

Nary an Obligatory Maxim from Kant's Universalizability Tests

In this paper I argue that there would be no obligatory maxims if the only standards for assessing maxims were Kant's universalizability tests. The paper is divided into five sections. In the first, I clarify my thesis: I define my terms and disambiguate my thesis from other related theses for which one might argue. In the second, I confront the view that says that if a maxim passes the universalizability tests, then there is a positive duty to adopt that maxim; I also confront a close relative of this view. In the third, I confront the view that says that if a maxim does not pass the universalizability tests, then there is a positive duty to adopt the contradictory of that maxim. In the fourth, I confront two variations of the view that says that if a maxim does not pass the universalizability tests and an agent is deliberating about the action in the maxim, then the agent has a positive duty to adopt the contrary of that maxim. In the fifth, I confront the view that says that if an agent has adopted a maxim of ends, then the agent has a positive duty to universalize that end. I then wrap up the paper with some concluding remarks.

Section I. Clarifying my thesis

The first term that needs to be defined is 'positive duties'. As I use the term in this paper, a positive duty is an obligation to adopt a particular maxim. Thus, an agent A has a positive duty if but only if there is some maxim M such that it is obligatory for A to adopt M. For example, if it is obligatory for me to adopt the maxim "sometimes to help some others," then I have a positive duty to adopt this maxim.

The notion of a positive duty can be elucidated by contrasting it with that of a negative duty. A negative duty is an obligation *not* to adopt a particular maxim. Thus, an agent A has a negative duty if but only if there is some maxim M such that it is impermissible for A to adopt M. For example, if it is impermissible for me to adopt the maxim "to help the Nazis carry out the final solution," then I have a negative duty not to adopt this maxim.¹

Kant has diverse things to say about various other duty distinctions, like the im/perfect duty distinction, the narrow/wide duty distinction, and the owed/meritorious duty distinction, and commentators have tried to fit his remarks together into a coherent picture.² For that reason it is especially important to keep the positive/negative duty distinction separate from these other distinctions: I am not going to engage with exegetical debates in this paper. Moreover, the positive/negative duty distinction is orthogonal to these other distinctions. To see why this is so, note the following two facts: (i) promise-keeping duties are paradigmatically thought of as perfect, narrow, and owed whereas duties of beneficence are paradigmatically thought of as imperfect, wide, and meritorious; but (ii) the duty to adopt the maxim "not to break one's promises" and the duty to adopt the maxim "sometimes to help some others" both have been advanced as positive duties by my interlocutors.³

¹ If negative duties entail positive duties and if my thesis about positive duties is true, then a similar thesis would be true of negative duties. However, it is also notable that any such connection between negative duties and positive duties is suspect. For example, Yaffe criticizes those who attempt to derive the principle of alternate possibilities with regard to blame from the ought implies can principle on the grounds that the derivation involves an illicit inference of a positive duty from a negative one (Yaffe, 1999 and Yaffe, 2005). Replies to Yaffe tend to emphasize that the derivation does not make such an inference, tacitly conceding that if it did, that would be a problem (Schnall, 2001 and Copp, 2008).

² See (Eisenberg, 1966), (Gregor, 1963, esp. chapters 2 and 7), (Hill, 1971), (Rivera, 2006), or (Schaller, 1987).

³ For the duty to adopt the maxim "sometimes to help others," see (Herman, 1993, 63). For the duty to adopt the maxim "not to break one's promises," see (Korsgaard, 1996, 63-64) or (Kim, 2015, 118).

I turn now to the concept of a maxim. A maxim is a subjective rule or principle of action.⁴ In other words, it is a principle with which an agent governs herself when engaged in intentional action.

An agent need not be aware of her maxims. Similarly, an agent need not have adopted her maxims consciously (especially if she adopted them through a process involving self-deception). Nonetheless, any maxims that realistically can be ascribed to an agent must be built up from concepts that the agent possesses in some sense. Thus, for example, Allison notes that “it must be possible in subsequent reflection to discover and articulate (albeit not in an infeasible way) the maxims on which one acts,” and Herman claims that an agent’s maxims must be within “the arena of deliberative rationality.”⁵ For example, it would be incoherent to ascribe the maxim “to help the Nazis carry out the final solution” to an agent living in 300 bce. Such an agent might have adopted this maxim if she had lived about 2260 years later. But an agent living in 300 bce does not have concepts like <Nazi> or <final solution>, so it makes no sense to ascribe to her a maxim built up from these concepts.

Some argue that some kinds of principles cannot be well-formed maxims (wfms). For instance, Wood argues that conditional maxims of omission, like “I will omit action A in circumstances C,” are “too indeterminate to constitute an intelligible norm of action.”⁶ Korsgaard says something similar about principles like “I will A when I feel like it”: “I have not really decided, or willed, to grow vegetables in my garden if I leave it open that I will not weed my garden if I just do not happen to feel like it.”⁷ Allison distinguishes between maxims and rules on the basis of generality, arguing that, to count as a maxim, a principle must have some requisite degree of generality.⁸ And Rawls argues that a wfm must have the following form: “I am to do X in circumstances C in order to bring about Y unless Z.”⁹

However, I shall take a permissive view of maxims. For example, I shall accept intentional descriptions like “I will perform action A” or “I will omit action A” as maxims. Moreover, whereas a maxim like “I [always] will keep my promises when breaking them might be discovered in order to be accepted as trustworthy” involves an implicit commitment to universality, I shall accept more modest principles as maxims, such as “sometimes I will A.” As will emerge below, taking this permissive view of maxims makes my thesis more rather than less difficult to prove. Similarly, I shall appeal only to very general maxims (principles that should be accepted as maxims by proponents of the maxim/rule distinction) in my argument. But if very specific intentions are accepted as maxims, that will make my thesis easier rather than harder to establish.

The final term that needs to be explicated is ‘Kant’s universalizability tests’. Kant has two universalizability tests. They are articulated together at the beginning of section II of the *Groundwork for a metaphysics of morals*. The universalizability tests are instances of Kant’s attempt to express the Categorical Imperative (CI). The CI is the way in which the Supreme Law of Morality manifests to imperfectly rational agents like humans.¹⁰ According to Kant, humans’ imperfect rationality is due to subjective limitations and hindrances: on account of the presence of these limitations and hindrances, the human will is not always in complete conformity with reason.¹¹

The first universalizability test is often referred to as the Formula of Universal Law (FUL). It runs as follows: “act only in accordance with that maxim through which you can at the same time will that it become a univer-

⁴ (Caygill, 2000, 289).

⁵ (Allison, 1990, 90), (Herman, 1993, 223).

⁶ (Wood, 1999, 359n28). I think he is probably wrong about this (think about the kinds of maxims adopted by AA members).

⁷ (Korsgaard, 2013, 633).

