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Kantian Consequentialism*

David Cummiskey

I. KANT, CONSEQUENTIALISM, AND THE SACRIFICE OF THE INNOCENT

In principle, if not in practice, a consequentialist may be required to sacrifice an innocent person for the sake of some greater good. Does the Kantian injunction to respect the autonomy of persons rule out the sacrifice of the innocent? Contemporary neo-Kantians, and perhaps Kant himself, seem to think it obvious that Kant has provided a justification for agent-centered constraints—prohibiting the killing of one, for example, to save two others. I shall argue that, despite current philosophical opinion, Kantian respect for persons, treating persons as ends-in-themselves, does not generate agent-centered constraints on the maximization of the good; and, thus, in principle, if not in practice, Kantian normative theory does not rule out the sacrifice of the innocent.

In criticizing consequentialism most contemporary Kantians appeal to Kant's second and third formulations of the categorical imperative: for Kant, autonomy was tied to the notion of free and equal rational beings pursuing their legitimate ends in what he called a Kingdom of Ends. To respect the autonomy of persons is to "act in such a way that you treat humanity whether in your own person or in the person of any other never simply as a means but always at the same time as an end" (*GMM*, p. 429; *CPR*, pp. 87, 131).¹ The moral law cannot require us to

* I would like to thank Sarah Conly, Stephen Darwall, and Peter Railton for their many comments on various drafts of this article. I have also benefited a great deal from conversations with Allan Gibbard on these issues. A short version of this article was presented at the Pacific Division meeting of the American Philosophical Association, March 1987, in San Francisco, and I would like to thank Stephen Engstrom and those who attended for their comments and lively discussion. Drafts of this article have also been presented at several conferences and universities; on each occasion I have benefited from the critical discussion. Finally, I would like to thank the referees of *Ethics* for their extensive comments. As a result of their critical and helpful comments, this article is much clearer than it otherwise would have been.

1. For parenthetical references, see Immanuel Kant, *Groundwork of the Metaphysics of Morals* (1785), trans. H. J. Paton (New York: Harper & Row, 1964) (*GMM*), *Critique of Practical Reason* (1788), trans. Lewis White Beck (Indianapolis, Ind.: Bobbs Merrill, 1965) (*CPR*), *The Metaphysical Elements of Justice* (1797), trans. John Ladd (Indianapolis, Ind.: Bobbs Merrill, 1965) (*MEJ*), and *The Doctrine of Virtue* (1797), trans. Mary J. Gregor (Phil-

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sacrifice others, or ourselves, because to do so would be to treat persons as a means only: it would not treat them as a free and equal member of a Kingdom of Ends. Since consequentialism may sometimes require us to aggress against some persons in order to aid others, it does not respect persons and is thus unfit for the supreme principle of morality. In short, consequentialism does not respect the autonomy of persons because it may allow sacrifices which fail to treat persons as ends-in-themselves.

Despite its Kantian tone and its intuitive appeal, there is no defensible Kantian pedigree for this type of objection. Indeed, we shall see that the most natural Kantian interpretation of the demand to respect persons generates a form of consequentialism. It follows that a conscientious Kantian moral agent may be required to sacrifice the innocent because it will promote the good.

This claim is in some part familiar. Utilitarians from Mill through Hare have maintained that universalizability, which they take to be the essence of Kantianism, is a purely formal principle which is compatible with virtually any normative principle, including principles which require the sacrifice of the innocent. Thus, they say, their theories satisfy the Kantian requirement of universalizability and so are not open to criticism by Kantians. My arguments are distinct in three ways from this time-honored approach, however, for the good reason that this time-honored approach does not do the work it sets out to do.

First, I follow most modern Kantians and focus on the formula of the end-in-itself, not the often criticized formula of universalizability. Even if the formula of universalizability is trivial,² it is now recognized that the formula of the end-in-itself, which expresses the matter or objective end of moral action, need not be. This formula requires independent consideration and evaluation by anyone wishing to refute Kantian conclusions. This article considers this perhaps more fruitful formulation of Kant's categorical imperative and finds that even it cannot justify the rejection of consequentialism.

Second, critics, like proponents, must consider the overall development of Kant's normative theory, not just the formulations of the categorical imperative. Thus, one needs to consider Kant's later development of his theory in the *Metaphysics of Morals*.³ To this end, this article will consider

adelphia: University of Pennsylvania Press, 1964) (*DV*). Page numbers refer to the Prussian Academy edition, which are also provided in the above translations (*Kant's gesammelte Schriften* [Berlin: Preussische Akademie der Wissenschaften, 1900–1942]).

2. In light of recent discussions, I do not find the familiar charge that Kantian universalizability is trivial substantial enough to be convincing. See, e.g., Onora Nell, *Acting on Principle* (New York: Columbia University Press, 1975); and Christine Korsgaard, "Kant's Formula of Universal Law," *Pacific Philosophical Quarterly* 66 (1985): 24–47.

3. John Rawls, e.g., has objected to the way utilitarians, like R. M. Hare, attempt "to reduce [Kant's doctrine] to triviality" by interpreting it as having so "slender a basis." Rawls argues that it is a mistake to emphasize the formal elements of Kant's theory and to ignore the "full scope" of Kant's view as it is developed in the later works; see *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 251.

not just the formula of the end-in-itself, but the relevance of Kant's distinctions between duties of justice and duties of virtue, between external and internal legislation, between maxims of action and maxims of ends, and between perfect and imperfect duties. The point, of course, is not to provide a survey of Kant's distinctions, but to see whether Kant's later articulation of his normative theory provides any reason for rejecting consequentialism.

Third, this article will show that Kant not only fails to refute consequentialism but actually provides support for a form of normative consequentialism.⁴ The formula of the end-in-itself, probably the most influential formulation today among Kantians, most naturally leads to just the sort of conclusions about action that many neo-Kantians wish to avoid: that sacrifice of the innocent may be morally necessary.

Given that so much of Kant's moral theory is clearly nonconsequentialist, this last, most radical, contention needs clarification. Of course, I am aware of the deontological emphasis of some of Kant's specific examples and, thus, I am not suggesting that Kant defended consequentialism. The point, though, is that Kant's explicit rejection of consequentialism rests simply on intuitive reliance on commonsense morality, rather than on any argument he provides.⁵

I do not deny that these deontological intuitions have their appeal. Surely, however, when neo-Kantians appeal to Kant, in arguments against normative consequentialism, they do so in the belief that Kant has provided some normative justification for specific deontological intuitions. They appeal to the force of Kant's arguments, not just the authority of Kant's intuitions. Whether those intuitions are supported by explicit or even implicit argument of truly justificatory force is, thus, a crucial issue. Just as one cannot assume that utilitarianism generates a practically undefeasible right to liberty simply because Mill argues that it does, one cannot take it for granted that Kant's theory generates agent-centered constraints. Indeed, in Kant's case there is a significant gap between Kant's basic normative theory and his endorsement of commonsense deontological morality. We shall see that Kant's normative theory does not provide the material to fill this gap.

4. Normative consequentialism and foundational consequentialism will be distinguished in Sec. II below.

5. Most obviously, Kant's discussion of punishing murderers and of benevolent lying are both uncompromising in their insistence that some actions are forbidden even if, apparently, no good will result. These are also two of Kant's most controversial moral claims. Even committed Kantians openly wonder if, in these specific cases, Kant has correctly applied his theory. For excellent recent discussions of these cases, see Christine Korsgaard, "The Right to Lie: Kant on Dealing with Evil," *Philosophy and Public Affairs* 15 (1986): 325–49; and Jeffrie Murphy, "Does Kant Have a Theory of Punishment?" *Columbia Law Review* 87 (1987): 509–32. In this article, I do not discuss these particular examples. Needless to say, if the analysis of Kant's normative theory provided is correct, then Kant has misapplied his theory.

Kant's theory does not do the work many Kantians want it to do. Familiar arguments from consequentialists have failed to show why this is so, and have thus failed to convince contemporary Kantians and those sympathetic to them. The reason for this is that the flaw lies much deeper than has been seen—so deep that it is at the heart of Kant's normative theory itself. Kant's normative theory logically cannot provide a refutation of all forms of consequentialism because it is actually a form of consequentialism: namely, Kantian consequentialism.

II. NORMATIVE AND FOUNDATIONAL CONSEQUENTIALISM

Many neo-Kantians will grant that Kant's particular examples are inadequately developed and unconvincing, but they will still maintain that Kant argues at great length against consequentialism. In addition to his practical examples, the major theme of Kant's ethical writings is nothing less than a rejection of consequentialist justifications of normative principles. Although the issue is complex, I grant that at the foundational or justificatory level Kant is not a consequentialist. My arguments, however, involve Kant's normative theory, not his foundational theory.

Foundational consequentialism is a theory about the justification of normative principles; that is, a foundational consequentialist maintains that only the goodness of ends can justify a normative principle.⁶ Normative consequentialism involves the structure of the basic normative principle, not the arguments used to justify the principle. For our purposes, a normative theory has a consequentialist structure if the basic normative principle, whatever its justification, tells us to promote certain ends and does not involve basic agent-centered constraints or a basic priority of negative over positive duties (more on this topic in the next section).

There are many possible paths to a consequentialist normative principle. The logic of moral language (R. M. Hare), a Rawlsian contractual agreement (J. C. Harsanyi), a rational intuition (Henry Sidgwick), a divine command, and many other possibilities might justify a consequentialist normative principle. Similarly, Kant's nonconsequentialist foundational theory may justify a consequentialist normative principle.

