

How Not to Bridge the Gap: Cummiskey on Kantian Consequentialism

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One of the principal obstacles to progress in moral philosophy lies in the internicine warfare which three rival theories have for decades waged upon one another in books and in the pages of scholarly journals. Consequentialism, deontological rule-based theory, and virtue theory have for too long been perceived as mutually incompatible theoretical frameworks, and so work in moral philosophy has taken one of two forms: philosophers work within the confines of their chosen theory, ironing out its kinks and bugs, and they also sometimes embark upon foreign campaigns against rival theories, using the resources of their theory to try to make plain the utter ineptitude of competing frameworks.¹

Yet the moral intuitions at the basis of these three theories are stubbornly resistant to the onslaught of competing visions, regardless of how vulnerable the theories which have tried to develop them may be. *Surely*, the consequences which our actions produce with respect to the well-being of others are relevant to their moral assessment. *Surely*, certain ways of treating others are incompatible with their status as fellow-humans deserving our respect, regardless of the positive consequences which so treating them might have. And *surely* moral agents are more likely to act in morally acceptable ways if they possess dispositions or "virtues" which enable them to perceive the morally salient features of situations in all their complexity and to respond to them in admirable ways. If we want our moral theory to remain true to these abiding intuitions, we will have to find ways of integrating them all into an overall picture of human moral life. We will moreover have to resist the temptation of monistic foundationalism, that is the tendency to think that, though all of these features of the moral life ought to figure at some level in an adequate theory, one of

¹ For a recent chapter of this philosophical conflict, see Marcia Baron, Philip Pettit and Michael Slote (1997).

them is morally basic, and the others should be shown to be derivable from it. Such theories, though philosophically more simple and elegant, distort common sense: for example, consequentialists often point out that deontological rules can be given a derivative place in a consequentialist theory, in as much as the observance of such rules by and large tends to foster the desired consequences. But then deontologists will tend to object that consequentialists give the wrong *kind* of answer to the question of why such rules ought to be observed, that they are quick to abandon such rules in the (perhaps rare) cases where the observance of rules is counterproductive from a consequentialist point of view, and thus, that they do not really affirm the intuition at the basis of deontological theories at all.

The publication of David Gauthier's book, *Kantian Consequentialism*, is thus to be applauded: it represents the most thorough and systematic reconstruction to date of Kant's moral philosophy along consequentialist lines.² If his arguments were to be found successful, they would constitute a massive blow to the kind of potted history of philosophy which accompanies the factionalised vision of moral philosophy I have just outlined, and which views Kant as the patron-saint of deontological ethics. I want in this paper to address Gauthier's arguments. I will conclude that, despite their great ingenuity, they fail both as an interpretation of Kant and as an attempt to synthesize deontological and consequentialist insights. I hope however to draw some lesson's from the failure of Gauthier's attempt at bridging the gap between these two traditions, and to spell out the general lines which a more adequate reconciliation might take.

Gauthier's argument proceeds in three distinct phases. First, he shows that there is nothing about Kantian metaethics that commits Kant's moral theory either to a deontological or to a consequentialist structure. A consequentialist moral principle enjoining us to maximise through our actions the realization of some specified value or set of values is

² More cursory treatments can be found in Jonathan Harrison (1985) and in R.M. Hare (1993). Gauthier's book will be referred to parenthetically in the body of the text.

just as compatible with the universality and formality that characterizes the Kantian good will as is a deontological structure which emphasizes agent-centred constraints. Second, the principles which flow from Kant's metathics, and in particular the formula of the Categorical Imperative that focusses upon humanity as an end, are most naturally read as motivating a form of consequentialism. And finally Kant's own attempts at justifying agent-centred prerogatives through the doctrine of perfect and imperfect duties, as well the interpretations of Kant scholars which have read the formula of humanity as entailing agent-centred prerogatives, fail, and thus do not offset the consequentialist structure of the theory.

My interest in this paper will be with the second and third prongs of this general strategy, so let me develop them in more detail. The argument for the first of these prongs is built around three central claims: first, the formula of humanity as an end in itself occupies a central place in Kant's moral theory, since only it completes the deduction of the Categorical Imperative initiated through the derivation of the formula of universal law. This is because, in Cummiskey's view, only it provides the good will with a necessary *end*, without which there would not be a sufficient determining ground for action for a rational being. Cummiskey writes: "The concept of a moral duty, or of a categorical imperative, plus the nature of rational agency, entails that there must be an objective end of rational action - that is, something that is an end in itself" (Cummiskey, p. 64). I will address this argument in the next section.

Second, this principle presupposes a complex, two-tiered theory of value. As the ground of the value of all other ends, rational nature is to be valued above all other ends. It is indeed *presupposed* by the value of all other ends, and thus occupies the supreme position in Kant's theory of value. Happiness, understood as the satisfaction of rational desires, is also of value, but the two are placed in a relation of lexical priority: rational nature has an absolute priority with respect to happiness, in the sense that the conditions required for the possibility of rational nature must be satisfied before happiness can be pursued; and second, no amount of happiness can make up for the loss of some amount of the end of rational nature. "Since rational nature, R , is the condition of the value of happiness, H , it follows that R must be

lexically more valuable than *H* “ (Cummiskey, p. 76). I will address this argument in section III. Third, the transcendental argument which moves from the value which my ends have *for me* to the ground of this value in rational nature specifies rational nature *as such* rather than *my* rational nature as the condition of the value of particular ends. So the value which I find in the pursuit of my ends rationally commits me to the equal value of all rational beings, and thus to the agent-neutral pursuit on the end of rational nature. “The idea here is that rational nature is an ‘agent-neutral’ rather than an ‘agent-relative’ value, to use Nagel’s terms; that is, roughly, rational nature is a value for any rational agent” (Cummiskey, p. 88). I will address this argument in section IV.

The argument for what I have called the third “prong” of Cummiskey’s interpretation is, roughly, as follows: the Kantian idea that willing an end logically presupposes willing the means necessary to the realization, in the sense of doing all one can do to realize the end, entails that in Kant’s view, the values which are to be promoted by Kantian moral principles are to be *maximised*. Agent-neutrality and maximisation make Kantian moral theory recognizably consequentialist, even though the dual structure of the theory of value which it is to subserve sets it apart from the more common versions of such a theory. I will take up this argument in section V. I will conclude in section VI with some general lessons which my consideration of Cummiskey’s interpretation allow us to derive concerning the possibility of a reconciliation of Kantian and consequentialist insights that does not end up distorting either one.