⁸ (Allison, 1990, chapter 5 section 1).

⁹ (Rawls, 2000, 168). See also (Kitcher, 2003) or section 4 of (Johnson and Cureton, 2018).

¹⁰ 4:413. All quotations are taken from the Guyer/Wood Cambridge Editions of the Works of Immanuel Kant. All citations are in accordance with the Academy Pagination running in the margins of the Cambridge Editions.

¹¹ 4:412-413.

sal law.”¹² The second is often referred to as the Formula of a Law of Nature (FLN). It runs as follows: “act as if the maxim of your action were to become by your will a universal law of nature.”¹³ I shall assume that these two tests are equivalent in the sense that a maxim will pass FUL if but only if it will pass FLN.

There is some evidence that Kant takes FUL and FLN to be equivalent. For example, consider the way Kant introduces them. Kant introduces FUL with the claim that “there is only a single categorical imperative,” and he introduces FLN a few paragraphs later with the claim that “the universal imperative of duty can also go as follows.”¹⁴ However it is worth pointing out that nothing in my argument is based on the assumed equivalence between FUL and FLN; it would be easy to reformulate my arguments if, for example, there is a third, nonempty set of maxims that do not pass FUL but do pass FLN and if a maxim is impermissible if but only if it is either in this set or in the set of maxims that fail both FUL and FLN.

I would like to close out this section by disambiguating my thesis from three other theses in this problem space:

MYTHESIS If the only standards for assessing maxims were Kant’s universalizability tests, there would be no positive duties.

DEDUCTIONTHESIS Positive duties cannot be deduced from the universalizability tests alone.¹⁵

EXEGETICALTHESIS Kant thinks DEDUCTIONTHESIS is false.

ASSESSMENTTHESIS If MYTHESIS is true, the universalizability tests are incomplete or flawed.

MYTHESIS has no entailment relations with EXEGETICALTHESIS, and I shall not be taking a stand on the latter in this paper.

Most of my interlocutors are motivated by their commitment to ASSESSMENTTHESIS. For example, Herman, who rejects DEDUCTIONTHESIS, maintains that “positive duties...are needed to complete an account of individual rational agency.”¹⁶ Similarly, Wood argues that the universalizability tests should be regarded as merely provisional formulations of the CI partly on the basis of DEDUCTIONTHESIS.¹⁷ However, MYTHESIS has no entailment relations with ASSESSMENTTHESIS, and I shall not be making any argument for or against the latter here.

MYTHESIS entails DEDUCTIONTHESIS, but the reverse entailment does not hold. This can be explained by appeal to the distinction between a moral criterion and a moral decision procedure.¹⁸ A moral criterion can explain the deontic status of maxims whereas a moral decision procedure can be used to deduce, in a given instance, the deontic status of a maxim. If it is not possible to prove, for some maxims, that they have the deontic status that they do, then showing that DEDUCTIONTHESIS is true would not suffice to show that MYTHESIS is

¹² 4:421, emphasis removed.

¹³ 4:421, emphasis and boldface removed.

¹⁴ 4:421.

¹⁵ (Kahn, 2014) argues for DEDUCTIONTHESIS on the grounds that (1) in order to deduce positive duties from the universalizability tests, infinitely many maxims would have to be tested; (2) humans never will be able to test infinitely many maxims; therefore, (3) humans never will be able to deduce positive duties from the universalizability tests. (Kahn, 2017) defends (2) by adding that: (4) in order to test infinitely many maxims, there must be a fixed enumeration of maxims, yet (5) there is no fixed enumeration of maxims.

¹⁶ (Herman, 2007, 255). Similarly, Wood argues that the universalizability tests should be regarded as merely provisional formulations of the CI partly on the basis of DEDUCTIONTHESIS (Wood, 1999, chapter 3).

¹⁷ (Wood, 1999, chapter 3).

¹⁸ (Timmons, 1997, section I).

true because the universalizability tests might serve as a moral criterion even if not a moral decision procedure.¹⁹ Thus, DEDUCTIONTHESIS does not entail MYTHESIS even though MYTHESIS entails DEDUCTIONTHESIS.

Section 2. The problem with the view that if a maxim passes the universalizability tests, then there is a positive duty to adopt that maxim

In this section I confront the view that if a maxim passes the universalizability tests, then there is a positive duty to adopt that maxim. I shall refer to this as VIEW_I. I begin by motivating VIEW_I. I then identify four problems with it. I conclude by proposing an amendment to avoid these problems and explaining why this amendment does not work.

One way to motivate VIEW_I is by appeal to the phenomenology of morality. In particular, one might reflect on the fact that moral experience often manifests in the form of imperatives like “do not do X” (negative duty) or “do Y” (positive duty). This might lead one to think that any maxim that passes the universalizability tests is obligatory and, thus, that there is a positive duty to adopt any such maxim.

Alternatively, one might think that, because Kant argues for the universalizability tests on the basis of an account of duty and acting from duty, these tests presuppose that any maxim in conformity with them is obligatory whereas any maxim that is not in conformity with them is impermissible.²⁰

Regardless of the motivation, however, I think that VIEW_I faces at least four problems. The first is interpretive: regardless of how Kant argues for them, both FUL and FLN are most naturally read as tests of permissibility.²¹ FUL begins with the words “act only” (*handle nur*). The idea is that one ought to adopt *only* maxims that have the mark of universalizability. The idea is not that one ought to adopt *all* maxims that have this mark.

In contrast to FUL, FLN begins with the words “act as if” (*handle so*). This initially might give the impression that any maxim that passes FLN should be adopted. However, such an impression would be mistaken. The full text of FLN (“act as if the maxim of your action were to become by your will a universal law of nature”) makes it clear that, like FUL, it is enjoining agents to act *only* on maxims with the mark of universalizability.

On their most natural reading, the universalizability tests determine whether a maxim is im/permissible. A maxim that fails the universalizability tests is impermissible and ought not to be adopted. Thus, the universalizability tests generate negative duties. But the same is not true when it comes to positive duties: a maxim that passes the universalizability tests may be presumed to be permissible, but it may not be presumed (without further argument) to be obligatory.

The second problem with VIEW_I is that it would eliminate the category of merely permissible maxims, what Kim calls the problem of morally neutral actions.²² There are some traditional moral categories that have been challenged. For example, one might think that the category of supererogation breaks down under critical scrutiny.²³ But I find the elimination of the merely permissible deeply counterintuitive.

¹⁹ Timmons maintains that the universalizability tests can be used *in conjunction* with the humanity formulation of the CI to deduce the objective deontic status of any given action (Timmons, 1997, section V). His focus is not on positive duties, but he does mention them at one point (Timmons, 1997, 407). So it seems reasonable to infer that Timmons thinks that positive duties can be deduced from the universalizability tests when they are supplemented with the humanity formulation of the CI. However, precisely because Timmons appeals also to the humanity formulation of the CI, his project is not impugned by MYTHESIS.