Of course, any brief statement of Kant's foundational theory cannot do justice to the details of the arguments in the *Groundwork* and the *Critique of Practical Reason*. But leaving out all of the qualifications and complications, Kant's foundational theory involves the thesis that the concept of rational action generates substantial normative principles; that is, as a rational agent willing an action one must accept specific normative principles as action-guiding. Kant was not a foundational consequentialist;

6. G. E. Moore is probably the best example of a foundational consequentialist. Although Bentham and Mill are widely viewed as foundational consequentialists, the issue is not as clear as it may at first appear. For an interesting recent discussion of the deontological aspects of utilitarianism, see Will Kymlicka, "Rawls on Teleology and Deontology," *Philosophy and Public Affairs* 17 (1988): 173–90.

he does not argue that the goodness of ends justifies basic normative principles. Kant's basic normative theory, on the other hand, involves the specific normative principles which guide rational action, that is, the formulations of the categorical imperative in the *Groundwork* and their later interpretation in the *Metaphysics of Morals*, and these, I will show, bear best a consequentialist interpretation.

Kant's claims about the relationship between rationality and morality are extremely important and quite controversial, but these claims do not affect the thesis I will defend. The mere fact that Kant rejects foundational consequentialism does not imply that he rejects or is entitled to reject normative consequentialism. Indeed, even if Kant's arguments against foundational consequentialism are sound, Kant's normative theory could still have a consequentialist structure.⁷ In principle, one can be a Kantian about important foundational questions and still defend a consequentialist normative theory.

The distinction between foundational and normative consequentialism is not itself controversial. Indeed, even such hard-core Kantians as Stephen Darwall and Christine Korsgaard agree that one can be a normative consequentialist without being a foundational consequentialist.⁸ Whether Kant's normative theory naturally lends itself to a consequentialist interpretation, however, is controversial—most neo-Kantians insist that it clearly does not; I will argue that it does.

III. RIGHTS AND AGENT-CENTERED CONSTRAINTS

Robert Nozick's derivation of moral "side-constraints" is one clear example of the contemporary Kantian approach to normative theory. A side-

7. One might claim that Kant's arguments against foundational consequentialism apply equally to normative consequentialism. The arguments that follow provide reason to doubt that such a claim can be established. But, for the purposes of this article, which focuses on the most plausible interpretation of Kant's formula of the end-in-itself, this question can be left aside. In another article, however, "Consequentialism, Egoism, and the Moral Law," *Philosophical Studies* 57 (1989): 199–222, I discuss Kant's analysis of the concept of duty, his distinction between formal and material principles, his theory of the good, and his derivation of the categorical imperative. Essentially, I maintain that the arguments which purport to establish the formality of the moral law do not rule out a consequentialist principle of right; that is, even if the moral reasons, which motivate a rational agent to adopt a normative principle, are not consequentialist, the normative principle adopted nonetheless may be consequentialist in structure. It follows that the various formulations of the categorical imperative could consistently be interpreted so that a conscientious Kantian moral agent is committed to normative consequentialism. Thus, Kant's rejection of foundational consequentialism does not apply equally to normative consequentialism.

8. Stephen Darwall, personal correspondence (1988); Christine Korsgaard, comments on a section of my "Consequentialism, Egoism, and the Moral Law," at the Central Division meeting of the American Philosophical Association in Cincinnati, Ohio, April 1988. The above formulation of the distinction between foundational consequentialism and normative consequentialism is basically the same as Korsgaard's distinction between "a consequentialist-about-justification" and "a consequentialist-about-rightness" in her comments.

constraint is a constraint on the acceptable means which may be used in the pursuit of goals. Moral side constraints are duties not to use others in certain ways. Nozick's aim is to articulate and motivate an account of rights which does not collapse into a consequentialist normative theory or what he has called a "utilitarianism of rights." A utilitarianism of rights builds into the desirable end state to be achieved "some condition about minimizing the total (weighted) amount of violations of rights." Nozick objects that such an account of rights still falls prey to standard objections to utilitarianism: since it builds the nonviolation of rights into its desirable end state, in principle, it could allow the (alleged) unacceptable use of persons as a means only. For example, "someone might try to justify his punishing another *he* knows to be innocent of a crime that enraged a mob, on the grounds that punishing this innocent person would help to avoid even greater violations of rights by others, and so would lead to a minimum weighted score for rights violations in the society." In contrast, the side-constraint view places the nonviolation of rights as a constraint upon action and thereby "forbids you to violate these moral constraints in the pursuit of your goals."⁹

Nozick recognizes the *prima facie* irrationality of side-constraints: "If nonviolation of C [a side-constraint] is so important, shouldn't that be the goal? How can a concern for the nonviolation of C lead to the refusal to violate C even when this would prevent other more extensive violations of C?" He argues, however, that "the Kantian principle that individuals are ends and not merely means" provides "a rationale for placing the nonviolation of rights as a side-constraint upon action instead of including it solely as a goal of one's action."¹⁰

Nozick goes on to argue that the Kantian principle that persons are ends provides a basis for his libertarian constraints upon action, which are the cornerstone of his historical entitlement conception of justice: no force, no theft, and no fraud. The constraint view of rights, however, is not linked to the rest of Nozick's theory. For example, despite his rather different normative theory of rights, Ronald Dworkin's thesis that we should conceive of rights as trumps is equivalent to Nozick's thesis that rights are constraints.¹¹

Similarly, one can be committed to side-constraints without being committed to the view that side-constraints are always morally overriding; that is, one can hold the view that there are *prima facie* constraints on the acceptable means to a goal. Indeed, Stephen Darwall has argued that as a minimal claim a constraint view of rights only entails a duty such that "it [is] wrong to violate [a constraint] to prevent one exactly similar

9. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic, 1974), pp. 28–29.

10. *Ibid.*, pp. 30–31.

11. Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1978), pp. 90–94, 364–68. For an argument that these views are equivalent, see Philip Pettit, "Rights, Constraints, and Trumps," *Analysis* 47 (1987): 8–14. For the Kantian foundations of Dworkin's view of rights, see Dworkin, pp. 180–93 (though also see p. xi).

violation by someone else.”¹² As a minimal thesis, the constraint view of rights entails that it makes a difference to what one should do whether it will be oneself or someone else violating the constraint (independent of any consequentialist considerations). Following Thomas Nagel, Samuel Scheffler, and Derek Parfit, Darwall calls these constraints “agent-centered.”

Now, as Nozick’s argument shows, the rationale for agent-centered constraints cannot simply be the disvalue of the constraint being violated. If the only consideration is one of value, then it would make no difference in value whether oneself or someone else violated the constraint; either way the constraint would be violated and there would be the same loss of value. Thus, as Darwall, Nozick, and other neo-Kantians have recognized, the basic question becomes, What is the rationale for a constraint upon the means to ends other than the disvalue of the constraint being violated?¹³ The neo-Kantian rejection of consequentialism thus presupposes that there is a Kantian nonvalue-based rationale for agent-centered constraints.

Nozick, Dworkin, Darwall, and many others—for example, Murphy, Rawls, Feinberg, Donagan, Fried, Walzer, and Richards—each develop neo-Kantian positions which are in important respects distinct.¹⁴ But

12. Stephen Darwall, “Agent-centered Restrictions from the Inside Out,” *Philosophical Studies* 50 (1986): 291–319, esp. 301.

13. Darwall has suggested that responsibility for one’s moral integrity requires that one give priority to what one does rather than what one allows others to do. But why would a Kantian perspective require a preoccupation with one’s own actions even at the expense of the integrity of others? Why is it morally irresponsible to sacrifice one’s own integrity for the sake of the preservation of the moral integrity of others? Other than this specific issue, this article will not address “integrity objections” to consequentialism. First, as Bernard Williams has argued, these objections apply to both Kantian and consequentialist approaches (see “Persons, Character, and Morality,” in *Moral Luck* [New York: Cambridge University Press, 1981]). Second, I believe these objections have been adequately answered. See, e.g., Sarah Conly, “Utilitarianism and Integrity,” *Monist* 16 (1983): 298–311, and “The Objectivity of Morals and the Subjectivity of Agents,” *American Philosophical Quarterly* 22 (1985): 275–86; Peter Railton, “Alienation, Consequentialism, and the Demands of Morality,” *Philosophy and Public Affairs* 13 (1984): 134–71; Samuel Scheffler, *The Rejection of Consequentialism* (Oxford, 1982) and Conly’s review of Scheffler in *Philosophical Review* 95 (1986): 147–50. It is sometimes argued that integrity objections are more serious for consequentialism than Kantianism; but this is only true if Kantianism requires a weaker doctrine of negative responsibility than consequentialism. I argue below that, in principle, Kantianism may require a strong doctrine of negative responsibility.

14. See Jeffrie Murphy, *Kant: The Philosophy of Right* (New York: St. Martin’s, 1970); Rawls, *A Theory of Justice*, pp. 26–27, 29–30, 158–61, 178–90; Joel Feinberg, *Social Philosophy* (Englewood Cliffs, N.J.: Prentice Hall, 1973), pp. 87–96; Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977); Charles Fried, *Right and Wrong* (Cambridge, Mass.: Harvard University Press, 1978), pp. 8–13, 28–29, 160–63; Michael Walzer, “The Moral Standing of States,” *Philosophy and Public Affairs* 9 (1980): 209–29, 222, n. 24, 223–27; and David A. J. Richards, “Rights and Autonomy,” *Ethics* 92 (1981): 3–20, esp. 5, 17–20. These theorists are, of course, a diverse lot. The positions of Murphy, Rawls, Dworkin, and Richards are less extreme than the positions of Nozick and Fried. Donagan, Feinberg, and Walzer’s positions are not easy to classify. But, whatever the differences, the following analysis of Kant’s normative and political theory should be relevant to any allegedly Kantian theory.

despite their important differences, each maintains that there is a Kantian rationale for some version of agent-centered constraints. The arguments that follow challenge this common faith that there is a Kantian rationale for a nonconsequentialist normative theory.