II

Let me begin by questioning the interpretation both of the role of the formula of humanity formulation (FHE) of the Categorical Imperative and of its content, which serves as the argument’s foundation.

Cummiskey’s argument is premised on the idea that the formula of humanity as an end in itself completes the derivation of the Categorical Imperative which the formula of universal

law (FUL) had only partly accomplished. In his view, the simple fact that justified action is action the maxim of which does not take a material principle as its determining ground does not entail that the legislative form alone is sufficient to determine the morally good will to action. In Kant's view, a will, no matter how perfectly rational, cannot exercise its causality without giving itself an end. Given that rational nature constitutes an objective end which is in a sense imposed upon us by our nature as rational wills, it follows that justified action is for Kant action that gives itself rational nature as an end. The consequentialist FHE thus supercedes the more deontological FUL as the moral principle at the centre of Kantian ethics.

Cummiskey is clearly on safe Kantian ground in maintaining that FHE plays a central role in the overall derivation of the Categorical Imperative which Kant carries out in part II of the *Groundwork*. But note that this general claim can be shown to support two very different interpretations. According to the first interpretation, FHE completes the derivation in the sense that it *adds* the content to the Categorical Imperative which is required in order to show that it can be the determining ground of the maxims of a rational will, and which is not already present in FUL. Let me call this the *substantive interpretation*, to indicate that on this view, FHE adds substance to FUL. According to a second reading, however, FUL (and indeed the subsequent formulations which focus upon autonomous law-giving and the kingdom of ends) completes the derivation which is required in order to show that a rational will can have the Categorical Imperative as a binding principle by showing that *in* willing one's maxims to be universal laws, one is not thereby going against the logic of what it means to *be* a will by willing without an end. In other words, what FHE does is to make plain that a will whose maxims have the moral law as their determining ground *de facto* promotes an end, the end of rational nature, and thus, that it is a possible principle for a rational will. On this interpretation, FHE does not add any determinate content to FUL, but simply shows that agents who accept the constraint upon their maxims which FUL represents are *thereby* acting to promote an (objective and universal) end. Let me call this *the epistemic*

interpretation, to refer to the fact that, according to this reading, what FHE does is *make plain* what is already implicit in FUL.³

Which of these two interpretations is the right one? It is clear that Cummiskey is committed to the substantive interpretation. In concluding the argument concerning the alleged "gaps" in the derivation of the Categorical Imperative, for example, he writes that "we are not justified in concluding that the legislative form alone, without the derivation of the objective end of action, provides an adequate specification of the supreme principle of morality" (p. 58). However, I think that the epistemic interpretation better captures Kant's own argument. Consider, first, the claims Kant makes at the end of his presentation of the formulations of the Categorical Imperative in part II of the *Groundwork* to the effect, first, that they "are at bottom merely so many formulations of precisely the same law" (G 436), and second, that it is in his view prererable for moral *judgement* that "we proceed always in accordance with the strict method and take as our basis the universal formula of the categorical imperative" (G 436).⁴ Clearly, making sense of these claims requires that we opt for an interpretation of the derivation which presents the formulations as equivalent. And, as I will show below, only the epistemic interpretation does this.

But need we take seriously Kant's claims about the logical status of the relations which obtain among the principles? As is well-known, Kant was often wont to making outlandish claims about the systematicity of his thought, and it is often helpful to read Kant's arguments without taking his architectonic pretentions too seriously. It may be that we have here a case in which Kant's own theoretical self-understandings are best overlooked.

This would be the case, for example, if there were simply no way of interpreting FUL and FHE as intensionally, or even extensionally, equivalent. If for example there were no way of generating any determinate content out of FUL, and if it could thus only serve as a

³ For a clear and persuasive presentation of this interpretation, see Guyer (1996).

⁴References to Kant's *Groundwork of the Metaphysic of Morals* will be given parenthetically in the text, and will be referred to as *Gr*.

constraint upon our maxims rather than as an independent source of ends, and if, finally, FHE could *only* be made sense of as a consequentialist principle, then it would follow that the two principles could not possibly be seen as equivalent. In such a case, the fact that FHE completes the derivation of the Categorical Imperative left *incomplete* by FUL would entail that FHE adds determinate content to FUL.

That FUL is a purely formal, "empty" principle has been claimed by generations of commentators from Hegel on. And that FHE is best understood consequentially has been suggested by Thomas Hill's interpretation (1992) according to which the constraint which the principle imposes in the first part of the sentence that expresses it ("never treat humanity merely as a means") has no meaning independent of the end made mandatory by the second part of the sentence ("but always also as an end-in-itself). Given the support which this interpretation lends to this overall thesis, it is therefore not surprising that Cummiskey endorses this interpretation of the principle (p. 86).

It is however possible to interpret the two principles as being intensionally equivalent, as Onora O'Neill has shown (1989). Her argument, in a nutshell, is as follows: FUL, as is well known, yields two "signs" of the unacceptability of maxims, which Kant labels "contradiction in conception" and "contradiction in the will". The first of these signals occasions in which one makes an exception of oneself by acting on a maxim which it would be impossible to act upon were everyone to adopt it. It therefore picks out maxims of coercion, deception and violence, in other words, actions in which one instrumentalizes others for the sake of one's contingent ends. A "contradiction in the will" on the other hand singles out maxims the universalization of which only yields contradiction when they are considered in the context "the background conditions of the lives of specifically *finite* rational agents". The maxims which are picked out by this test are, paradigmatically, ones whereby one denies either oneself or others support and promotion of the various conditions which are required by finite, embodied rational creatures in order to develop and exercise their capacity for rational agency. Maxims whereby one refuses to consider one's own or others' rational

nature as an end to be pursued are thus ruled out by this second marker of immorality given rise to by FUL.