²⁰ (Kitcher, 2006, section 6); (Timmons, 2006, 169-170).

²¹ (Aune, 1979, chapter 2).

²² (Kim, 2015, 117).

²³ (Baron, 1995, chapter 1).

I shall call the third problem the problem of scope. To understand the nature of this problem, consider a maxim like “never to help the Nazis carry out the final solution.” If this maxim is universalizable, then (according to VIEW_I there is a positive duty to adopt this maxim. But agents living in 300 bce have not adopted this maxim, and agents living in 300 bce are not at fault for not having adopted this maxim. Thus, it is counterintuitive to say that there is a positive duty to adopt this maxim. The basic problem here is that if there are positive duties, then they are not (all) universal in scope.

A proponent of VIEW_I might object to this argument on the grounds that failure to fulfill an obligation does not entail blame or fault. Thus, whereas an agent living in 300 bce, like an agent living in Nazi Germany, ought to adopt the maxim “never to help the Nazis carry out the final solution,” the agent living in 300 bce is not at fault for failing to fulfill this obligation but an agent living in Nazi Germany is so. But I find it counterintuitive to say that someone living in 300 bce, someone with no experience or concept of a Nazi or the final solution, has an obligation to adopt a maxim built up from these concepts (indeed, agents living in 300 bce arguably are unable to adopt such a maxim).²⁴ So I do not think that this objection works.

Alternatively, a proponent of VIEW_I might attempt to block the problem of scope by questioning the universalizability of the maxim “never to help the Nazis carry out the final solution.” But if this maxim is not universalizable, then it is impermissible. This, I think, is also counterintuitive. Furthermore, if this maxim is not universalizable, it is difficult to see how one could avoid the conclusion that the maxim “sometimes to help the Nazis carry out the final solution” is universalizable. This would entail (on VIEW_I) that this latter maxim is obligatory. But now the problem for VIEW_I is magnified rather than diminished. Agents living in 300 bce have no such duty for they do not have the requisite concepts in the maxim. And more: no agent has such a duty. So I do not think that this objection works either.

I shall call the fourth and final problem I am going to discuss for VIEW_I the problem of incoherence. The problem of incoherence is that VIEW_I seems likely to generate incoherent obligations. To see why, note that it is *prima facie* difficult to see how, on VIEW_I, an interpretation of the universalizability tests could avoid the result that there often will be inconsistent but nonetheless obligatory triads from the following four maxim schemas: “always to A,” “sometimes to A,” “sometimes not to A,” and “never to A.” For instance, if A is “use hand sanitizer after petting dogs,” I find it difficult to imagine a plausible rendering of the universalizability tests on VIEW_I that would not entail that all four of these maxims are universalizable and, thus, obligatory.

This result about hand sanitizer runs afoul of the problem of mere permissibility and the problem of scope: for one thing, these maxims are more appropriately classified as merely permissible; for another, it is counterintuitive to say that agents who lived before the invention of hand sanitizer had obligations to adopt these maxims. But the point for present purposes is that if there are positive duties to adopt these maxims, then agents’ positive duties are incoherent.

The problems with VIEW_I do not end there. For instance, there is what might be called the problem of similar maxims. This problem arises from the fact that some maxims are so similar that it is difficult to see how the universalizability tests could give different results for them. For example, consider the 31 maxims generated from letting $X=55, \dots, 85$ in “sometimes to set the thermostat to X.” Presumably these 31 maxims pass or fail together. If they all pass, then (on VIEW_I) agents are going to be obliged to try out a lot of different thermostat settings. This is not incoherent. But it is odd. It is also quite demanding. Add in “for a day” or “for a week” and the problem gets worse. Expand the range or get a more sensitive thermostat and it gets worse still. Moreover these obligations are reinforced by substituting “always” or “never” in for “sometimes” (I am assuming for the sake of argument that all of the “always” and “never” maxims would fail and, thus, be impermissible; if all of the “always” maxims pass, then the problem of incoherence looms again). If these 31 maxims all fail, then (on VIEW_I) modern heating systems

²⁴ Note that there is an important asymmetry between positive and negative duties that manifests at this point of the argument. Someone living in 300 bce does not have the requisite concepts actively to refrain from adopting a maxim like “to help the Nazis carry out the final solution.” Nonetheless, for all that has been said here, such a maxim might be impermissible for him. This is because an agent can avoid violating a negative duty “unthinkingly,” so to speak. Thus, an agent in 300 bce might be said not to violate the negative duty not to adopt a maxim to help the Nazis even though he is not responsible in any meaningful way for fulfilling this negative duty. From this it may be seen that the argument used here to show that someone living in 300 bce does not have positive duties to adopt maxims about the Nazis cannot be deployed to show that such an agent does not have negative duties not to adopt maxims about the Nazis.

become morally anathema. Perhaps this result is the bullet to bite given global warming, but (i) even considering global warming, this is (I think) a bullet to bite; and (ii) this is just one illustration of the problem of similar maxims.

But I am going to put VIEW₁ down now in order to pick up an amendment to it.

Someone might maintain that merely passing the universalizability tests does not suffice for a maxim to be obligatory. It might be argued that all but only maxims with a certain content will be obligatory if they pass the universalizability tests. In particular, maxims can be broken down, broadly speaking, into two classes. In the first class are maxims like, “I will A no matter what,” “always to A,” “unconditionally to A,” etc. In the second class are maxims like, “I will A if I like,” “sometimes to A,” “in some conditions to A,” etc. If a maxim falling into the first class passes the universalizability tests, then agents have a positive duty to A. If a maxim falling into the second class passes the universalizability tests, then agents have a mere permission to A.²⁵ Call this VIEW₂.²⁶

It is hopefully evident that VIEW₂ gets around the problem of interpretation and the problem of mere permissibility. It also might be able to get around the problem of scope and the problem of incoherence. This is because VIEW₂ associates passing the universalizability tests with the permissibility of maxims. VIEW₂ generates positive duties by distinguishing between maxims and actions. That is, on VIEW₂ the maxim “always to A” is merely permissible whereas the action in the maxim is what is taken to be obligatory.

However, exactly this distinction reveals the problem with VIEW₂. If “always to A” is merely permissible, then it is also permissible for an agent not to adopt it. But if an agent does not adopt this maxim, nothing would follow about whether he always (or, indeed, ever) will (or ought to) A. To put this another way, a permissible obligation is a contradiction in terms. Thus, VIEW₂ is not able to generate positive duties.

