remain obscure.

Jeffrey A. Gauthier  
University of Portland

### Notes

- 1 See e.g., Beauvoir 1949: 613-17; MacKinnon 1987: 1-17; 1989: 83-105; and Calhoun 1988: 451-63.
- 2 See, e.g., Morgan, ed. 1970: 583; Jaggar 1989: 129-56; and Babbitt 1996: 37-60.
- 3 I use the term 'proceduralism' in this paper to refer to any theory that claims that a formal procedure (such as Kant's categorical imperative test) is sufficient as a standard for moral action.
- 4 This version of Kant's test assumes only that it is impermissible to will the non-existence of a practice in which one is engaged, unless it is part of one's intention to eliminate the practice. Some authors (e.g., Korsgaard 1985) have attempted to answer Hegel's objection with the stronger claim that it is always inconsistent for an agent to will the use of a practice for a private end if the universalization of that willing would result in the destruction of the practice. On such a view, it would not be open to the anarchist or communist to use the system of private property to undermine it. This reply, however, runs foul of another of Hegel's objections to the categorical imperative test. Hegel points out that the universalization of even clearly virtuous maxims such as 'Help the poor' would also have the effect of eliminating the practice of giving to the poor: 'Either there are no poor left or

- there are nothing but poor; in the latter event no one is left to help them. In both cases the help disappears' (Hegel 1802/3: 439). Despite the failure of the universalized maxim to preserve the practice that the agent uses to achieve his end, however, in this case we would not judge that the agent is doing wrong in giving to the poor. Thus, it does not seem true that we can never will the use of a practice when the universalization of the willing would destroy the practice.
- 5 See also Hegel 1807: 430; 1821: 135R.
  - 6 For further discussion of Hegel's account of the categorical imperative see Walsh 1969: 24; Wood 1990: 165-67; and Gauthier 1997: 17-21.
  - 7 See Hegel 1821: 41, 46, 46R; 1830: 486.
  - 8 See e.g., Littleton 1987; MacKinnon 1987 and 1989; Minow 1988; and Crenshaw 1989.
  - 9 Consistent with Hegel's conception of agency, I am assuming that the agency in question here may be that of an individual or a collectivity. See e.g., Hegel 1807: 468; 1837: 15.
  - 10 Formulating a maxim for some action *A* requires a description of the relevant circumstances of *A*, and the end or purpose for which *A* is performed. See O'Neill 1975: 32-42; and Herman 1993: 134, 221.
  - 11 'If we now attend to ourselves whenever we transgress a duty, we find that we in fact do not will that our maxim should become a universal law ... but rather that its opposite should remain a law universally: we only take the liberty of making an *exception* to it for ourselves (or even for just this once) to the advantage of our inclination.' (Kant 1785: 424)
  - 12 Of course, the latter may be causally related to the former. The failure to consistently recognize the status of women as persons worthy of respect can blind the sexist agent to the harms of such practices as sexual harassment or acquaintance rape.
  - 13 '[O]ne cannot ... avoid the importance of the idea that *one way* of acting—from one motive—is given moral preeminence' (Herman 1993: 2; see also 3, 6, 215). For further discussion of how agency and motivation is central to Kant's ethics see Darwall 1986: 291-319; Loudon 1986: 473-89; Ameriks 1987: 179-212; and O'Neill 1989: 145-162.

- 14 A good example might be Kant's own view as expressed in *Observations on the Feeling of the Beautiful and the Sublime*: 'Women will avoid the wicked not because it is unright, but because it is ugly; and virtuous actions mean to them such as are morally beautiful. Nothing of duty, nothing of compulsion, nothing of obligation.' (Kant 1764: 81).
- 15 For Hegel, too, the moral freedom of the slave is merely abstract and potential so long as a person is living under slavery. See Hegel 1821: 57R.
- 16 Babbitt's contention that one must act in order to come to self-knowledge parallels another important Hegelian theme. For Hegel, self-knowledge, including moral autonomy, is the precipitate of activity and the reaction to that activity within a community (see Taylor 1985: 77-96).
- 17 That self-interest would be extraordinary challenges another Kantian assumption, i.e., that selfish behaviour can simply be assumed in human beings. Kant could not have been thinking of a member of an oppressed group when he claimed that it 'indicates a man with a *broadened way of thinking* if he overrides the subjective conditions of his judgment ... and reflects on his own judgment from a *universal standpoint*' (Kant 1790: 295). For a contemporary criticism of feminist 'partiality' resting on the same dubious assumption, see Darwall, Gibbard, and Railton 1992: 181-82.
- 18 On the nature of these support mechanisms, see Walker 1979: 232, 246; and Butler 1985: 35.
- 19 This follows from Babbitt's examples, though she does not directly address them to the deficiencies of Kantianism as a moral theory, but rather to certain versions of rational choice theory.

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- graph number. Remarks are indicated by an 'R', additions by an 'A'.
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