This analysis of FUL shows that it can plausibly be read as intensionally equivalent with FHE. The important things to note in the context of my consideration of Cummiskey's interpretation are the following: first, to the extent that we view Kant's own claim that the various formulations of the Categorical Imperative are equivalent as a (defeasible) constraint on interpretation, we ought to prefer this interpretation (which accords with the epistemic interpretation of the relation between FHE and FUL) to the one presupposed by Cummiskey's substantive interpretation. Second, this interpretation shows that there is meaning to the negative requirement that we not treat people as means which is not simply reducible to the positive requirement that we treat them as ends, and thus, FHE cannot be read as an unrestrictedly consequentialist principle. Third, and most importantly, in virtue of their intensional equivalence, FHE cannot be made to generate any duties which cannot also be generated by FUL. And in virtue of their intensional equivalence, this identity between the sets of duties cannot be fortuitous: the reasons which are given by FHE for our various moral duties must be *the same reasons* which FUL offers.

Now FUL is certainly not without consequentialist implications. First, and most obviously, it generates an obligation of limited beneficence, in that a maxim whereby an agent would commit himself to never aiding his fellows could not be universalized. But in Kant's view, this obligation affords agents a certain latitude as to the precise manner and extent of the aid which they must be willing to give to others. Now, Cummiskey believes that the distinction between "perfect" and "imperfect" duties which this last claim presupposes cannot be defended on the basis of Kant's own first principles, and that contemporary attempts at defending the distinction fail, so that there can be no *Kantian* grounds for providing agents with the kinds of agent-centred prerogatives which would allow them principledly to limit the extent of their consequentialist obligations. I will argue below that the distinction can be defended both for logical and moral reasons from *within* the Kantian framework. Second, I

will also try to show below that there is a sense in which even the *negative* requirements which FUL (and therefore FHE) impose can also be given a consequentialist interpretation.

The aim of the foregoing section has been to raise doubts about the first step in Cummiskey's consequentialist reconstruction of Kant, in which he argues that FHE *substantively* completes the derivation of the Categorical Imperative begun with FUL, by showing that the most plausible interpretation of the relationship between the two interpretations sees FHE as completing FUL *epistemically*, but that such an interpretation fails to account for the substantive differences which would have to obtain between FUL and FHE in order for Cummiskey's interpretation to go through. I want to set this objection aside however in order to show that even if Cummiskey were able somehow to overcome it, trouble awaits the second claim around which his derivation of a Kantian consequentialism is constructed.

III

Cummiskey argues that the value of rational nature can be shown to be the condition which accounts for the value of individual agents' contingent ends. But this rational nature is one which I share equally with all other agents. So I cannot value my own rational nature or the ends which that nature enable me to develop without valuing the rational nature of others equally. Cummiskey derives what he calls the "equivalence argument" from this set of claims: "in choosing, ordering, and pursuing my own ends, I am rationally committed to the equal significance of other people" (p.88). He fleshes this principle out by claiming that it entails that I should strive "as far as I can to promote the necessary conditions for, first, reflective rational choice, and, second, the effective realization of rationally chosen ends" (p. 89).

Now, it is clear that the passage from the first, general formulation of the "equivalence argument" to the second, more specific formulation, is a *non sequitur*. On Cummiskey's view, the argument requires that a) I should not view the promotion of the conditions for my capacity for reflective rational choice as being of any greater importance than the promotion of

the same conditions for others, and b) that I should view the rationally chosen ends of others as reasons for action indistinguishable from my own rationally chosen ends. Let me concentrate on claim b) for the time being. (I will have occasion to comment on a) in the next section). Now it simply does not follow from the fact that I should view the rational nature of all other agents as being of equal value to my own that I should view their rationally chosen ends as ones that I ought to pursue to the same extent and in the same manner as I pursue my own ends. At best, this conclusion only follows from the general formulation of the equivalence argument if an implicit premiss is assumed, namely, that it does not make a difference to the value realized through the attainment of an agent's rationally chosen ends, whether these ends are attained through the agent's own activity or through the agency of another person. Let me call this suppressed premiss the *indifference claim*.

I think it is clear that Kant could not have endorsed the indifference claim. If it is in fact the case on Kantian grounds that we have an unrestricted duty to promote the ends of others, and to treat them, in effect, as on a par with our own, so that there would be no difference from the point of view of the value realized between my attaining the ends I set for myself and my attaining the ends which *another* person has set for herself, then, at the limit, there should be nothing amiss from a moral point of view with my being *entirely causally responsible* for the attainment of the ends set by another person. Yet it is clear that this is an implication that Kant could not have accepted. Indeed, it would in his view be self-defeating. Humanity as Kant conceives of it includes not just "the power to set ends" but also the talents and powers required in order to pursue "all sorts of possible ends".⁵ So the mere possibility that a putative duty derived from FHE would countenance a state of affairs in which one person were to act in another's stead in the pursuit of the latter's ends suffices to render it suspect. The fact that other agents' rationally chosen ends constitute objective reasons for all other agents should not mask the particular relationship which exists between particular

⁵For a thorough inventory of the contents of the Kantian concept of "humanity", see Hill (1992), pp. 39-41; see also Korsgaard (1996), pp. 110-114.

agents and their ends, namely, that they exercise their rational nature in setting and pursuing their own ends, by effecting too radical a "decoupling" between agents and their ends.

Another consideration clinches the point that Kant could not have accepted the indifference claim. Remember that both FUL and FHE ground an (imperfect) obligation to develop one's talents. Presumably, one's talents are developed through the pursuit of one's own ends. Thus a principle which would allow for the possibility that one's ends be entirely achieved through another's efforts would be ruled out of court by the Categorical Imperative. To the extent that Cummiskey's conception of the "equivalence argument" allows for precisely this situation, it cannot be a principle which Kant would have affirmed.