A proponent of VIEW₂ might attempt another emendation: he might argue that if a maxim in the first class passes the universalizability tests, then the *maxim* (rather than the action) is obligatory, whereas if a maxim in the second class passes the universalizability tests, then the *maxim* (rather than the action) is merely permissible. This gets around the problem described in the previous paragraph. But it renders VIEW₂ subject to the problem of interpretation, the problem of scope, and the problem of incoherence. Accordingly, I turn now to section 3.

Section 3. The problem with the view that if a maxim does not pass the universalizability tests, then there is a positive duty to adopt the contradictory of that maxim

In this section I confront the view that if a maxim passes the universalizability tests, then there is a positive duty to adopt the contradictory of that maxim. I shall refer to this as VIEW₃. I begin by motivating VIEW₃. I then explain why VIEW₃ does not work. I argue that although VIEW₃ is able to skirt the problem of interpretation and the problem of mere permissibility, it runs afoul of the problem of scope and, potentially, the problem of incoherence. And I argue that, although VIEW₃ might be able to avoid the problem of permissible obligations, its appeal to maxim contradictories renders it subject to a new problem.

In order to motivate VIEW₃, the meaning of the term ‘maxim contradictory’ must be explained. This can be done by appeal to more traditional kinds of contradictories. Two propositions P₁ and P₂ are contradictories if but only if P₁ implies not-P₂ and P₂ implies not-P₁. For example, “Socrates is mortal” and “it is not the case that Socrates is mortal” are contradictories. Similarly, two predicates Q and R are contradictories if but only if for all x,

²⁵ Negative duties on this view presumably would follow from maxims in class 2 that fail the universalizability tests or from the universalizability of maxims like “never to A,” etc.

²⁶ (Kitcher, 2004, section 6).

Qx if and only if not- Rx . For example, “physical” and “non-physical” are contradictories.²⁷ Applied to maxims, the idea is that two maxims M_1 and M_2 are contradictories if but only if for all agents A , A has adopted M_1 if but only if A has not adopted M_2 .²⁸

The easiest way to motivate a commitment to maxim contradictories is to note that for any action kind K and for any agent A , A will be disposed to K in some circumstances or not. If the former, it may be said that the agent has the maxim “sometimes to K .” If the latter, it may be said that the agent has the maxim “never to K .” Thus, “sometimes to K ” and “never to K ” are maxim contradictories. Armed with the notion of a maxim contradictory, positive duties can be derived as follows. Consider a maxim M and its contradictory C . Suppose that M is universalizable and C is not. Then M is permissible and C is not. But M and C are maxim contradictories, so all agents adopt M or C . If all agents adopt M or C and if M is permissible whereas C is impermissible, then all agents ought to adopt M . So, all agents have a positive duty to adopt M . Thus, according to Stratton-Lake

[T]here are many acts whose maxims cannot be conceived or willed as a universal law without contradiction, e.g., the act of lying from self-interest, of promise breaking, of indifference to others, and of failing to develop my talents. This means that there are many acts whose maxim is lawlike (as I am using this term), e.g., the act of telling the truth, of keeping my promise, of helping others, and of developing my talents. Thus, if I act from the maxim of any of these actions in any situation, I will have acted from a lawlike maxim that is, from a maxim that can be conceived, or willed, as a universal law, and which the maxim of the contradictory act cannot.²⁹

Less formally, if M is taken to be “sometimes to help some others,” then C will be “never to help anyone.” In this case, it may be supposed that M will pass the universalizability tests whereas C will not. From this it follows that there is a duty of beneficence, the positive duty to adopt the maxim “sometimes to help others.” This line of reasoning appears in Herman: “If the CI procedure shows that it is impermissible to adopt the maxim, ‘To never help anyone,’ it follows that we must adopt its contradictory, ‘To help some others sometimes.’”³⁰ It also appears in Stratton-Lake:

If I come to see that some principle cannot be universalised without contradiction I will not only be able to see that this principle ought to be abandoned, but that I ought to strive to live up to the contradictory of this principle. Thus, if I test the principle of indifference to the needs of others, and find that it ought to be abandoned, I can know that I ought to aspire to deliberate and act in accordance with the principle of beneficence.³¹

Similar reasoning might lead a proponent of VIEW₃ to the conclusion that there is a positive duty to adopt the maxim “never to make a false promise.”³²

²⁷ Complications might arise here for composites. For instance, if I am physical, if \exists is non-physical, and if an extreme doctrine of unrestricted composition is accepted, then is the composition of me and the number \exists physical or non-physical? I suspect that the straightforward answer to this is that this composition would be non-physical. But I am unsure. In any case, such complications are tangential.

²⁸ Because diachronically extended agents can change their maxims through time (without changing their identities), a rigorous account of maxim contradictories would have to include temporal indices. I think the following would suffice: two maxims M_1 and M_2 are contradictories if but only if for all agents A and for all times t , A has adopted M_1 at t if but only if A has not adopted M_2 at t . However, nothing I say below is sensitive to this.

²⁹ (Stratton-Lake, 2000, 58); see also (Harrison, 1957, 52); (Guyer, 2007, 143); (Korsgaard, 2008, 184; 2009, 16); and (Stohr, 2011, 50) amongst others.

³⁰ (Herman, 1993, 63; repeated in her 2007, 208).

³¹ (Stratton-Lake, 2000, 75-76).

³² (Korsgaard, 1996, 63-64).

As set out here, VIEW₃ gets around the problem of interpretation. This is because, on VIEW₃, the universalizability tests themselves only generate results about im/permissibility. These results are used in tandem with an appeal to maxim contradictories to generate positive duties.

VIEW₃ also is able to avoid the problem of mere permissibility. If M and C are contradictories, there are three possibilities: (1) exactly one is universalizable; (2) both are universalizable; and (3) neither is universalizable. The core of VIEW₃, as a view about positive duties, is that, if (1) obtains, then the universalizable maxim is obligatory whereas its contradictory is impermissible. To avoid the problem of mere permissibility, however, it might be added that, if (2) obtains, then both the maxim and its contradictory are merely permissible.³³ I shall return to possibility (3) shortly.

Although VIEW₃ avoids both the problem of interpretation and the problem of mere permissibility, it is not able to avoid the problem of scope. This may be seen from the fact that, if “never to help the Nazis carry out the final solution” is universalizable whereas its contradictory, “sometimes to help the Nazis carry out the final solution,” is not, then all agents, including those living in 300 bce, have a positive duty to adopt the maxim “never to help the Nazis carry out the final solution.”

It might seem that VIEW₃ can skirt the problem of incoherence. After all, in the discussion of VIEW₁, the problem of incoherence arose because VIEW₁ says that if a maxim is universalizable, then it is obligatory. This threatened to result in incoherent positive duties to adopt conflicting maxims. On VIEW₃, a maxim is obligatory only if it is universalizable *and its contradictory is not*. If a maxim and its contradictory are both universalizable, then the maxim (and its contradictory) is (are both) merely permissible. So there is reason to hope that VIEW₃, unlike VIEW₁, will not result in incoherent positive duties.