Since positive duties are duties to aid and negative duties are duties not to harm, the thesis that there are agent-centered constraints is a refinement of the more familiar thesis that negative duties are more stringent than positive duties.¹⁵ It is a commonplace objection to consequentialism that it cannot adequately account for the intuition that our negative duties are more stringent than our positive duties. The consequentialist response is equally familiar. There are good consequentialist reasons for moral codes, or secondary principles, and moral dispositions to include some sort of priority of negative over positive duties; that is, one can argue that adopting a moral and legal code that includes a priority of negative duties (or agent-centered constraints) is the best way to maximize the good.¹⁶

15. The terminology 'positive' and 'negative' can be misleading. Although still an approximation, the distinction I have in mind is as follows. 'Negative duties' refers to all obligations (i) not to coercively interfere with another's legitimate pursuit of his or her interests; (ii) not to coercively interfere with the property rights or legitimate claims, whatever they may be, of others; (iii) to honor (or not to omit) chosen obligations, like promises and contracts; and (iv) to tell the truth (or not to lie). Negative duties thus include such acts as promise keeping which often require positive action. Duties involving promising, and perhaps truth-telling, are typically considered negative duties because one must voluntarily take on the obligation. One can avoid violating any such duties by simply not entering a promise (or not speaking?). 'Positive duties' refers to all unchosen or noncontractual obligations to further the interests of others. (I leave aside questions involving positive and negative duties to oneself.) Although the terminology can be misleading, it is familiar enough that one might as well use it. Thus it is claimed that, provided one does not choose to become obligated, all negative duties can be satisfied by simply doing nothing. Positive duties, on the other hand, require that one actually do something. (The action vs. inaction issue will be discussed in Sec. VIII.) There are, of course, many problematic cases. The duties of parents toward their children, e.g., are often classified as chosen positive obligations. More generally, the positive/negative distinction presupposes a clear distinction between chosen and unchosen obligations. The positive/negative distinction also presupposes a further distinction between illegitimate coercive interference and legitimate conflict or competition in the pursuit of goals. Finally, the positive/negative distinction presupposes a justification and specification of property rights or legitimate claims. For our purposes, however, these questions and difficulties are not important. As a consequentialist, one draws the distinction in such a way as to further the good. I leave it to the Kantian nonconsequentialist, who objects to the arguments below, to clarify the distinction(s) they defend. The above formulation is an approximation sufficient for our purposes.

16. On the role of rights and duties in a consequentialist theory, see e.g., Hobbes, Francis Hutcheson, Hume, J. S. Mill, and Sidgwick. For recent discussions, see, e.g., John Rawls, "Two Concepts of Rules," *Philosophical Review* 64 (1955): 3–32; David Lyons, "Mill's Theory of Morality," *Nous* 10 (1976): 101–20, and "Human Rights and the General Welfare," *Philosophy and Public Affairs* 6 (1977): 113–29; R. M. Hare, *Moral Thinking* (Oxford, 1981), esp. pp. 25–64; and Allan Gibbard, "Utilitarianism and Human Rights," *Social Philosophy and Policy* 1 (1984): 92–102, and "Inchoately Utilitarian Common Sense," in *The Limits of Utilitarianism*, ed. H. B. Miller and W. H. Williams (Minneapolis: University of Minnesota Press, 1982), pp. 71–85.

Thus, what the neo-Kantian must claim is that consequentialist accounts fail to capture the correct motivation or justification behind our intuitive moral judgments. The usual reason for this claim is that consequentialist accounts provide an indirect and, in principle, defeasible justification of the intuitions in question.¹⁷ The assumption behind this neo-Kantian criticism of consequentialism is that there is a more direct and, in principle, undefeasible Kantian justification for our intuitive moral judgments. As I stated above, although Kant often emphasizes the deontological aspects of commonsense morality, it is necessary to demonstrate that agent-centered constraints follow more directly from his normative theory.

IV. TREATING PERSONS AS ENDS-IN-THEMSELVES

Kant does not explicitly set out an argument against normative consequentialism and for agent-centered constraints. In order to see if Kant's normative theory is nonconsequentialist, we must consider the various aspects of Kant's theory and see if they are antagonistic or congenial to normative consequentialism.

Now, according to Kant, the formula of the end-in-itself generates both negatives and positive duties (*GMM*, p. 430; *MEJ*, p. 221; *DV*, pp. 448–51).¹⁸ In the negative sense we treat persons as ends when we do not interfere with their pursuit of their (legitimate) ends. In the positive sense we treat persons as ends when we endeavor to help them realize their (legitimate) ends. Kant describes the positive interpretation of the second formulation of the categorical imperative as a duty to make others' ends my own. Since, if one wills an end, one also wills the necessary means (*GMM*, p. 417), it follows that the positive interpretation requires that we do those acts which are necessary to further the permissible ends of others. Since Kant also maintains that "to be happy is necessarily the desire of every rational but finite being" (*CPR*, p. 25; *GMM*, p. 415), we have a positive duty to promote the happiness of others. Thus, in addition to any constraints on action which Kant's principle might generate, it also provides a rationale for a moral goal that we are obliged to pursue (*GMM*, pp. 398, 423, 430; *DV*, pp. 384–87).

17. For two clear cases, see A. J. Simmons's criticism of Gibbard's "Inchoately Utilitarian Common Sense," "Utilitarianism and Unconscious Utilitarianism," in Miller and Williams, eds. (esp. pp. 97–98); and James Fishkin's criticism of Gibbard's "Utilitarianism and Human Rights," "Utilitarianism versus Human Rights," *Social Philosophy and Policy* 1 (1984): 103–7; also see the references in n. 14 above.

18. It is generally agreed that Kant's formula of the end-in-itself does generate both positive and negative duties. See, e.g., H. J. Paton, *The Categorical Imperative* (1947; reprint, Philadelphia: University of Pennsylvania Press, 1971), pp. 152, 156–57, 165–74; Wolff, *The Autonomy of Reason* (New York: Harper & Row, 1973), pp. 157–77; Nell, pp. 23–101; Donagan, *The Theory of Morality*, pp. 57–111, 229–39; and Alan Gewirth, *Reason and Morality* (Chicago: University of Chicago Press, 1978), pp. 226–27, 329–32, 58–66; Bruce Aune, *Kant's Theory of Morals* (Princeton, N.J.: Princeton University Press, 1979), pp. 181–88.

Since Kant's principle generates both positive and negative duties, and since there are many situations which involve, at least, *prima facie* conflicts of these duties, we need a rationale for giving priority to one duty rather than the other. Of course, according to Kant, there cannot be unresolvable conflicts of duty. The concept of duty involves the objective practical necessity of an action and since two conflicting actions cannot both be necessary, a conflict of duties is conceptually impossible. Kant, however, does grant that "grounds of obligation" can conflict, even if obligations cannot. He is thus left with the priority problem at this level. Kant argues that in cases of conflict "the stronger *ground of obligation* prevails" (*MEJ*, p. 224). Although such a response is intuitively plausible, without an account of how one ground of obligation can be stronger than another, it does not provide any practical guidance.

In addition to the conceptual impossibility of conflicting duties, Kant's confidence that there are no unresolvable conflicts of duty is rooted in his larger moral and metaphysical system; specifically, his conception of the Kingdom of Ends, his teleology of nature, and his division of reality into sensible and intelligible realms. According to Kant, the ends of fully rational beings will not conflict but will form a harmonious Kingdom of Ends. It is part of the very idea of lawful ends and rational beings that they coexist in a state of harmony, because as fully rational beings they would all will the same thing. Of course, as finite, imperfect, rational beings (beings guided by both reason and natural inclination) we need some guide to the proper ends of rational beings. Kant often maintains that the teleological ends of natural law are our guide in identifying the proper and legitimate ends of a rational being. As imperfectly rational beings, existing in the sensible rather than the intelligible realm, we can act in accordance with the teleological laws of nature to assure that our ends are rational and thus worthy of being realized. As Bruce Aune explains, "If by treating an imperfectly rational being in a certain way, we promote a kingdom of nature, we can infer, by analogy, that we are acting in accordance with the requirements of the pure moral law, which directly applies to an inaccessible domain of purely rational, intelligible beings."¹⁹ Essentially, Kant argues that a kingdom of nature represents a Kingdom of Ends and natural law represents a universal practical law. Natural law is, according to Kant, our analogue for universal practical law.

Most neo-Kantians do not defend these parts of Kant's theory. If we reject (as I assume we do) the view of nature as a system of teleological laws which prescribes the natural and lawful ends to rational beings, then we must rely on the concept of rational nature as an end-in-itself to determine the shared ends of all rational beings. The *telos* of rational action must replace the *telos* of nature. Thus, to discover which ground

19. Aune, p. 111.

of obligation is stronger, and thereby resolve prima facie conflicts of duty, we must appeal directly to the objective end of rational action.²⁰

According to Kant, the formula of the end-in-itself articulates the matter or purpose of the fundamental moral principle; it states the objective determining ground of the moral will. Kant writes, "Now I say that man, and in general every rational being, *exists* as an end in himself, *not merely as a means* for arbitrary use by this or that will" (*GMM*, p. 428). As such rational nature provides the basis for a constraint on all merely subjective action. Such a constraint, however, is not an agent-centered constraint; all nonegoistic consequentialist normative principles are constraints in this sense. Kant's point is that the pursuit of nonmoral, subjective ends or goals must be constrained by respect for rational nature. Rational nature is not to be arbitrarily used as a mere means to the personal goals of this or that individual; the pursuit of subjective ends is constrained by the moral principle of respect for rational beings.