So the general formulation of the equivalence argument, which Kant most assuredly affirmed, could not have given rise in his view to the more specific construal of the principle which Cummiskey has put forward. Now, this conclusion and the Kantian considerations which I have adduced to generate it, suggests the following further conclusion. In Kant's view, the contributions we make to the attainment of other agents' ends must be constrained by the respect which is due to their rational nature. That is, though it is true that the equal respect which is due to the rational nature of all agents implies that other agents' ends provide us with reasons for action, these reasons are not such that we should aim at the attainment of their ends in the same way that they should. In other words, we should avoid contributing to their ends in ways which undercut or constrain the development of their rational nature. Though we are duty-bound to contribute to other agents possessing the conditions which they require in order rationally to pursue their ends, we are also duty-bound to do so in ways that do not short-circuit the exercise and development of their rational nature which occurs when they pursue their ends themselves. There are therefore constraints upon the consequentialist actions of all agents which are justified by the respect which is due to other agents' rational nature.

This suggests, moreover, that something is amiss with Cummiskey's construal of Kant's theory of value. Remember that for Cummiskey, Kant puts forward a complex theory

of value within which rational nature and happiness are lexically ordered. Now according to a conception of lexical ordering which comes to us from Rawls, and which Cummiskey endorses (p. 4), this means that we must ensure that the realization of the value ranked highest in the lexical ordering (rational nature) is entirely satisfied before we can move on to the second (happiness). In other words, we cannot on this view pursue happiness if this involves limiting our pursuit of rational nature. According to this view, the relationship between the two components of Kant's overall theory of the good is construed structurally rather than substantively. The foregoing considerations concerning the acceptable ways in which we may pursue others' happiness suggest an alternative picture of Kant's theory of the good: the promotion of rational nature and the promotion of happiness are *internally related*, in that respect for rational nature conditions what it means for a Kantian moral agent to promote the happiness of others.⁶ This point will be made clearer when we consider the other aspect of our Kantian consequentialist duties, the promotion of rational nature as such.

IV

Remember that the equivalence argument had in Cummiskey's view given rise to the requirement that we take up other agent's permissible ends as constituting reasons for action in the same way as our own ends do, *and* that we promote rational nature, in ourselves and in others equally, the latter obligation taking absolute precedence over the former.

Now, Cummiskey is in a sense only repeating what Kant himself writes about the duty to promote rational nature. For example, in *Groundwork 2*, Kant writes that "rational nature separates itself out from all other things by the fact that it sets itself an end. An end would thus be the matter of every good will (*Gr*, p. 105)." In other words, part of what it is involved in a will's being good is precisely that it promote the end of rational nature.

⁶ One response apparently available to Cummiskey would be to say that happiness as he conceives of it within Kant's theory of value cannot be equated to the realization of rationally-set ends, but rather should be thought of hedonistically, as characterizing agents' psychic states, regardless of whether these states are produced *by* the attainment of ends. There is good evidence however to suggest that happiness so construed could not be the goal of moral action for Kant, since it "could have been brought about by other causes as well, and consequently [its] production did not require the will of a rational being [...]". (*Gr*, 401)

The problem for Cummiskey's interpretation is that this idea does not lend itself to the *kind* of consequentialist spin he puts on it. I want to come at this point from a number of different directions, because it strikes me as central both to the understanding of where Cummiskey's interpretation of Kant has gone wrong, and to an understanding of the *kind* of consequentialism that Kant can be seen as putting forward.

Cummiskey does not say much about the precise nature of the duties which we would have to recognize in order to promote rational nature. From what we have already shown, it is clear that it cannot simply reduce for Cummiskey to the promotion of others' happiness or the attainment of their ends. He is moreover quite clear that promotion of rational nature cannot be understood in a quantitative manner, as the idea that "Kantian value is some stuff and that we are to produce as much of this stuff as possible". Rather, rational nature as understood by Kant is a "person-affecting" value. "The idea is that each existing person in virtue of his rational nature (or humanity) has a claim to equal consideration" (p. 92).⁷ Finally, Cummiskey sometimes (eg. p. 89) writes that we are not to promote the end of rational nature directly, but rather by promoting the "necessary conditions" for its exercise in reflective rational choice. It is hard to know exactly what such necessary conditions might involve, but one can naturally imagine that they would include the satisfaction of the needs which human beings have as finite, non-self-sufficient, embodied creatures. It is indeed necessary for the development of our highest capacities that those aspects of our being in virtue of which we are most vulnerable be attended to.

⁷ Note that Cummiskey's rejection of the "external stuff" conception of Kantian value is in some tension with another part of his argument. In the final chapter of his book, Cummiskey argues that the unrestricted nature of Kantian consequentialism is such that it can in certain (admittedly exceptional) circumstances give rise to the obligation to sacrifice innocent rational beings, perhaps even oneself, if so doing allows one to save a greater number of rational beings. Cummiskey asks, rhetorically: "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?" (p. 146). Now an obligation to sacrifice 1 rational being if so doing allows one to save 2 only makes sense if we believe the following claim: it does not matter which specific set of individuals exist, as long as the set that *does* exist is as large as possible. But this claim seems neutral between (a) sacrificing an innocent rational beings so that 2 already existing rational beings survive, and (b) sacrificing an innocent rational being so that 2 *new* rational beings come to exist. (It would be quite easy to devise a science-fiction example in which this would be the alternative). If this is the case, then Cummiskey's use of the "person-affecting" restriction to block the unwanted implications of an "external stuff" conception of value seems unattractively *ad hoc*.

The problem for Cummiskey's interpretation is that it is unclear what the duty to promote rational nature would amount to concretely in the light of the possible interpretations I have spelled out. The only positive characterization he provides, which states that we ought to aid our fellows in their possession of the means required to satisfy basic human needs, is embodied in a duty of beneficence that FUL already generates. Indeed, as Onora O'Neill (1989) has shown, the "contradiction in conception" test to which FUL gives rise blocks maxims the universalization of which would give rise to a contradiction when placed in the context of the conditions which are those of a finite rational will. In other words, FUL already generates a duty to promote the conditions necessary for rational willing. (And in quite a different way, so do the first principles of Kant's philosophy of law; I shall return to this point below). Remember, however, that Cummiskey's interpretation of Kant is built around the idea that FHE generates consequentialist duties that differ *substantively* from those which can be generated from FUL. So unless he has something else in mind in referring to our duty to promote the conditions required for the exercise of rational willing, it follows that he has not generated a specific content for the duty to promote rational nature not already implied by FUL.