But VIEW₃ still might result in incoherent negative duties. Recall possibility (3) from above: neither a maxim nor its contradictory is universalizable. Assuming that if a maxim fails the universalizability tests, it is impermissible, possibility (3) will generate incoherent negative duties. This is because of the fact that all agents adopt one or the other of two maxim contradictories. If neither a maxim nor its contradictory is universalizable, then both are impermissible, whence it follows that all agents necessarily are engaged in wrongdoing.

The most promising response on the part of the proponent of VIEW₃ seems to be that possibility (3) is empty. It is logically possible that a maxim and its contradictory both fail the universalizability tests. But (the response continues) there are no such maxims: possibility (3) is not a real possibility. In support of this it might be noted that the following conditional seems *prima facie* plausible: if it is impermissible never to A, then it is permissible sometimes to A.³⁴

VIEW₃ does not face the problem of permissible obligations. That problem was unique to VIEW₂. But VIEW₃ does face a new problem on account of its (ineliminable) appeal to maxim contradictories. I shall call this problem the problem of maxim ascription.

The problem of maxim ascription is like the problem of scope. Not only does it make no sense to say that an agent living in 300 bce has a duty to adopt the maxim “never to help the Nazis to carry out the final solution,” but also it makes no sense to say that such an agent has adopted this maxim. However, a proponent of VIEW₃, by virtue of being committed to maxim contradictories, must say exactly this. A proponent of VIEW₃ must say this because, based on the account of maxim contradictories, “sometimes to help the Nazis to carry out the final solution” and “never to help the Nazis carry out the final solution” are contradictories (they follow the “sometimes to K”/“never to K” scheme), meaning that all agents (including those living in 300 bce and before) have adopted at least one. Thus, VIEW₃ ends up ascribing to agents not merely maxims that they do not have but also maxims that they cannot have (given their upbringing and life-experience).

³³ (Kim, 2015, 116–119 and 160).

³⁴ An alternative response would be to reject the assumption in the previous paragraph. That is, a proponent of VIEW₃ might reject the idea that if a maxim fails the universalizability tests, it is impermissible. She might argue that when neither a maxim nor its contradictory is universalizable, then they are both permissible. However, rejecting this assumption involves rejecting the universalizability tests and appealing instead to a FUL/FLN inspired criterion of universalizability. This need not be objectionable in itself: perhaps FUL/FLN should be rejected. But the point for present purposes is that such a view no longer would pose a challenge to my thesis.

A proponent of VIEW₃ might object that such an agent either would or would not help the Nazis to carry out the final solution and, thus, that the corresponding maxim ascription is unproblematic. In other words, maxim ascription should be based on counterfactual reasoning.³⁵ Indeed, a proponent of VIEW₃ might attempt in this way to avoid both the problem of scope and the problem of maxim ascription.

But maxim ascription cannot be based on this kind of counterfactual reasoning. As noted in section 1 of this paper, maxims are subjective principles of action. This is one of the distinguishing marks of Kantian ethics. Agents are governed by laws of nature. But agents are also able to govern themselves in accordance with the representation of a law.³⁶ That is what a maxim is. So it makes no sense to ascribe to an agent a maxim that she is unable to represent because she does not have the concepts in that maxim. Indeed, the only way to make such an ascription would be on the basis of the maxims the agent actually has. In other words, the counterfactual reasoning described in the previous paragraph, when fully spelled out, would have to rely on a question like: given this agent's maxims, would she adopt maxim Y? From this it may be seen that this counterfactual reasoning presupposes exactly what the proponent of VIEW₃ needs to controvert.

Alternatively, it might be objected that the correct conclusion to draw here is not that VIEW₃ is subject to the problem of maxim ascription but rather that “never to help the Nazis carry out the final solution” and “sometimes to help the Nazis carry out the final solution” are not contradictories. Indeed (the objection continues) this also explains why VIEW₃ is not subject to the problem of scope (which I raised using these same example maxims). I would like to say two things about this.

First, this objection would undermine the reasoning on which VIEW₃ is based: as noted above, VIEW₃ is built on the idea that the maxims “never to K” and “sometimes to K” are contradictories because all agents at all times either will be disposed sometimes to K or not. So, while I am sympathetic to the idea that the two maxims above about the Nazis are not genuine contradictories, I think it is worth pointing out that this objection creates more problems for VIEW₃ than it solves. Indeed, the line of reasoning that underlies this objection easily generalizes to show that no maxims involving concepts like <Nazis> or <the final solution> have contradictories and, thus, that there are no positive duties involving these concepts. This then can be further generalized to other time/culture-specific concepts in such a way as to make it highly dubious that VIEW₃ would be able to provide an adequate account of positive duties, at least when judged by the standards implicit in those who advocate VIEW₃.

Second, this objection does not in fact help against the problem of scope: it would impugn at most the particular example that I have used to illustrate how the problem of scope applies to VIEW₃, but the problem of scope remains even if the particular maxims I have used to illustrate it fail to do so. That is, on VIEW₃ all positive duties are universal in scope, and that seems counterintuitive: if there are positive duties, it seems like at least some of them will be context- and culture-specific.

As a last ditch effort, a proponent of VIEW₃ might object that, although not all agents adopt one or another from a maxim/contradictory maxim pair, all agents engaged in deliberation about the action in the maxim would do so. But such an objection requires jettisoning maxim contradictories and, thus, a core part of VIEW₃. Such an objection involves an implicit appeal to VIEW₄ or VIEW₅, the views that I shall confront in the next section of this paper.

³⁵ (O'Neill, 1983).

³⁶ 4:412: “Everything in nature works in accordance with laws. Only a rational being has the capacity to act *in accordance with the representation* of laws, that is, in accordance with principles, or has a *will*.”

Section 4. The problem with the view that if a maxim does not pass the universalizability tests and an agent is deliberating about the action in the maxim, then the agent has a positive duty to adopt the contrary of that maxim

In this section I confront the view that says that if a maxim does not pass the universalizability tests and an agent is deliberating about the action in the maxim, then the agent has a positive duty to adopt the contrary of that maxim. I shall call this VIEW₄. I begin by explaining VIEW₄. Then I attack it. I argue that VIEW₄ is able to get around most of the problems associated with the other views thus far confronted in this paper. But I argue that careful examination of VIEW₄ reveals that it is subject to *reductio*: it assigns contradictory deontic statuses to the same maxim. I then consider a modification of VIEW₄, VIEW₅. VIEW₅ avoids the *reductio* of VIEW₄, but it is subject to what I call the problem of deliberation. Exploring the problem of deliberation enables me to explain why I think that MYTHESIS, and not only the weaker DEDUCTIONTHESIS, is true.