Kant's theory of the good is complex and interesting.²¹ For our purposes, however, we need not get into all the inviting and provocative details. The basic idea can be stated quite briefly. We all know that a good will is the only thing which is good without qualification and that good willing involves rational willing. Indeed, Kant maintains that a good will or rational nature is the source of all value and is thus the only thing that has unconditional value. All other things can have only conditional value, and the condition of their value is the choice of rational beings. When chosen rationally, when the condition of their value is met, our ends are objectively good. As Christine Korsgaard puts it, rational choice has "value-conferring" status. Since happiness is an end for all finite rational beings, happiness has conditional value. Since rational nature is the condition of all value, it has unconditional value.

Stephen Engstrom has suggested that it follows from these considerations that rational beings, and the conditions necessary for their existence, may never be sacrificed in order to promote happiness.²² According to this view, unconditional value is lexically prior to conditional value.

20. Aune has pointed out that it is not sufficient to view nature as if it were a teleological system of laws. For to view nature as if it were governed by teleological laws would provide no rational ground for settling disputes about nature's purposes. Suppose we disagree about what function a natural phenomenon is supposed to serve; e.g., I argue that self-love serves the function of stimulating the furtherance of life, and you argue that self-love serves the function of stimulating the furtherance of life where pleasure outweighs pain. In such a dispute we are left with no criterion upon which to decide. As Aune puts it, "if we are merely viewing nature as if it operated according to purpose there seems to be no limit on the variety of purposes we could credit it with" (*ibid.*, p. 60).

21. For a detailed account, see Christine Korsgaard's recent articles: "Two Distinctions in Goodness," *Philosophical Review* 92 (1983): 169-95, "Aristotle and Kant on the Source of Value," *Ethics* 96 (1986): 486-505, and "Kant's Formula of Humanity," *Kant-Studien* 77 (1986): 183-202.

22. Stephen Engstrom's comments on a draft of this article at the Pacific Division meeting of the American Philosophical Association in San Francisco, March 1987.

Since rational nature, R, is the condition of the value of happiness, H, it follows that R must be lexically more valuable than H.

Although I will not argue the point, it would seem that one can accept Korsgaard's basic interpretation of Kant's theory of the good but still not endorse the lexical priority thesis.²³ Korsgaard's reconstruction of Kant's argument is a transcendental argument which starts with the internal perspective of a valuing agent. If an agent begins with the assumption that the pursuit of happiness is rational, then the agent must also place a special kind of value on rational nature itself. However, even if one grants that one must believe that rational nature has value if it is to confer value, one need not believe that it is lexically more valuable than the value it confers. As the unconditioned condition of all value, one must think of rational nature as having only as much value as it confers. Indeed, it would seem that rational nature only has value proportional to the value it confers. Despite these questions about the specifics of Kant's theory of value, I will assume that a Kantian theory of value involves some priority of the unconditionally valuable, rational nature, over the conditionally valuable, happiness.

Nonetheless, it is important to realize that even if one accepts the thesis that the value of rational nature is lexically prior to the value of happiness, one does not get agent-centered constraints. As even many neo-Kantians recognize, agent-centered constraints require a nonvalue-based rationale (see Sec. III above). Kant's normative theory, however, is based on an unconditionally valuable, objective end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then it would seem that promoting the two tiers of value would be the goal of moral action.

On this consequentialist interpretation of Kant's theory of the good, we are obligated to promote the conditions necessary for the existence of rational beings (unconditional value) and, in addition, we are obligated to promote the ends or happiness of rational beings (conditional value). It thus seems that, in principle, a Kantian may have to sacrifice some rational beings in order to promote the existence of other rational beings or a Kantian may have to sacrifice the happiness of a few in order to further the happiness of many persons.

Even Kantians, like Alan Donagan and Jeffrie Murphy, who insist on a deontological interpretation of Kant's normative theory have pointed out that the formula of the end-in-itself is a teleological principle.²⁴ As a teleological principle it naturally lends itself to a consequentialist interpretation. Of course, both Donagan and Murphy nonetheless insist that

23. For additional discussion of Kant's theory of the good, see my "Consequentialism, Egoism, and the Moral Law," pp. 199–222, sec. 4.

24. Donagan, p. 63; Murphy, *Kant: The Philosophy of Right*, pp. 70–76.

Kant's normative theory is not consequentialist. Kant's formula of the end-in-itself is strikingly distinct from other versions of teleology because it takes rational beings or persons to be the ends of rational action. Perhaps the Kantian emphasis on respect for persons provides a rationale for abandoning the otherwise natural consequentialist interpretation.

V. RESPECT FOR PERSONS

It might be argued that the formula of the end-in-itself essentially involves the concept of respect for persons, not the consequentialist concept of promoting the good. For persons to exist as an objective end is for them to exist as objects of respect, not as a value to be promoted. Respect for persons involves respecting the rights of persons; that is, respect essentially involves honoring agent-centered constraints on actions. Although neither explicitly argues that the concept of respect entails an agent-centered approach, both Donagan's assumption that the formula of the end-in-itself generates "prohibitory concepts" and Murphy's assumption that respecting persons involves the noninterference with the freedom of rational beings seem to presuppose such an entailment. In order to respond to this objection we must look more closely at the concept of respect. What is it to respect something or someone?

Stephen Darwall has argued that there are two kinds of respect: "recognition respect" and "appraisal respect." Recognition respect "consists in giving appropriate consideration or recognition to some feature of its object in deliberating about what to do." Appraisal respect consists in a positive appraisal of its object as a consequence of some intrinsic features of the object. Appraisal respect does not essentially involve any conception of how one's behavior toward that object is appropriately restricted. Since respect for persons is supposed to play a role in determining our conduct, the notion of respect involved is recognition respect.²⁵

There is a narrow notion of recognition respect, which is limited to moral recognition respect, and a more general notion of recognition respect. Moral recognition respect involves giving appropriate moral weight to the features of the object of respect in one's deliberations about what to do. To morally respect some object is to regulate one's behavior, that is, to constrain or conform one's actions, in accordance with the moral requirements generated by the object. On the most general notion of recognition respect, any fact which one takes into account in deliberation is an object of respect. This notion is so broad that it covers all uses of respect. (Indeed, it may be too broad.)

The demand that we respect persons is a moral demand that we regulate our conduct according to the moral requirements generated by the existence of persons. Now, as Darwall points out, recognition respect

25. Stephen L. Darwall, "Two Kinds of Respect," *Ethics* 88 (1977): 36–49, and *Impartial Reason* (Ithaca, N.Y.: Cornell University Press, 1983), pp. 148 ff.; quotations are from the *Ethics* article, esp. pp. 38 and 45.

for persons is “identical with recognition respect for the moral requirements that are placed on one by the existence of persons.” But, of course, what we want to know is simply the moral requirements placed on us by the existence of persons. The concept of moral recognition respect is thus such that it does not help discover the particular moral requirements generated by the existence of persons.

Kantian normative theories, and commonsense morality, often assume that respect for persons fundamentally involves agent-centered constraints rather than consequentialist considerations. The concept of respect, however, does not support this assumption. A consequentialist approach is *prima facie* as appropriate as an agent-centered approach. To assume otherwise is simply question begging. Indeed, if one insists that, as a conceptual matter, respecting persons logically involves honoring agent-centered constraints, then one must provide a rationale for interpreting the formula of the end-in-itself as essentially involving the notion of respect rather than some consequentialist notion.

Respect for persons involves giving appropriate practical consideration to the fact that there are persons. The meaning of ‘respect’ cannot settle the issue of what counts as appropriate practical consideration. Let us thus return to the issue of conflicting grounds of obligation and the nature and extent of the positive duty of beneficence.

VI. THE DUTY OF BENEFICENCE

What is one to do when one must choose between killing some rational beings or letting many more rational beings die? What if, for example, the only way to end quickly an otherwise long and drawn-out war would be to attack a population center? Such an act surely constitutes aggression against many noncombatants (children, the elderly, citizens of the opposing country who oppose their war effort, etc.). If we assume that the act will greatly reduce human suffering and oppression and will preserve many lives, then it is not at all clear why a Kantian should not sacrifice some to save many. The formula of the end-in-itself requires that one not use another solely as a means to a subjective end. But, in this type of case, the end of the action is the fulfillment of the “universal duty of men” to promote, according to their means, the happiness of others (*DV*, p. 452); that is, the end is an objective, not a subjective, end (*GMM*, pp. 428, 431).

Kant clearly and repeatedly states that we have a duty to promote the happiness of others. It will be objected, however, that the principle of beneficence includes two important limitations. We have an obligation to preserve the life and liberty or to promote the happiness of others (i) so long as doing so does not involve acting immorally and (ii) so long as doing so does not involve unreasonable sacrifice on our part.²⁶

26. I have been prompted to make my response to this objection more explicit by an anonymous referee.

Now, there is a sense in which this objection is simply question begging. A Kantian duty to sacrifice some to save many would not require one to act immorally or to take on unreasonable sacrifice. If it is a duty, then it is not immoral to obey and the sacrifice is not unreasonable; indeed, the sacrifice is required by reason. Consider limitation i.