Let me take up some unfinished business from the previous section to indicate further problems which the indeterminacy of the obligation to promote rational nature would pose for the theory of value Cummiskey ascribes to Kant, and for the duties which he derives therefrom. If our duty to pursue the good of rational nature is, as Cummiskey argues, lexically superior to the duty to promote happiness, then it is imperative that we have a clear idea of when a threshold has been reached in our pursuit of the former goal such that it is plausible to claim that we have done all we can do to realize it. I have argued that one way of providing such a clear criterion is closed to Cummiskey: he cannot claim that our Kantian obligation to promote the conditions which are required by finite, embodied individuals for their rational wills to flourish provides us with such a criterion, since such an obligation can be derived from the "contradiction in the will" test of the Categorical Imperative, and

Cummiskey is committed to finding a content for the requirement that we promote rational nature which cannot already be derived from FUL. But what else might it involve, if the "external stuff" conception of rational nature is also ruled out, along with the conception of rational nature as a negative constraint on our pursuit of our individual good?

My suggestion is that the duty to promote rational nature is either vacuous or unfulfillable. Either (as I will suggest below) there simply *is* no positive content to the duty to promote rational nature separate from the type of duty already derivable from FUL, or it is possible to make sense of such a duty, but it is literally limitless, in that it is unclear what could possibly count as doing everything we possibly can to promote rational nature, and so the dual conception of value Cummiskey ascribes to Kant would have the unwelcome consequence of not allowing us ever to get around to promoting the subsidiary goal of human happiness. As I will ultimately be defending the former view, let me briefly consider the latter.

Imagine that there were a type of action I could perform that would contribute directly to other agents' rational nature. Let us call them R-actions. Remember that the point is not that I promote the material or institutional conditions which finite beings require for their rational wills to flourish, nor that I contribute to the existence of as many rational beings as possible, but rather that I promote the rational nature of already existing beings. Now if R-actions really did exist, I would be duty-bound to engage in them so as to acquit myself of my obligation to promote rational nature. The problem is this: how would I know when I had sufficiently acquitted myself of this obligation, and when I would therefore have to move on to the realization of the lexically inferior value of happiness? There does not seem to be any top limit to the extent to which human reason can develop, and so, in theory, I would have to keep on engaging in R-actions without end. Now, this objection could be met if we were able to define some kind of threshold: once I have contributed to rational nature to some specified degree, I can then move on to the duty to promote happiness.

This way of meeting the "unfulfillability" objection would run the risk of appearing *ad hoc* and unprincipled. Indeed, once we have set rational nature as an end to be pursued through our R-actions, why stop at threshold x rather than at threshold $x+1$? Be that as it may, Cummiskey cannot help himself to this argument, because he is committed to a maximising conception of the duty to promote obligatory ends. He interprets Kant's principle of rationality according to which "If I fully will the effect, I also will the action required for it" (*Gr*, 417) as implying that I must do everything in my power to pursue my ends, and in particular, that "I am rationally required to *maximally promote* the objectively valid ends of morality" (p. 91). So were Cummiskey to accept the existence of R-actions, he would find himself saddled with the unfulfillability objection. His reconstruction of Kantian consequentialism would thus lead to the paradoxical result that we could never get around to promoting the rational ends of other agents, since it would never be the case that we could say of ourselves that we had done everything in our power to promote rational nature.

Cummiskey himself does not raise the possibility that there exist anything like R-actions. He simply leaves indeterminate what positive duties would flow from the general obligation to promote rational nature, once the various possible construals which I mooted above are excluded.

I want to suggest here that it is not surprising that Cummiskey has trouble coming up with any distinct positive content for the Kantian duty of promoting rational nature. The reason is that, above and beyond the FUL-derived duty to promote the conditions on the basis of which alone the rational nature of a finite, embodied rational will can thrive, there *is* no *positive* duty to promote rational nature. So rather than falling prey to the unfulfillability objection, he succumbs to what I will call the vacuity objection: since the meaning of the obligation to promote rational nature is indeterminate, that is, since there does not seem to be any positive content to the general obligation not already implied by FUL, the agent is left completely in the dark about the type of actions he is duty-bound to perform before he can move on to promoting the rationally chosen ends of his fellows.

A first way of making plain the fact that FHE does not specify a positive content for the duty to promote humanity not already implied by FUL is by reference to a condition on the interpretation of the formulations of the Categorical Imperative which I have already employed above, namely, that, to the extent that it is possible, we should follow Kant in viewing its various formulations as intensionally equivalent. Now if we do this, then it will have to be the case that we promote rational nature *to the same extent* and *in the same way* whether our maxims pass the test of the Categorical Imperative *either* in its FUL *or* in its FHE formulation. Now FUL makes plain something that a reading of FHE such as Cummiskey's tends to elide, namely, that the Categorical Imperative "recognizes" two distinct sets of maxims: maxims which the "contradiction in the will" test reveals as obligatory, and inclination-based maxims which are *permitted* by the "contradiction in conception test, and which are thus shown *not* to involve the instrumentalization and victimization of other agents. Now the important point is this: though it may happen that people act on either permissible or obligatory maxims without the determining ground of the action being the conformity of their maxim to the moral law (that this is possible in the case of inclination-based prudential maxims is obvious, that it can be the case even for maxims which present outward conformity to obligation becomes clear when we consider the case of the person who performs beneficent actions *because* she derives satisfaction therefrom), *when* they act on permissible or obligatory maxims *because* of their conformity with the moral law, their maxims exhibit moral worth in the same way and to the same degree. Both the permissibility of some inclination-based maxims and the obligatoriness of required maxims have their source in the same principle, and thus it should not come out that non-exploitative and non-deceptive action promote rational nature to a lesser degree than obligatory actions. There is no double requirement that we both conform our maxims to the Categorical Imperative *and* that we promote rational nature. It is rather *in* conforming our maxims to the Categorical Imperative that we promote rational nature.