In order to understand VIEW₄, the term ‘maxim contrary’ must be explained. As with maxim contradictories, this can be done by appeal to more traditional kinds of contraries. Two propositions P₁ and P₂ are contraries if but only if it cannot be the case that P₁ and P₂ are both true. However, both P₁ and P₂ could be false. For example, “all humans are rational” and “no humans are rational” are contraries. Similarly, two predicates Q and R are contraries if but only if for all x, it cannot be the case that Qx and Rx. However, it could be the case that neither Qx nor Rx. For example, “yellow all over” and “blue all over” are contraries. Applied to maxims, the idea is that two maxims M₁ and M₂ are contraries if but only if for all agents A, it cannot be the case that A has adopted M₁ and M₂. But it could be true that A has adopted neither M₁ nor M₂.³⁷

Commitment to the existence of maxim contraries does not require motivation in the way that commitment to the existence of maxim contradictories does. That is because saying that two maxims are contraries (unlike saying that two maxims are contradictories) does not entail that all agents have adopted one or the other. But note that precisely because of this, a proponent of VIEW₄ cannot derive positive duties from the universalizability tests using the same argument as VIEW₃.

The VIEW₃ argument hinged on the premise that if one maxim is permissible and one maxim is impermissible and if all agents adopt one of these two maxims, then the permissible maxim is obligatory. But with the switch to maxim contraries, this premise is no longer useful: VIEW₄ cannot appeal to the claim that all agents adopt one or the other of a pair of maxim *contraries*. It is to plug this gap that VIEW₄ appeals to the deliberative field.³⁸

The deliberative field can be understood by analogy with the visual field. The visual field is the area within the perimeter of what can be seen when a person’s eyes are directed forward.³⁹ Just so, the deliberative field is the space of reasons and considerations of which a person is aware when engaged in deliberation about an activity.⁴⁰

³⁷ As with the discussion of maxim contradictories, this needs some tightening up to account for maxim change through time. I think the following will suffice: two maxims M₁ and M₂ are contraries if but only if for all agents A and for all times t, it cannot be the case that A has adopted M₁ and M₂ at t, although it could be the case that A has adopted neither M₁ nor M₂ at t. However, as before, nothing I say below is sensitive to this.

³⁸ Herman makes use of the deliberative field in (Herman, 1993) and (Herman, 2007). The concept also appears outside of the context of Kantian ethics (e.g., Esterling *et al.*, 2011).

³⁹ The OED has an entry for the visual field, but it does not have a definition; it has only quotations, all three of which, appropriately enough, are from philosophers (“visual, adj. and n.” OED Online). The definition in the text above is taken from (“perimetry.” OED Online) and (“visual field.” MedlinePlus).

⁴⁰ (Herman, 1996, 49; 2007, 40-41).

The VIEW₄ argument for positive duties is, then, as follows. Given a maxim and its contrary, M and C, suppose that M is universalizable and C is not. Then M is permissible and C is not. But insofar as an agent is engaged in deliberation about M and C, he must adopt one or the other, for M and C will be the only options within his deliberative field. Thus, insofar as an agent is engaged in deliberation about M and C, he has a positive duty to adopt M and a negative duty not to adopt C.⁴¹

Of course, an agent might never engage in deliberation about a given maxim/contrary; an agent might unthinkingly never adopt M or C; or an agent might be distracted and cease deliberating without adopting a maxim. These possibilities are all consistent with VIEW₄. Thus, on VIEW₄ it is not the case that if a maxim is universalizable and its contrary is not, there is a positive duty to adopt that maxim. Rather, on VIEW₄ there is a positive duty to adopt that maxim only insofar as the agent is engaged in deliberation about the activity in question. This is not an objection to VIEW₄. In fact, it is this that enables VIEW₄ to avoid objections posed to VIEW₃. But the ubiquity of moral quandaries involving truthfulness or helping others also enables VIEW₄ to capture the idea that the maxims “never to make a false promise” and “sometimes to help some others” are obligatory for (virtually) all.

As with VIEW₃, VIEW₄ is able to avoid the problem of interpretation. Again, the universalizability tests only are used to generate results about permissibility. These results are used along with ideas about maxim contraries and the deliberative field in order to generate positive duties.

VIEW₄ is also able to avoid the problem of mere permissibility. The line of reasoning is the same as that in the discussion of VIEW₃. If M and C are contraries, there are three possibilities: (1) exactly one is universalizable; (2) both are universalizable; and (3) neither is universalizable. As a view about positive duties, the first possibility is key: if (1) obtains, then the universalizable maxim is obligatory for an agent engaged in deliberation about the action in question whereas its contrary is impermissible. Thus, Hernandez says that, according to “Kantian ethicists...morally obligatory acts...[are those] whose contrary maxim conflicts with the moral law.”⁴² But then to avoid the problem of mere permissibility, VIEW₄ can appeal to (2): when (2) obtains, then both the maxim and its contrary are merely permissible. I shall return to possibility (3) shortly.

The scope of the positive duties generated by VIEW₄ in appealing to (1) is constrained. VIEW₄ does not generate uniform positive duties for all agents. Rather, VIEW₄ positive duties apply only to agents engaged in deliberation about the actions in question. So VIEW₄ is not subject to the problem of scope.

Like VIEW₃, VIEW₄ avoids incoherent positive duties by virtue of the fact that it says a maxim is obligatory only if it is universalizable *and its contrary is not*. However, VIEW₄ cannot follow the same strategy as VIEW₃ for avoiding incoherent negative duties.

Recall that the most promising strategy for avoiding incoherent negative duties on VIEW₃ was to say that possibility (3) never obtains. This was rendered plausible by appeal to the idea that, if it is impermissible never to A, then it is permissible sometimes to A. A proponent of VIEW₄ cannot appeal to this idea because it is easy to come up with maxim contraries that do not fit this schema and that do fall into possibility (3). For example, consider the following two maxims: (i) “never to help anyone” and (ii) “always to help the Nazis carry out the final solution.” These two maxims are contraries and (it may be assumed) neither is universalizable.

However, the fact that there are maxims such that both they and their contraries fail the universalizability tests is not a problem for VIEW₄. On VIEW₄, such maxims are impermissible, and this does not generate inco-

⁴¹ (Guyer, 2006, 194).

⁴² (Hernandez, 2010, 403). However, Hernandez neglects possibility (3) and says that actions “whose contrary maxim conflicts with the moral law” are obligatory and that actions “whose maxim contradicts the moral law” are impermissible. To see why this is a problem, consider the following two maxims: (a) “never to help anyone” and (b) “always to help Nazis catch Jews.” These two maxims are contraries. But (it may be assumed for the sake of argument that) both fail the universalizability tests, whence it follows from Hernandez’ account that they are not only forbidden but also obligatory. From this it may be seen that Hernandez’ neglect of possibility (3) is fatal.

herent negative duties because an agent need not adopt either of them.⁴³ As a case in point, there are many agents who have adopted neither (i) nor (ii) from the previous paragraph.