According to the consequentialist interpretation, a Kantian may be duty bound to sacrifice some to save many. If this suggestion is correct, then sacrificing some to save many does not involve acting immorally. As an objection to the consequentialist interpretation, limitation i requires a rationale which gives it a nonconsequentialist content. Thus, if one justifies the first limitation by arguing that Kant's formula of the end-in-itself clearly entails the principle: evil is not to be done so that good may come of it,²⁷ then one cannot conclude that the sacrifice of some for the sake of others involves doing evil so that good may come. The issue in question is the Kantian basis for the assertion that such an act does not treat persons as ends-in-themselves and thus involves doing evil (i.e., the basis for claiming that the act is impermissible). Since we have a duty to promote the happiness of others, we need a positive rationale for ruling out the sacrifice of some as a means to this end.

Similar considerations apply to limitation ii. The issue in question is simply which sacrifices are unreasonable from the perspective of an agent whose conduct is determined by the objective end of treating all persons as ends-in-themselves.

Now, one non-question-begging way to develop limitation i is to defend a particular interpretation of limitation ii. If an action is required, then it would seem that the action should be rationally acceptable to all persons affected. If, for example, I am required to tax your land, then one would assume that the tax is rationally acceptable to you and that it is impermissible for you to resist paying the tax. Conversely, if you are not rationally required to pay the tax, then one would assume that it is not permissible for someone else to demand the tax. In general, if an agent is not morally required to take on a sacrifice, then how can it be permissible for someone else to sacrifice that agent as a means to an objective end? Indeed, as we shall see, Kant argues that it is permissible to coerce persons only in ways which they are rationally required to endorse. Limitation ii may thus be used to provide an anticonsequentialist content for limitation i.

Kant's position on the extent of the demands of beneficence is not entirely clear. He clearly states that the duty of beneficence does require sacrifices, but he does not explicitly discuss how much sacrifice is required. He says, for example, that we must provide ourselves the essentials of life and not give away so much that we require the charity of others (*DV*,

27. Donagan at times seems to argue in this way; see his discussion of the "Pauline principle," p. 155. Donagan's specific account of the impossibility of conflicts of perfect and imperfect duties will be discussed in Sec. VIII below.

pp. 451–53). This would suggest that our duty to aid is limited only by our ability to continue to supply our own basic needs. It also suggests that the basis of this limitation involves the best means of promoting the charitable end: one should not sacrifice so much for the sake of some that one comes to need the charity of others. More generally, one might infer from these passages that Kant would endorse Peter Singer's principle of beneficence, "If it is in our power to prevent something very bad from happening, without thereby sacrificing anything of comparable moral significance, we ought to do it."²⁸ Given Kant's theory of value, this would imply that we should promote the happiness of others so long as we do not comparably sacrifice our own happiness and that we should sacrifice our freedom or life if doing so sufficiently promotes the conditions necessary for rational beings.

In the next section, I will defend this interpretation of the duty of beneficence. For the sake of argument, however, let us first simply assume that beneficence does not require significant self-sacrifice and see what follows. Although Kant is unclear on this point, we will assume that significant self-sacrifices are supererogatory.²⁹ Thus, if I must harm one in order to save many, the individual whom I will harm by my action is not morally required to affirm the action. On the other hand, I have a duty to do all I can for those in need. As a consequence I am faced with a dilemma: if I act I harm a person in a way that a rational being need not consent to; if I fail to act, then I fail to do my duty to those in need and thereby fail to promote an objective end. Faced with such a choice, which horn of the dilemma is more consistent with the formula of the end-in-itself?

We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract "social entity." It is not a question of some persons having to bear the cost for some elusive "overall social good." Instead, the question is whether some persons must bear the inescapable cost for the sake of other persons. Nozick, for example, argues that "to use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has."³⁰ Why, however, is this not equally true of all those that we do not save through our failure to act? By emphasizing solely the one who must bear the cost if we act, one fails to sufficiently respect and take account of the many other separate persons, each with only one life, who will bear the cost of our inaction.

28. This is the principle Singer uses to argue for a duty to relieve world hunger; see Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1979).

29. When Kant called an act "meritorious" he did not mean supererogatory; he simply meant that the act was in accordance with duty but beyond what we are compelled to do by justice or law (*MEJ*, pp. 227–28; *DV*, p. 447). In the next two sections, I will discuss whether beneficence can be required by justice or law. For a Kantian account of supererogation see Nell, pp. 94–96.

30. Nozick, p. 33.

In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? We have a duty to promote the conditions necessary for the existence of rational beings, but both choosing to act and choosing not to act will cost the life of a rational being. Since the basis of Kant's principle is "rational nature exists as an end-in-itself" (*GMM*, p. 429), the reasonable solution to such a dilemma involves promoting, insofar as one can, the conditions necessary for rational beings. If I sacrifice some for the sake of other rational beings, I do not use them arbitrarily and I do not deny the unconditional value of rational beings. Persons may have "dignity, an unconditional and incomparable value" that transcends any market value (*GMM*, p. 436), but, as rational beings, persons also have a fundamental equality which dictates that some must sometimes give way for the sake of others. The formula of the end-in-itself thus does not support the view that we may never force another to bear some cost in order to benefit others. If one focuses on the equal value of all rational beings, then equal consideration dictates that one sacrifice some to save many.

Nonetheless, since we assumed above that extreme self-sacrifice is not morally required, we have two theses which are clearly in tension with each other: (i) I have a duty to sacrifice an individual for the sake of others, but (ii) the individual to be sacrificed has no duty to take on the sacrifice in question. From a Kantian perspective, it would seem to be impermissible to coerce people to act in ways which they are not rationally required to act.

Indeed, the formula of the Kingdom of Ends implies that the maxims a rational individual wills are in harmony with the maxims that every other rational will will will, such that, in a world of rational beings all will coexist in a state of lawful freedom. Thus, if one interprets the formula of the end-in-itself as involving the harmony of rational maxims in a Kingdom of Ends, then sacrifices which are not rationally required should not be coercible.

The suggested solution to the dilemma, which involves sacrificing some persons in opposition to their rational will in order to save others, does not cohere with the vision of a harmonious Kingdom of Ends. To avoid the resulting unharmonious solution, one might challenge the assumption which generates the dilemma. The dilemma resulted from the assumption that beneficence does not require significant sacrifices. If, however, the objective ends of rational action are rational nature and happiness, then the Kantian duty of beneficence requires sacrifices which will sufficiently promote the lives, freedom, or happiness of others. According to this more Spartan interpretation of our positive duties, the legitimate ends of rational beings would not conflict. Indeed, if one maintains that the Kantian duty of beneficence requires significant sacrifices, then the resulting normative theory can readily include the Kantian ideal of a harmonious Kingdom of Ends.

VII. SPARTAN KANTIANISM

In the standard cases, where the innocent must be sacrificed in order to promote freedom and flourishing, the Spartan Kantian would recognize that her sacrifice is required by moral principles she accepts. Thus, as a conscientious moral agent she would either voluntarily take on the burden in question or, if voluntary action is impossible, would recognize that others' aggressions against her life, liberty, or property are a necessary means to an obligatory end. On this interpretation, one may be morally required, in order to further a moral goal, to sacrifice one's innocent self or to accept one's sacrifice by others.

The law conscientious moral agents would give themselves would require sacrifices which sufficiently promote the legitimate ends of others. Such a position coheres well with Kant's view that we are "rational beings with needs, united by nature in one place for the purpose of helping one another" (*DV*, p. 452). Of course, Nozick and others can correctly point out that the sacrificed individual "does not get some overbalancing good from his sacrifice";³¹ but is Kant not right in emphasizing that every person's duty to be beneficent is to be performed "without hope of gaining anything by it" (*DV*, p. 452)?

One might object, however, that the Spartan interpretation, since it requires self-sacrifice, violates the Kantian injunction not to treat humanity, whether in oneself or in others, as a means only, and is thus a violation of the second formulation of the categorical imperative. This objection fails. For a Kantian, if a sacrifice is required by the moral law, then it does not involve using others, or oneself, as a means only. Indeed, if we were not permitted to put others' interests before our own, then all acts of disinterested aid to others would be categorically prohibited. If we were not sometimes required to put others' interest before our own, then Kantians would not recognize any positive moral duties.

The Spartan Kantian position is distinct from other interpretations only because it removes all limits on the sacrifices that, in principle, are obligatory. Although Kant does not discuss this issue at length, it clearly follows from Kant's arguments that such acts are permissible. To sacrifice oneself for the greater good of all is not "to dispose of oneself as a mere means to some arbitrary end" and it does not presuppose a "moral title to withdraw from all obligation" (*DV*, p. 422). The end is not arbitrary or based on mere inclination; on the contrary, it is an obligatory end for all rational beings. The motive is not self-interested; on the contrary, "it is every man's duty to be beneficent—that is, to promote, according to his means, the happiness of others who are in need, and this without hope of gaining anything by it . . . beneficence toward the needy is a universal duty of men" (*DV*, p. 452). Acts of self-sacrifice for a moral goal are permissible; the question is whether they are obligatory.

31. *Ibid.*, p. 33.

The most plausible response to the Spartan Kantian interpretation grants that duty may require significant beneficence but maintains that others cannot legitimately coerce one's beneficence. According to this response beneficence is a duty, but it is not a coercible duty. Since, according to Kant, only duties of justice are coercible, not duties of virtue, beneficence is a requirement of virtue but not of justice. Indeed, to coerce beneficence is itself a violation of justice; as Donagan would put it, to coerce beneficence involves "doing evil so that good may come of it."

Much of Kant's discussion of beneficence supports this response to the Spartan interpretation. In the *Metaphysics of Morals*, Kant distinguishes coercible duties of justice and noncoercible duties of virtue, and he classifies beneficence as a duty of virtue. In addition, the basic view is an accurate reflection of commonsense morality. Indeed, the conclusion that we should not coerce general beneficence has been defended by many consequentialists, even utilitarians. The issue is whether there is a nonconsequentialist Kantian basis for this commonsense position.