A second way of seeing that, in Kant's view, the promotion of rational nature does not involve any positive duties not already implied by the imperfect duty to promote the happiness of others as well as the conditions necessary for the exercise of their capacity for rational choice can be derived from a passage from *Groundwork 2* which Cummiskey invokes in order to show that Kant cannot mean by "rational nature" some kind of "external stuff". The passage is the following:

Rational nature separates itself out from all other things by the fact that it sets itself an end. An end would thus be the matter of every good will. But in the Idea of a will which is absolutely good - good without any qualifying condition (namely, that it should attain this or that end) - there must be complete abstraction from every end that has to be *produced* (as something which would make every will only relatively good). Hence the end must here be conceived, not as an end to be produced, *but as a self-existent* end. It must therefore be conceived only negatively - that is, as an end against which we should never act [...] (*Gr*, 437).

Here, I take Kant to be saying that rational nature is special among the ends which can be pursued in that it is promoted *de facto* by any good will, that is, by any will that only wills in accordance with maxims which have the moral law as their determining ground. Not only, therefore, is Kant arguing against a view which would hold rational nature to be some kind of "external stuff", but also, and most importantly (as it is not clear to me that Kant even conceived of the "external stuff" conception of rational nature as a plausible conception against which it would even be *necessary* to argue), he is arguing against any conception of rational nature which would have it be the case that there is something more to the promotion of rational nature than moral willing.

Now an obvious objection to this line of argument would hold that it represents Kant fairly as far as it goes, but that since beneficence is a duty derived from the Categorical Imperative, and since both the arguments which Kant adduces, and those which have been advanced in Kant's name to make beneficence a mere "imperfect" duty, and thus, one in relation to which the agent has a significant area of "latitude" fail, it follows that a moral will just *is* a will that accepts an obligation unrestrictedly to promote rational nature and the ends of rational beings to the greatest degree possible, regardless of whether the rational nature and ends in question are its own or those of another rational will. This is precisely the line of

argument which Cummiskey develops in chapter 6 of his book, and it is to this argument that I now turn.

V

The final aspect of Cummiskey's argument to which I want to pay particular attention is thus his refutation of Kant's distinction between perfect and imperfect duties.

Cummiskey's strategy is multi-pronged and involves at least the following elements: first, the perfect/imperfect distinction is "comparatively minor" (p. 105) in the overall economy of Kant's thought, and thus, should not be given the same weight as his more systematic pronouncements; second, the textual evidence in any case points to the fact that Kant himself espoused a spartan rather than an anemic latitudinarian interpretation of the notion of imperfect duty, according to which one can in fact only forego an imperfect duty for the sake of *another* imperfect duty or of a perfect duty. And third, that the defenses that have been offered to defend the distinction in Kant's name, and to show that imperfect duties provide the agent with significant "latitude" in his observance of imperfect duties, are unpersuasive.

I will not address any of these objections directly. The first strikes me as unpersuasive, and based upon circular reasoning. Indeed, what other evidence does Cummiskey have for the marginality of the perfect/imperfect distinction in Kant's corpus, other than the fact that it does not fit in with his interpretation of Kant? Nor does Cummiskey's claim that the textual evidence overwhelmingly supports the robust interpretation strike me as any more convincing. Indeed, Marcia Baron's very exhaustive survey (1995) of the Kantian passages pertaining to the distinction indicates that no single interpretation can lay claim to the totality of the textual evidence, and to the extent that one can claim a *preponderance* of the evidence, it is not the robust interpretation Cummiskey argues for.

So Cummiskey's case ultimately depends upon the failure of particular interpretations of the distinction as well as of the reasons why Kant seems to think that imperfect duties are

somehow less demanding than perfect ones. Now even granted Cummiskey's claim that none of these attempted defenses work, the door is left open to other defenses.

In what follows, I want to sketch out an alternative defense of the perfect/imperfect distinction and of the lesser bindingness of the latter in a way which connects with Kant's broader systematic concerns. Remember, to begin with, how the distinction is generated by Kant (*Gr* 57): perfect duties are those that are revealed by the contradiction in conception test. They are duties *not* to act on maxims the willing of which would be self-defeating in a hypothetical world in which they were universalized. Imperfect duties are for their part generated by the contradiction in the will test, which blocks maxims which could not be willed in a hypothetical world in which they had been universalized, *given* the conditions under which finite rational wills such as ours operate. Now clearly, it is not the mere logical properties of the universalized maxims which account for their being deemed unacceptable from the point of view of the Categorical Imperative. The contradiction in conception test is meant to block a certain kind of moral free-riding, the fact that certain of our proposed maxims might involve our making exceptions of ourselves by posing an action which would become impossible were everyone to act in the same way. What the contradiction in the will test picks out is slightly more difficult to identify clearly, but what follows strikes me as roughly accurate: it identifies certain maxims of which it is true to say that, were no one ever to take them up, the conditions required for the flourishing of finite rational wills would not obtain. So the contradiction in the will test enjoins us *not* to take up maxims which would involve the kind of moral free-riding identified above, while the contradiction in the will test tells us *not* to take up maxims through which we would commit ourselves *never* to aid another person or to contribute to the perfection of our talents and aptitudes. Now it is clear that what follows from our duty not to take up maxims whereby we so commit ourselves is that we should take up *some* maxims to aid others and to perfect ourselves (or that we should take a more general maxim sometimes to aid others and to develop our talents).

Now, this "sometimes" is clearly indeterminate as it stands, and it might seem at first glance to open the door to the kind of moral back-sliding that Kant clearly would have opposed. It is here however that the consequentialist basis of imperfect duties becomes important. The idea is that agents must develop their talents and contribute to the welfare of others *so that* the conditions required for the full flourishing of rational wills are secured. I am obligated to aid others to the extent that my aid is required to ensure that they will be able to benefit from the material, institutional and other conditions which they need in order to be able fully to exercise their rational natures. Now on the face of it, this seems a very demanding requirement. Indeed, it is hard to see how I could ever be permitted to act in pursuit of one of my own ends if I am required by the imperfect duty of beneficence to ensure the conditions for the rational willing for all others.