Based on this it may be seen that VIEW₄ is able to evade the problems that plague the other views thus far examined. However, as also may be seen from the foregoing, maxim contraries do not come in pairs. For instance, consider (iii) “always to help Jews to escape from the Nazis.” Adding (iii) to (i) and (ii) results in a triad of pairwise contrary maxims. And exactly this leads to a new problem.

VIEW₄ assigns a deontic status to maxims on the basis of considerations that are not intrinsic to the maxims themselves. The universalizability tests say that a maxim is permissible if but only if it is universalizable. But VIEW₄, like VIEW₃, categorizes maxims as obligatory or merely permissible on the basis of whether whether they are universalizable *and* whether their contraries are universalizable. To see why this is an issue, note that if there are three maxims such that (a) they are pairwise contraries and (b) only one fails the universalizability tests, then the two maxims that pass the universalizability tests will be both merely permissible and obligatory. Thus, VIEW₄ will assign mutually exclusive deontic statuses to maxims.

Moreover, it is easy to come up with maxims to illustrate this problem: one might generate a counterexample from any situation in which an agent can choose one but only one course of action from a myriad of options such that at least one is impermissible and more than one is permissible, and such situations seem endemic to everyday life. For instance, consider the following triad: (1) “to favor quantity over quality in publishing”; (2) “to favor quality over quantity in publishing”; and (3) “to bomb all publishing venues.” No two of these maxims can be adopted at the same time by any agent, and so, assuming (3) is not universalizable but (1) and (2) are, it follows from VIEW₄ that (1) and (2) are both merely permissible and obligatory. If conjunctive maxims are wfms, then it is even easier to come up with examples. For instance, consider the following triad: (1) “to help runaway slaves and to buy clockwork trains”; (2) “to help runaway slaves and never to buy clockwork trains”; and (3) “never to help anyone.” It may be seen that no two of these maxims can be adopted at the same time by the same agent. So, these maxims are pairwise contraries. Further, I assume that (3) is not universalizable but that (1) and (2) are. It follows again from VIEW₄ that (1) and (2) are both merely permissible and obligatory.

One solution to this is to narrow down the maxims to be tested so that they come only in pairs. To do so, VIEW₃ and VIEW₄ might be combined to form VIEW₅. The idea would be as follows: “sometimes to K” and “never to K” are contraries. So, for VIEW₅ it may be said that if two maxim contraries *that follow this particular scheme* are such that one is universalizable and the other is not, and if an agent is engaged in deliberation about whether to K, then the agent has a positive duty to adopt the universalizable one of the two (and a corresponding negative duty not to adopt the other).

This avoids the *reductio* of VIEW₄ because the particular scheme in question narrows down the maxims to be tested to two in all cases. Moreover, VIEW₅ retains enough of the structure of VIEW₄ (most crucially: the

⁴³ According to O’Neill, the following two maxims are intuitively permissible: (a) “to buy clockwork trains but not sell them” and (b) “to sell clockwork trains but not buy them.” However, O’Neill also notes that (a) and (b) are contraries, and she argues that both fail the universalizability tests. From this she concludes that if possibility (3) obtains, then the maxims are permissible (O’Neill, 2013, 163-167).

As maxims (i) and (ii) in the paragraph preceding the one to which this note is appended demonstrate, O’Neill’s conclusion needs revision: at least sometimes when possibility (3) obtains, the maxims are impermissible.

One solution would be for O’Neill to reject the claim that (a) and (b) fail the universalizability tests. However, this would involve rejecting her detailed interpretation of how these tests are supposed to work. So this would be a hard solution for her to adopt.

An alternative solution would be for O’Neill to say that sometimes when possibility (3) obtains the maxims are permissible and sometimes they are impermissible. But accepting that a maxim can be permissible even if it fails the universalizability tests involves a rejection of the universalizability tests in favor of what is better described as a FUL/FLN-inspired criterion of morality. This need not be problematic in itself. But it moves away from both exegesis and reconstruction (*pace* O’Neill, 2013, 166). And because of this, if VIEW₄ is filled out in this way, it ceases to pose a challenge to my thesis.

A third solution would be for O’Neill to reject the intuition that (a) and (b) are permissible. This strategy would require rejecting what might be called (along the lines of Williams, 1965, 118) the maxim-principle of permissibility-agglomeration, for presumably “to buy clockwork trains” and “not to sell clockwork trains” are both universalizable and permissible. But perhaps that would not be so bad.

appeal to the deliberative field) to enable its proponents to avoid the problem of scope and the problem of mere permissibility in the same way that proponents of VIEW₄ do so.⁴⁴

However, this attempt to skirt the problem with VIEW₄ raises a new problem: the problem of deliberation. The problem of deliberation is that, in any given instance, an agent will have a plurality of permissible maxims from which to choose, not all of which are contraries. Not only does any given maxim in fact have multiple contraries, but now that the deliberative field has been introduced, there does not seem to be any good reason to confine agents to consideration of maxims that cannot be pairwise adopted.

For example, someone might be trying to decide whether to go to medical school or whether to pursue a PhD in philosophy. These two are not mutually exclusive and, indeed, some people do both. So “to become a medical doctor” and “to get a doctorate in philosophy” are not contraries. But they are alternatives that might come up in the course of deliberation. And the reason this is relevant is that if an agent has more than one permissible option from which to choose, then it follows immediately that he does not have a positive duty. And the problem of deliberation is that once the deliberative framework of VIEW₄ is accepted (as it is in VIEW₅), there as a matter of fact always will be more than one permissible option for agents.

To illustrate, consider an agent faced with the prospect of paying a debt to a friend. He might adopt a very general maxim: “always to pay my debts.” But he also might adopt a less general maxim: “always to pay my debts to friends.” This less general maxim need not require taking a stance on what to do about debts in general, and these are both genuine, permissible alternatives within such an agent’s deliberative field.

Alternatively, consider an agent faced with the prospect of helping a stranger in a car accident on the side of the road. He might adopt a very general maxim: “always to help car accident victims.” But he also might adopt a less general maxim: “always to help car accident victims when I am the only one around.” Again, this less general maxim need not require taking a stance on what to do about car accident victims in general, and these are both genuine, permissible alternatives within such an agent’s deliberative field.

But from this it follows that VIEW₅ does not succeed in deriving any positive duties from the universalizability tests. More, what follows is that there would be no positive duties if the universalizability tests were the only moral criteria, thus establishing my thesis. I turn now to the final view I am going to confront in this paper, one which will enable me to illustrate again the problem of deliberation in order to argue for my thesis.