The duty of beneficence is a universal duty of persons; that is, beneficent acts are rationally required. Since negative duties are subject to coercion, it would seem that positive duties can also be subject to coercion. Thus, if one maintains that beneficence should not be coerced, then one must provide a reason for treating the requirements of beneficence differently from the requirements of negative duties, like prohibitions on force, theft, fraud, and promise breaking. The most likely basis for maintaining that positive duties are not coercible would involve the nature of the justification of coercion. One would assume that the justification of coercion also provides an explanation for the limits of coercion. Kant's account of the justification and legitimate scope of coercion, however, provides no basis for the above limitation and differentiation.

According to Kant, coercive activity is consistent with respect for the moral autonomy of persons. To be a Kantian autonomous agent is to act on the basis of moral reasons. To respect this capacity of persons does not exclude coercing those who fail to act as they morally ought. Kant explains as follows: "If a certain use of freedom is itself a hindrance to freedom according to universal law (that is unjust) then the use of coercion to counteract it, inasmuch as it is the prevention of a hindrance to freedom, is consistent with freedom according to universal laws; in other words this use of coercion is just. . . . Indeed, the concept of justice can be held to consist immediately of the possibility of the conjunction of universal reciprocal coercion with the freedom of everyone" (*MEJ*, pp. 231–32). The possibility of the universal reciprocal use of coercion exists in the Kingdom of Ends. If some fail to act morally, then they may be coerced to act in accordance with their duty. If this were not so, all punishment and self-defense would be impermissible.

Kant does argue that we can only coerce others to act in accordance with duty and not from a motive of duty. He thus divides duties into those of external legislation and those of internal legislation. He calls

the former “duties of justice” and the latter “duties of virtue” (*MEJ*, pp. 218–20). Kant also claims that the “duties of benevolence, though they are external duties (obligations to external actions), are reckoned as belonging to Ethics [Virtue] because their legislation can only be internal” (*MEJ*, p. 221). This is, however, misleading.

The point is that genuine concern for others cannot be legislated, not that the actions of aid themselves cannot be legislated. Since benevolence presupposes a particular motive, if aid is coerced, then the act of assistance is not an act of benevolence. Benevolence thus cannot be externally legislated. The external action of providing assistance can, however, be legislated and coerced. The following quotation helps clarify this point: “All duties are either duties of justice, that is, those for which external legislation is possible, or duties of virtue, for which such legislation is not possible. The latter cannot be the subject matter of external legislation because they refer to an end that is (or the adoption of which is) at the same time a duty, and no external legislation can effect the adoption of an end (because that is an internal set of the mind), *although external actions might be commanded that lead to this [end], without the subject himself making them his end*” (*MEJ*, p. 239; emphasis added). It is the motive, the internal set of mind, of the agent that cannot in principle be externally legislated, not the corresponding external action. Indeed, Kant clearly states that “external actions might be commanded” that further ends we are morally required to adopt. It is clearly possible to externally legislate positive acts of aid. As Kant draws the distinction there is no reason why beneficence, not benevolence, should not be considered a duty of justice. Whatever Kant may elsewhere assume about coercion and positive duties, Kant presents no arguments limiting the use of coercion to the enforcement of (what are normally called) negative duties.

On the other hand, Kant does claim that “government is authorized to require the wealthy to provide the means of sustenance to those who are unable to provide for the most necessary needs of nature for themselves” (*MEJ*, p. 326), and Kant defends public taxation to provide hospitals (national health care) and the general administration of “the nation’s economy, finances, and police” (*MEJ*, pp. 323–28). These passages reflect Kant’s awareness that beneficence can be a demand of justice and sometimes should be required by law. Kant does not discuss the more extreme measures that, in principle, the above interpretation would authorize. But, whatever our commonsense convictions may be, his arguments simply do not rule out the types of sacrifices which allegedly only plague consequentialist normative theories.

Of course, in practice, a Kantian can and should appeal to good consequentialist reasons for limiting the use of coercion and maintaining a sphere of personal liberty. In addition, the demands of duty are such that, as Kant would say, finite rational beings cannot be expected to fully satisfy them. Thus, Kant may follow the tradition going back at least to Aquinas which recognizes that human law should externally legislate

only the more harmful vices and should set its demands at a level a normally virtuous rational being can satisfy. Full virtue is best left to the internal legislation of finite rational beings. The Kantian does not, however, have some more direct and undefeasible justification for agent-centered constraints. In principle, a Kantian moral agent may be required to kill one in order to save two.

According to Kant, the objective end of moral action is the existence of rational beings. Respect for rational beings requires that, in deciding what to do, one give appropriate practical consideration to the unconditional value of rational beings and to the conditional value of happiness. Since agent-centered constraints require a non-value-based rationale, the most natural interpretation of the demand that one give equal respect to all rational beings lead to a consequentialist normative theory. We have seen that there is no sound Kantian reason for abandoning this natural consequentialist interpretation.

In particular, a consequentialist interpretation does not require sacrifices which a Kantian ought to consider unreasonable, and it does not involve doing evil so that good may come of it. It simply requires an uncompromising commitment to the equal value and equal claims of all rational beings and a recognition that, in the moral consideration of conduct, one's own subjective concerns do not have overriding importance.

Contemporary neo-Kantians, however, will probably remain confident that some crucial piece of neglected or misunderstood text provides the missing basis for agent-centered constraints. I sometimes suspect that no amount of argument can shake years of conviction; nonetheless, let us consider one last Kantian distinction which has been widely claimed to be the Kantian basis for a deontological normative theory.

VIII. PERFECT AND IMPERFECT DUTIES³²

It is tempting to appeal to Kant's distinction between perfect and imperfect duties to resolve apparent conflicts of duty and thus avoid the above consequentialist conclusion. There are many possible interpretations of the moral relevance of this distinction. I shall focus on three interpretations—two suggested by Kant's comments and one familiar account from Mill—and see if they provide an alternative to the above conclusion.

As Paton, Donagan, and Aune have argued, the perfect-imperfect distinction involves the freedom or discretion we may exercise in complying with our imperfect duties but not our perfect duties.³³ Kant explains

32. This section has been vastly improved by an extensive critique by Shelly Kagan. His comments, which were significantly longer than my original text, motivated a complete reworking of the arguments. As a result many confusions and errors have been removed.

33. See Paton's translation of the *Groundwork*, p. 137, note 53, n. 1; in *The Categorical Imperative*, Paton emphasizes the overridingness of perfect duties. But as he comes to recognize, there must be some difference between the two types of duties which explains why the perfect duties override imperfect duties; Donagan, pp. 154 ff.; Aune, pp. 188–94. Aune's discussion is similar in some respects to the discussion of perfect and imperfect duties which follows.

that a perfect duty “admits no exception in favor of inclination” (*GMM*, p. 421n.) whereas an imperfect duty allows a certain “play-room (latitude) for free choice in following (observing) the law” (*DV*, p. 389). In the case of imperfect duties, but not perfect duties, the individual has a certain amount of discretion in deciding how they are to be satisfied. Following Kant I will refer to duties with this property as “wide” duties and duties without this property as “narrow” duties (*DV*, p. 389). The perfect-imperfect distinction thus essentially involves the narrow-wide distinction.

Kant’s explanation that perfect duties involve “maxims of actions” and imperfect duties involve “maxims of ends” helps clarify the distinction (*DV*, p. 389). Some maxims of duty have to do with specific actions we must perform or omit and other maxims of duty have to do with ends we must adopt. When we adopt an end there are many possible means, possible actions, which may further the end. For example, there are many equally deserving charities each of which I could now aid with a donation. The imperfect duty of beneficence requires me to have the general end of assisting deserving charities, but it does not tell me exactly which charity to assist and exactly how much I must give. In this sense, an imperfect duty permits a degree of freedom or discretion in how it is satisfied. Perfect duties, however, require one to omit or to perform specific actions. One is simply prohibited from stealing or killing or failing to pay one’s debts. Some perfect duties require an action, rather than simply prohibiting actions. As a result some perfect duties may be carried out in various ways—I may pay a ten dollar debt with ten ones, or two fives, or one ten, etc.—but a definite action to a specific person is still required. In contrast, imperfect duties, which involve maxims of ends, permit a significant degree of freedom for the agent to choose which definite actions are required. The wideness of imperfect duties and the narrowness of perfect duties is to be interpreted in this way.

1. As a result of this difference, one might argue that in cases where one must choose between a perfect and an imperfect duty, as a result of the wideness of the imperfect duty, it is less weighty or binding than the narrow perfect duty. Although Kant never presents this type of argument, his comment that in cases of conflicting “grounds of obligation . . . the stronger ground of obligation prevails” (*MEJ*, p. 224) may suggest this sort of argument.

This argument, however, is not convincing. What does the wideness or latitude of imperfect duties have to do with their obligatory strength? Consider, for example, the obligatory end of aiding those in need: why would our obligations to all of the people whom we can aid be lessened because we cannot help all those in need? Granted that, if ten people need assistance and I can help only three, I cannot help all of those in need; but I am still obligated to help three of the ten. For example, if I am on a boat and I observe ten people fall overboard and the only thing I can do to help is throw the three available life preservers to three of the ten, then I can aid only three of the ten. I may use discretion in deciding which three to aid; in this sense, there is a certain latitude or

freedom in how the obligation is fulfilled. But, this freedom is not logically convertible into a weaker ground of duty. We must sometimes choose whom to help, but we are nonetheless obliged to help all we reasonably can. The wideness of imperfect duties does not provide a justification for believing that perfect duties are more weighty than the imperfect.