Remember however that for Kant, "a rational being must always regard himself as making laws in a kingdom of ends (...)", where a kingdom of ends is defined as "a systematic union of rational beings under common objective laws" (Gr, 433-434). One of the implications of this idea as I understand it is that morality in Kant's view does not require that my maxims be formulated with an eye to the possible non-compliance of my fellows. Rather, it enjoins me to observe rules which are justified by the fact that they would be legislated by other moral agents, and thus which are based on the assumption that all others will also be regulating their behaviour by them. What this means is that my consequentialist obligation to promote the conditions required for the flourishing of rational nature do not extend to covering for the shortfalls created by the moral backsliding of others. The pursuit of these conditions should be thought of as a collective rather than as a purely individual duty, one that does not require that any individual agent compensate for the non-compliance of his fellows. This notion of beneficence is thus surprisingly close to that recently advocated by Liam Murphy (1993), according to which "each agent is required to sacrifice only as much as would optimally be required of her under full compliance".

Though I recognize that this is highly speculative, I think that it respects the systematic intent Kant had in putting forward the notion of imperfect duties by deriving it from the logic of the contradiction in conception test. Now whether an individual agent's morally required contribution to the fostering of the conditions required for the flourishing of rational nature under these conditions would leave her with any agent-centred prerogative to pursue her own ends is obviously a complex empirical question. It is clear that the chances that it will be greater than would be the case given the extent of the obligations which she would inherit from the more extreme form of consequentialism Cummiskey attributes to Kant.

I want now briefly to suggest a second set of important Kantian grounds which seem to me to militate for a somewhat latitudinarian interpretation of the idea of an imperfect duty. They have to do with Kant's philosophy of action. Briefly stated, the claim is that Kant was still enough of a Humean about action to believe that action in the absence of inclinations is inconceivable. Kant's innovation with respect to Hume's view of action consists in the thought that, to account for human freedom, we must represent agents as "incorporating" inclinations into maxims, that is, into principles having a propositional form (see Allison 1990 for the idea of "incorporation"). Such maxims can then be rationally entertained, and in particular, in the case of the moral agent, accepted or rejected depending upon the maxim's conformity to moral law. The important idea for present purposes is that agents only come to the Categorical Imperative in the possession of determinate maxims. As it manifests itself in the lives of human agents, therefore, morality does not occupy the first place in the order of deliberation. Rather, agents must already have determinate maxims which they then "propose" to the test of the categorical imperative, and these maxims embody inclinations which agents have to decide to pursue or not to pursue. The moral agent is thus for Kant an agent who only acts according to maxims either permitted or required by the Categorical Imperative, and who regards the Categorical Imperative rather than the inclinations built into his maxims as the determining ground of his action.

The idea that suggests itself from this picture of action is the following one: agent-centred prerogatives are built into the philosophy of action which Kant's moral theory presupposes. It is simply a fact about human agents for Kant that they act in function of the conception of happiness which they determine for themselves, the raw materials of which are inclinations, in the absence of which maxims could not be formulated. And in the absence of maxims, in turn, there would be nothing for the moral test which the Categorical Imperative embodies to operate upon.

VI

I want in this final section, first, to summarize the arguments which I have opposed to Cummiskey's particular way of "consequentializing" Kant, and second, to describe the form of consequentialism which seems to follow from these criticisms.

Remember that Cummiskey's overall argument turns on four principal claims:

- 1) The formula of humanity as an end-in-itself completes the derivation of the Categorical Imperative, and it does so in a substantive manner, by adding content to the principle not already embodied in the formula of universal law. The added content is moreover clearly consequentialist in nature, in that it enjoins us to promote rational nature.
- 2) The value embodied in this principle is objective, and so provides agents with agent-neutral reasons for action. Another agent's ends and rational nature provide me with as much of a reason for action, and moreover provides me with a reason of the same kind, as my own ends and rational nature. This is what Cummiskey calls the "equivalence argument".
- 3) The conception of value embodied in the principle is two-tiered, placing rational nature in a position of lexical priority with respect to that of individual happiness. We thus have a responsibility to do all we can to promote rational nature before we can go on to contribute to others' happiness.
- 4) The traditional arguments buttressing Kant's distinction between perfect and imperfect duties, and those supporting the lesser "demandingness" of the latter, fail, and so there can be

no Kantian justification of agent-centred prerogatives at times to disregard the aid one might be able to provide another agent with for the sake of the pursuit of one's own goals.

Against these arguments, I have argued for the following claims:

Contra 1) FHE is best interpreted as as intensionally equivalent to FUL. One promotes rational nature *by* making the moral law the determining ground of one's will. The duty to promote rational nature does not constitute an obligation distinct from those already implied by FUL.

Contra 2) The equivalence argument cannot entail a more specific principle which would make it allowable for an agent to be entirely causally responsible for the attainment of another's ends. This would be self-defeating in the light of Kant's own construal of what rational nature involves. There is however obviously no analogous problem from the point of view of this value with my being entirely causally responsible for the attainment of *my* ends. There is thus an important disanalogy between the type of reason which my ends on the one hand, and other agents' ends on the other hand, represent for me.

Contra 2 bis) It is unclear what the duty to promote rational nature involves if it is meant to exclude a) the promotion of rational nature construed as a form of "external stuff", b) the pursuit of happiness, and c) the simple fact of accepting that rational nature constitutes a *constraint* on one's pursuit of one's own individual goals.

Contra 3: The most obvious way of responding to the two previous objections is to accept that something is amiss with Cummiskey's account of Kantian value: rather than seeing happiness and rational nature as two discrete values which are lexically ordered, it is best to see the latter as imposing a constraint on the ways in which we can contribute to the former. The need to modify the account of Kant's theory of value in this way is made even more acute by what I have called the *problem of vacuity*, namely, the fact that given a) the lexical priority of the promotion of rational nature over that of happiness, and b) the impossibility of determining when we have *fully* met the requirement set by the obligation to promote rational nature, Cummiskey's theory leads to the unwelcome conclusion that Kantianism would

require that certain material needs might go unmet while we try as best we can to "maximise" our attainment of the end of rational nature.

Finally, *contra* 4: I have argued that a Kantian justification for both the perfect/imperfect distinction *and* for the lesser demandingness of imperfect obligations can be derived a) from the consequentialist basis for imperfect obligations, according to which our obligations to aid are bounded by the consequentialist requirement that the conditions for the flourishing of rational nature obtain, and b) from the philosophy of action which is presupposed by Kant's moral theory, according to which the maxims which underpin human action draw their content from individual inclination.