Section 5. The problem with the view that if an agent has adopted a maxim of ends, then the agent has a positive duty to universalize that end

In this section I confront the view that if an agent has adopted a maxim of ends, then the agent has a positive duty to universalize that end. I shall call this VIEW₆. I begin by describing the view. Then I explain why I think it does not work.

⁴⁴ Some have suggested to me that VIEW₅ is in fact O’Neill’s view in her (2013), not VIEW₄ (which I ascribe to her in the notes above). However, I think that this is mistaken. I shall cite only one piece of evidence for my reading: as remarked above (see note 43), O’Neill thinks that “to buy clockwork trains but never to sell them” and “to sell clockwork trains but never to buy them” are pairwise contraries, and she uses them to illustrate a case of maxims that fall into possibility (3). But these maxims do *not* follow the scheme in the paragraph to which this note is appended. Using that scheme, we would have to test “to buy clockwork trains but never to sell them” with “to sell clockwork trains *or* never to buy them” and we would have to test “to sell clockwork trains but never to buy them” with “to buy clockwork trains *or* never to sell them.” The difference is subtle but important: given O’Neill’s understanding of the universalizability tests, the *conjunctive* maxims fail the tests but the *disjunctive* maxims pass them. It follows immediately that O’Neill would have to conclude that these maxims in particular and non-reciprocal maxims in general illustrate possibility (1) rather than possibility (3) and, further, that there is a positive duty to adopt all of the disjunctive maxims (when engaged in the corresponding deliberation) and a negative duty not to adopt any of the conjunctive ones. Not only is all of this counterintuitive (the only reason I do not raise it as a problem in the main text above is that not everybody accepts conjunctive or disjunctive maxims as wfms), but also it contradicts everything O’Neill explicitly says about non-reciprocal action maxims. So this suggestion for reading O’Neill does not withstand critical scrutiny.

To understand VIEW6, a distinction between maxims of action and maxims of ends needs to be introduced.⁴⁵ A maxim of action is a maxim to perform some action, like “to buy clockwork trains.” A maxim of ends is a maxim to promote some end, like “to promote my own happiness.”

If the universalizability tests are accepted as standards for assessing maxims, then a maxim of ends is permissible only if it can be universalized. And, according to VIEW6, a maxim of ends can be universalized only if the content of the end is appropriately universal. In particular, according to VIEW6 if an agent is going to adopt a maxim to promote E, then she has a positive duty to adopt the maxim “to promote E for all.”

VIEW6 is different from the other views explored in this paper in that VIEW6 typically is used, as far as I know, only to derive a duty of benevolence.⁴⁶ It is not typically used to derive positive duties about promise-keeping or anything else. There might be two reasons for this. One is that the approach is inspired from Kant’s derivation of the duty to promote others’ happiness in the *Metaphysics of morals*.⁴⁷ The other is that happiness, according to Kant (and some Kant scholars), is the only universal end.⁴⁸

I do not think that either of these reasons gives good grounds for restricting the argument of VIEW6. The fact that Kant applies such an argument only in the case of benevolence is no reason why Kantians should follow suit. And even if happiness is the only universal end, this would entail at most that the positive duties regarding other ends that follow from VIEW6 are conditional: *if* you adopt a maxim to promote end E, *then* you should adopt the maxim “to promote E for all.” That is, the only relevant difference between happiness and other ends is that in the case of happiness, the antecedent of this conditional is probably true for most (perhaps all) agents.

In any case, the VIEW6 derivation of the duty of benevolence is as follows. It is permissible for an agent to promote her own happiness only if she adopts the maxim “to promote the happiness of all.” But all agents seek to promote their own happiness. Therefore, all agents have a positive duty to adopt the maxim “to promote the happiness of all.”⁴⁹

I want to raise two problems for VIEW6.

First, although the maxim “to promote the happiness of all” might be permissible, if it is, there are good grounds for thinking that the maxim “to promote the happiness of friends and family” also is permissible. There are good grounds for thinking this because (i) “friends and family” are a subset of “all,” and (ii) an agent who adopts this second maxim need not be committed to ignoring (much less destroying) the happiness of others. Indeed, an agent who adopts this second maxim might have no principled stance at all regarding whether to promote the happiness of others. These two maxims are consistent; they are not contraries or contradictories. Moreover, these two maxims would count as genuine alternatives in the deliberative field. But if there are two permissible maxims from which an agent can choose, then she does not have a positive duty. Further, some might object that the maxim “to promote the happiness of all” is too demanding and, perhaps, too impartial for it to form part of a realistic ethics. Thus VIEW6, like VIEW5, is subject to the problem of deliberation: agents always will have more than one permissible option (and the purportedly obligatory ones are generally unrealistic).

Second, the positive duties derived by applying VIEW6 to ends other than happiness constitute a *reductio* of the argument. For instance, consider an end like becoming a professor. With an end like this, not only is it *prima facie* permissible to adopt the maxim “to promote *my* becoming a professor,” but also to say that there is a positive duty to adopt the maxim “to promote *everyone* becoming a professor” is, I think, counterintuitive even if this positive duty is conditional on having the end of becoming a professor. And I suspect that most ends that agents

⁴⁵ (Kitcher, 2003, 219).

⁴⁶ Wood says that a duty of benevolence is the *only* positive duty derivable using this strategy (Wood, 1999, 102).

⁴⁷ 6:450-451.

⁴⁸ Kant says that happiness is a universal end in multiple places throughout his corpus (e.g., 4:415, 5:34, 6:385, 6:391, 8:282, 8:289, 18:458, 19:188, 19:237, 19:285, and 20:200n). For discussion of this claim, see (Hill, 1992, 25n3), (Hills, 2006), (Johnson, 2002), (Korsgaard, 1998, 58), (Korsgaard, 2008, 80), or (Kahn, 2019, chapter 9).

⁴⁹ (Engstrom, 2009, 211-217) or (Wood, 1999, 100-102).

actually adopt throughout the courses of their lives are like this. But if I am right about this, then the core support for VIEW6 collapses: it is not the case that for any end E, if an agent is going to adopt a maxim to promote E, then she has a positive duty to adopt the maxim “to promote E for all.”

Conclusion

In this paper I argued that there would be no positive duties if the only standards for assessing maxims were Kant’s universalizability tests. To do so, I confronted six different ways of deriving positive duties from the universalizability tests. I argued that all six of these views have fatal flaws. Some might take this to show that the universalizability tests themselves have a fatal flaw and, therefore, should be discarded. However, as pointed out in section 1 of this paper, no such conclusion follows from my argument. For all that I have said, Kant’s universalizability tests suffice to generate negative duties. And perhaps that is all that is needed.

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