According to Kant, imperfect duties are also wide in the sense that they do not tell us “how much one’s actions should do toward the obligatory end” (*DV*, p. 389). One might take this to imply that it is up to each individual to determine how much self-sacrifice imperfect duties require. Kant, however, explains that the freedom for inclination to decide how much must be done in furthering the objective end “is not to be taken as a permission to make exceptions to the maxim of actions, but only as a permission to limit one maxim of duty by another (e.g., love of one’s neighbor in general by love of one’s parents)—a permission that actually widens the field for the practice of virtue” (*DV*, p. 389). Thus, in the above example, if my parents are two of the ten that have fallen overboard, I may (and perhaps must) throw two of the three life preservers to my parents.

Although intuitively we think of perfect duties as more binding than imperfect duties, the mere wideness of imperfect duties provides no support for these intuitions.

2. Alan Donagan has suggested that, although the wideness of imperfect duties does not make them less binding, it does explain the priority of perfect duties in regulating actions. According to Donagan, “a perfect duty is simply a duty not to do, or not to omit, an action of a certain kind. . . . By contrast, an imperfect duty is always a duty to promote a certain general end.” A perfect duty excludes or prohibits specific acts of commission or omission; that is, it excludes or prohibits killing, or stealing, or promise breaking. Donagan argues that, since an imperfect duty is a duty to promote a general end, it does not “exclude any specific acts of commission or omission.” Since perfect duties prohibit specific acts of commission or omission and since imperfect duties do not prohibit specific acts, promoting the general ends of the imperfect duties cannot require violating a perfect duty which prohibits specific acts. Donagan thus concludes that, if we recognize that the perfect-imperfect distinction involves the difference between prohibiting specific acts and promoting general ends, then we see that perfect and imperfect duties simply cannot conflict.³⁴

Donagan’s argument, unlike the first argument, does not presuppose that imperfect duties are less weighty simply because they are wide. Indeed, since there are no perfect-imperfect conflicts, one type of duty need not outweigh the other.

34. Donagan, pp. 154–55.

The possibility of conflicts of perfect and imperfect duties is eliminated, according to Donagan, because the duty to promote a general end does not “exclude any specific acts of commission or omission.” Is this convincing? Specifically, does promoting a general end really not require any specific acts (i.e., really not exclude any specific acts of omission)?

According to Kant, if one wills an end, then one also wills the necessary means (*GMM*, p. 417). Thus, if one wills the happiness of others as an end, one must also will those actions which are necessary means to their happiness. It follows that to do or omit specific acts can be inconsistent with the promoting of a general end. The duty to promote the happiness of others requires me to do (not to omit) those actions which, according to my best judgment, are necessary to promote the happiness of others. If, for example, I can save someone from serious harm at no comparable cost to myself, the duty to promote the happiness of others requires me to act.

It might be objected, however, that the wideness of imperfect duties implies that no specific act is a necessary means to the objective end. Donagan might argue that if one does not further an objective end because the only means of doing so involves violating a perfect duty, then one does not violate an imperfect duty at all—one can always fulfill the imperfect duty in some other way and thus one never needs to violate a perfect duty to fulfill an imperfect duty. For example, I never need to violate a perfect duty to help someone in need because I can always help that person at some other time or help some other person at some other time and thereby fulfill my imperfect duty. Since perfect duties leave no play room or latitude and since imperfect duties can be satisfied by any action that furthers the objective end, the duty to promote objective ends simply does not require violation of a perfect duty. Thus imperfect duties do not conflict with perfect duties.

Perhaps it was this sort of argument, rather than the first argument, that Kant had in mind when he claimed that one ground of obligation may be stronger than another and thus there are no unresolvable conflicts of duty, but leaving aside the question of textual exegesis, this argument has significant problems of its own.

First, the argument maintains that one never needs to violate a perfect duty for the sake of an imperfect duty because the imperfect duty can always be filled in some other way. Shelly Kagan has pointed out, however, that it might be the case that the wide duty is such that for all of the alternatives that would promote the objective end, each given alternative would violate some perfect duty. Thus the wideness of imperfect duties cannot entail that they can be filled without violating a narrow perfect duty. So there could still be significant conflicts between the demands of an imperfect duty and one or more perfect duties.³⁵ In

35. Shelly Kagan, professional correspondence (1989).

such cases of conflict, no reason for concluding that perfect duties provide a stronger ground of obligation has been provided.

The second problem with this argument is that when so construed the perfect-imperfect distinction does not correspond to the positive-negative distinction. Simply put, we may have perfect positive duties; for example, beneficence can be a perfect duty. If the perfect-imperfect distinction is supposed to provide a Kantian rationale for a priority of negative over positive duties, it is necessary for the two distinctions to correspond. In Donagan's terms, if the duty of beneficence excludes specific acts of omission, then beneficence is a perfect duty. If beneficence is a perfect duty, then one cannot appeal to its imperfect status to explain why it cannot conflict with other perfect duties.

The conclusion that there are perfect positive duties follows even on Donagan's own interpretation of the duty of beneficence. Donagan argues that the Kantian duty to treat others as ends in themselves generates a positive duty of beneficence: "It is impermissible not to promote the well-being of others by actions in themselves permissible, inasmuch as one can do so without proportionate inconvenience." In addition, he recognizes (in a context in which he is not discussing the perfect-imperfect distinction) that the principle of beneficence requires of a person that "should he encounter another who then and there needs help which only he can give without disproportionate inconvenience, the principle of beneficence calls on him to give it."³⁶ It follows that it is sometimes impermissible to omit certain specific beneficent acts, and thus on Donagan's own terms such acts are perfect duties.

It is easy to imagine cases where there is only one person whom I can aid and thus where the positive duty of beneficence is a perfect duty. Consider the following case: a ship has sunk off Bermuda, and a raft of survivors is hailed by another survivor in the water. In such a situation there is only one person needing aid and only one raft in a position to provide aid. Given the circumstances, there is only one person whom the persons on the life raft can aid. It is simply irrelevant that many people in the world also need aid. The wideness of the positive duty to aid permits a particular act of aid to be forgone for another act which promotes the same objective end, but there is no such latitude in this case. I cannot, for example, excuse my inaction in this case by intending to aid some other person on some other occasion. Since I can save both this person and another person on another occasion, if I fail to save one then I fail to fulfill my positive duty to aid. Thus in this case, the only way to fulfill the positive duty to aid is to pull this drowning person on to the raft. In short, it is sometimes possible for us to aid all those whom we can aid, and thus the duty to aid will sometimes require a specific action and thus be a perfect duty.

36. Donagan, pp. 85–86. Donagan qualifies the principle of beneficence with the standard two limitations, (i) permissible means and (ii) proportionate inconvenience. As explained in Secs. VI–VII above, these limitations do not affect the point in question.

Donagan thus cannot use the perfect-imperfect distinction to explain why one can never kill, steal, or lie in order to aid specific persons in need. Even if there are no perfect-imperfect conflicts, there would still be perfect positive duties of beneficence which could conflict with other perfect duties not to harm, or steal, or lie.

Consider another case, adapted from Thomas Nagel, which involves a conflict of perfect positive and perfect negative duties.³⁷ I have an accident, by no culpable fault of my own, on a deserted country road at night. Since the car was equipped with a driver airbag I am unharmed. My two passengers, however, were not as lucky and are both seriously injured. I recall that there is a farm about a mile back up the road and I run to it for help. To my dismay, however, the owner of the house will not provide assistance or loan me the car in the driveway. Assuming that I am capable and that there is no other apparent means of aiding the two in the car, should I forcefully steal the car from this one person in order to aid the two injured persons? This case involves a conflict between negative duties of nonaggression and positive duties to aid. Whatever one's intuitions about this type of case, the perfect-imperfect distinction is not applicable. Both sets of duties are narrow and thus perfect.

In many situations, the person or persons whom one has a duty to aid is clearly demonstrated by the circumstances. Although the duty of beneficence is often wide, it is also often narrow. Indeed, in any of the standard (realistic?) cases where I can save a given two only by killing one (i.e., there are no other two that I can save without killing the one and no other way to save the two besides killing the one), both duties are narrow, and thus the relative moral status of perfect and imperfect duties is irrelevant. Furthermore, in cases where these conditions, which narrow the duty of beneficence, do not obtain, a consequentialist would be required to save the two in a way that did not kill the one or would save some other two which would not require the killing of one. These are not isolated and uninteresting counterexamples, for a consequentialist will probably only be required to kill one to save others if the act of aid corresponds to a narrow duty.

Although Donagan appeals to our commonsense intuitions that killing, stealing, and lying are impermissible means of aiding the needy, the perfect-imperfect distinction understood as the narrow-wide distinction provides no Kantian rationale for limiting the duty of beneficence. Donagan's interpretation of the perfect-imperfect distinction thus does not provide a Kantian justification for our commonsense intuitions.

The conclusion that positive duties can be perfect duties presents an additional problem for the first interpretation of the moral relevance of the perfect-imperfect distinction. Even if we grant for the sake of

37. Thomas Nagel, "The Limits of Objectivity," in *Tanner Lectures on Human Values*, ed. Sterling S. McMurrin (Salt Lake City: University of Utah Press, 1980), pp. 126 ff.; or see Thomas Nagel, *The View from Nowhere* (New York: Oxford University Press, 1986), chap. 9.

argument that, because they are narrow rather than wide, perfect duties are more weighty than imperfect duties, one still cannot get the conclusion that negative duties are more weighty than positive duties. Positive duties may be narrow and perfect and thus just as weighty and binding as narrow, perfect, negative duties.