Where does this leave us? In concluding this paper, I want to draw out some lessons which my critique of Cummiskey suggests, in order to provide a clear picture of the manner in which Kantian ethics attempts to reconcile the most plausible aspects of consequentialist and deontological approaches to ethics into a unified theory.

Let me begin by citing what at first glance appears to be an uncontentious way of classifying consequentialist and deontological theories suggested by Philip Pettit (1991). On Pettit's view, moral theories put forward, first, a theory of the good, and second, a view about "what individual and institutional agents should do by way of responding to valuable properties" (p. 230). Consequentialist theories require that agents "promote" the value in question, that is, that they "produce whatever actions have the property of promoting a designated value, even actions that fail intuitively to honour it" (p.231). Deontological theories by contrast "hold that at least some values call to be honoured whether or not they are thereby promoted" (p. 231). To honour a value means to observe agent-centred constraints preventing one from acting against a value even if so acting would have as an effect to increase the realization of the value in question.

This way of presenting the difference between consequentialist and deontological theories is clearly somewhat tendentious. Indeed, if they are both seen as serving the same kinds of values, then the consequentialist can always challenge the deontologist by claiming

that the latter's allegiance to this value is paper-thin, given his unwillingness to generating as much of it as possible when empirical circumstances tragically make it the case that maximisation requires posing an act which, taken strictly on its face, can be seen as falling foul of the value in question.

But what this way of presenting the difference elides is precisely what Kant's theory intends to bring to the fore, namely that there are values which by their very nature make it the case that they cannot be realised if acted against. Kant's "rational nature" is intended to have this structure: it is *in* acting in certain ways, namely, in acting only on maxims which satisfy a formal test which evinces the respect we owe other agents' reason, that we realize the value of rational nature. Rational nature is for Kant not something which we can causally bring about greater amounts of by undertaking actions which are underpinned by maxims which are contrary to rational nature. Another way of putting the point is to say that rational nature is conceptually rather than contingently related to our actions' maxims. It is the quality of our maxims which realizes the value in question, rather than any consequences which our action might bring about.

This is a description rather than a defense of the Kantian position. But it indicates at least logically possible space which Pettit's distinction hides from view. For Pettit, the theory of value is independent of the types of actions undertaken to realize the values specified by the theory. On his view, any value V can either be honored or promoted. And this raises the question: if you can honor, why not promote? But Kant's theory points to the possibility of a kind of value which is not so indifferent, and which can only be realized through honoring, or to put the point negatively, which cannot be realized by actions which, as it were, locally dishonor the value in order to give rise, causally, to greater quantities of it. That we can conceive of such a value shows that there is something amiss with Pettit's distinction, and also with Cummiskey's attempt at giving a consequentialist spin on Kant's theory of value.

The general philosophical lesson I want to draw from this discussion is the following: I take it that an optimally adequate moral theory will provide us with a clear picture of the

kinds of moral values there are, and of the kinds of actions which we must undertake in order to realize them. A theory which would truly try to get beyond the unhelpful dichotomies which modern moral philosophy has saddled us with would not allow itself to be limited only to the kinds of values which one or the other of the theories on offer allows us to see. If the field of value ends up having a hybrid nature, then the resulting moral theory might end up having a hybrid structure. Though perhaps less intellectually or esthetically pleasing than the simple theories currently on offer, such a theory might end up being truer than any of these theories to the values that there are.

My suggestion is that Kant perceived the need for a complex theory of value. Rational nature was clearly paramount for him, because it is the condition of anything else having value, but the merely negative requirement which it might at first glance be taken to impose upon us should not in his view hide the fact that the *exercise* of rationality requires for embodied rational beings such as ourselves that certain material and institutional conditions be in place. Thus, we have an imperfect duty to aid others (though, as we have seen, the way we go about delivering this aid must *itself* be respectful of the rationality of the persons targeted), and as I have argued elsewhere (**identifying reference removed**), we have an obligation to set up political structures which have as their primary *raison d'être* the securing of those conditions required for the exercise of rationality which cannot simply be obtained through individual effort.

Kant's moral theory thus has a hybrid structure in that, *pace* those who would read him as a strict deontologist, we have obligations to promote the good of others, by helping them attain their goals when so doing does not in and of itself detract from the respect that is due to them as rational agents, and by contributing to the realization of the empirical conditions, whatever they may be, that must be in place in order for finite rational beings such as ourselves to be able to exercise their rationality.

How plausible is the theory that could be developed out of the foregoing (admittedly tentative) sketch? Given the length at which this paper has already gone on, I can only say a

few very quick words. The theory would bear some resemblance to objective conceptions of well-being, in that it would define a range of goods which would make lives good regardless of individual preference and desire, in that they would be empirically necessary conditions for the exercise of rationality, itself a conceptual condition of all other values.⁸ As such, it would inherit both some of those theories' strengths (their avoidance of difficulties linked to more traditional desire or preference-based accounts, for which see Griffin 1977), and some of its weaknesses (most notably, its inability to account for the differences in people's valuations of the goods it sets forth, such as individual autonomy and rational self-realization). Note however two advantages which the theory would have: first, it would go beyond merely providing a list of goods to be realized, and would ground that list in a more fundamental value, itself presupposed by human agency as such;⁹ and second, the nature of the fundamental value which the theory aims to realize, namely rational nature, means that the problems which arise for some consequentialist theories from their tendency to *maximise* their core values would not arise in the case of a Kantian consequentialism.¹⁰ First, the *conditions* which are required in order for rational nature to operate need not be maximised, but need only obtain beyond a certain threshold, while rational nature *itself*, as we have seen, does not even lend itself to the quantifying logic which makes maximisation an option.

These claims are clearly in need of further elaboration and substantiation. I hope simply to have established that Cummiskey's attempt at bridging the gap between Kantianism and consequentialism fails, and to have indicated the lines which further work in this area ought to adopt.

⁸For accounts of objective theories, see Parfit (1984), pp. 499-501; Griffin (1986), ch. III; Sumner (1996), ch.3.

⁹For an instance of the complaint that objective theories merely provide lists without any accompanying theory, see Sumner 1996, p. 45.

¹⁰For some of the problems linked to maximisation, and for some utilitarian responses to these problems, see Scarre 1996, ch. VII.

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