3. There is one last interpretation of the perfect-imperfect distinction which merits brief discussion. Jeffrie Murphy has argued, as did J. S. Mill, that the Kantian perfect-imperfect distinction really involves the issue of correlative rights: perfect duties correlate with assignable rights that are violated if the duties are not honored; imperfect duties involve actions which one ought to do, but where no assignable rights are violated if one fails to act. As Murphy puts it, in the case of beneficence "no one can demand by right that I make him happy, can regard himself as wronged if I fail to make him happy . . . [but] the person to whom I am bound in contract can demand by right that I honor it, can legitimately regard himself as wronged if I fail to honour it."³⁸ Of course the duty of beneficence is a duty to aid persons in need or in distress, not simply a duty to make others happy. Nonetheless, from the commonsense, intuitive perspective, the creditors have a correlative right to be paid, and the needy do not have a similar correlative right to be aided. Let us thus consider whether this last interpretation of the perfect-imperfect distinction will supply the desired neo-Kantian conclusion.

Now, there are two possible entailments between correlative rights and the narrowness of perfect duties. One might maintain that it is the narrowness of the perfect duty that entails that it correlates with an assignable right. On the other hand, one might maintain that it is the correlative right that makes a duty narrow and thus perfect: that a duty correlates with a right entails that it is narrow and perfect. Either way, the desired neo-Kantian conclusion does not follow. The first proposal faces the same type of problems as Donagan's interpretation, and the second proposal presupposes an antecedent and problematic account of correlative rights.

First, we have just seen that our positive duties of beneficence can be narrow and thus perfect. It would follow that, in such cases, we have a correlative right to beneficence. In fact, just as our positive duties can be narrow and perfect, so we find that our negative duties can be wide and imperfect. Since negative duties include, in addition to not killing or stealing, such things as keeping promises, repaying debts, and telling the truth, which call for action and not simply inaction, then situations may arise in which negative duties are wide and thus imperfect. What if, for example, I owe \$1,000 to each of ten people but, through no culpable fault of my own, only have \$2,000? Since I cannot repay all whom I owe, I must decide whom to repay. Since ought implies can, my duty to repay my debts only obliges me to do all I reasonably and legitimately

38. Murphy, *Kant: The Philosophy of Right*, p. 51; but also see p. 146, where he argues that helping others in distress can be a perfect duty which is thus subject to state coercion; J. S. Mill, *Utilitarianism*, chap. 5.

can do. It follows that I am only obliged to repay two of the ten, and I must use discretion to decide which two. There is no difference in latitude between this case and the case where ten people are each in need of \$1,000 and I only have \$2,000 to give away. Negative duties thus can be wide and imperfect.

Of course, I still owe the other eight \$1,000 each, in the sense that if I came upon the money I would be obliged to repay them. But the same is true of my duty to aid. If I were to come upon another \$8,000, which I could reasonably spare, then the obligatory end of aiding those in need would oblige me to aid the other eight. We think of the claims of the creditors as different from the claims of the needy. We say, for example, that the debt to the others is not discharged unless they are paid. But, we may similarly say that the claims of the needy are not satisfied. One must thus independently show that the former duty is more weighty than the latter, because there is no difference in the wideness of the duties.

Intuitively, we believe that we must do more for the creditors than the needy and that the creditors can demand more from us. The sacrifices which the duty of beneficence can demand of us are not as severe as the sacrifices required to pay our debts. We saw, in response to Donagan, that the distinction between duties not to do or omit specific acts and duties to promote general ends does not itself generate this intuitive conclusion. In the case of the present proposal the narrow-wide distinction cannot account for commonsense intuitions about correlative rights. The duty of beneficence can be narrow and thus perfect, and the duty of contracts can be wide and thus imperfect. It would follow from the first proposal that beneficence might often generate correlative rights and that contracts might not.

One might thus object that the second proposal is the correct one. The first proposal seems to have things backward: narrowness does not entail rights. Instead, contracts are perfect duties because contracts generate correlative rights, and it is the correlative right which makes the duty narrow. Beneficence, on the other hand, is an imperfect duty because it does not generate a correlative right, and it is for this reason that one has a certain latitude in fulfilling the duty of beneficence. This second proposal is much more plausible than the first, and it is probably the idea underlying Murphy's interpretation of the perfect-imperfect distinction. Nonetheless, this proposal either presupposes an independent argument showing that contracts, but not beneficence, generate correlative rights or it clearly begs the question.

Mill, of course, provides an independent utilitarian account of the principles of justice, which he maintains exactly coincide with perfect duties, and of the nature and basis of the correlative rights. The principles of justice are social rules, enforced by sanctions, which protect individual rights. Mill maintains that to have a right is to have something which society ought to defend me in the possession of; and he argues that society ought to do so because doing so tends to promote the general

happiness.³⁹ But, leaving aside consequentialist explanations of why society especially ought to protect my possession of security and liberty and ought to enforce contracts, we need a Kantian rationale for limiting the scope of correlative rights. Since treating persons as ends-in-themselves involves both positive and negative duties, we need some nonconsequentialist reason for assigning rights that correlate with negative duties but not positive duties. Thus, for a Kantian, drawing the perfect-imperfect distinction in terms of correlative rights provides no normative guidance. For it leaves open the question of the nature and scope of assignable rights. If the arguments of Sections III–VII are sound, then there is no reason, in principle, for a Kantian to limit the scope of assignable rights so that they correlate only with negative duties.

We have seen that: (i) The wideness of imperfect duties provides no rationale for claiming that they are less weighty than perfect duties. (ii) The perfect-imperfect distinction does not coincide, in any intrinsic way, with the negative-positive distinction; indeed, positive duties may be perfect duties. Thus even if perfect and imperfect duties do not conflict, perfect positive and perfect negative duties can conflict. In such conflicts, the perfect-imperfect distinction does not provide a rationale for giving priority to negative duties. (iii) It will not do to argue that perfect duties involve assignable rights unless one has an independent argument showing that only negative duties correlate with rights. As a result, we still have no reason for believing that the Kantian duty of beneficence does not correlate with the rights of the needy to all the assistance which we can provide without comparable loss.

IX. CONCLUSION

Despite the widespread assumption that Kant's normative theory generates agent-centered constraints, we have found no Kantian justification for such constraints. Perhaps the anticonsequentialist emphasis of Kant's foundational theory encourages this widespread assumption. Perhaps Kant's own rigorously deontological application of his theory makes it seem obvious that Kant's normative theory is fundamentally deontological. Perhaps Kant's distinction between justice and virtue, or perfect and imperfect duties, appears to generate agent-centered constraints and thus leads to the widespread assumption. Indeed, perhaps these distinctions even led Kant to wrongly assume that his theory generates agent-centered constraints. Whatever the explanation for the assumption, the Kantian demand to treat persons as ends-in-themselves, and not means only, does not generate a normative theory with a fundamentally deontological structure.

Indeed, despite Kant's deontological intuitions about particular moral cases, his basic normative principle is best interpreted as having a fundamentally consequentialist structure. In order to justify agent-centered constraints one needs a non-value-based rationale. Neo-Kantians attempt

39. J. S. Mill, *Utilitarianism*, chap. 5, and *On Liberty*.

to provide such a rationale by appealing to the Kantian principle of treating persons as ends. The neo-Kantian strategy is clear: treating persons as ends involves respecting persons, and respect for persons involves agent-centered constraints on action. We have seen, however, that this strategy is problematic. The Kantian principle itself generates a duty to advance a moral goal: the duty of promoting the conditions necessary for rational beings and making others' ends one's own is part of the very essence of treating humanity as an end. Since the formula of the end-in-itself prescribes a moral goal, which we have a duty to advance, it does not provide a rationale for agent-centered constraints which limit what we can do in the pursuit of the moral goal. The imperative to respect persons thus generates a consequentialist normative theory, rather than the desired deontological normative theory.

It thus seems that a Kantian ought to be a normative consequentialist. Of course, many neo-Kantians would probably abandon Kantianism rather than endorse Kantian consequentialism. This sort of unrevisable hostility to consequentialism is more likely to be evidence of closet deontological intuitionism than of the true normative force of Kantianism. For many, commonsense intuitions are the final court of appeal on all normative questions. I have presented no objections to straightforward deontological intuitionism. It is unhelpful, however, to cover such a position under a shroud of Kantian rhetoric. Other neo-Kantians may provide their own arguments to fill the gap in Kant's normative theory, and they may wish to call the position Kantian. But these neo-Kantian positions cannot be supported by Kant's normative theory, and, thus, they must stand or fall on their own merits. Indeed, Kant's consequentialist normative theory provides a basis for challenging these neo-Kantian deontological normative theories.

Conscientious Kantian agents have a basic duty to strive, insofar as is possible, to promote the freedom and happiness of all rational beings. In the pursuit of this moral goal, it may be necessary that the interests of some give way for the sake of others. If we are sacrificed, we are not treated simply as a means to another's goal; on the contrary, our sacrifice is required by a principle we endorse. Our nonmoral interests and inclinations may cause reluctance, but, since our sacrifice furthers a moral goal which we endorse and which we are required to pursue, our sacrifice does not violate our moral autonomy or our rights.

What then are we to make of the intuition that our negative duties are more stringent than our positive duties? Modern-day neo-Kantians object to consequentialist justifications of the priority thesis by arguing that, because of the indirect and defeasible nature of a consequentialist account, it fails to adequately capture the justification of our intuitive moral judgments. We have seen, however, that a more direct Kantian justification of our intuitive moral judgments is not easily forthcoming. Indeed, it would seem that the only plausible account of these intuitions will be consequentialist.