Moral Law and Moral Education: Defending Kantian Autonomy

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In this paper, I examine why Kantian ethics has had such a hard time of it. I look at readings of Kant’s moral theory that have had great force in the 20th century and conclude that these have much to do with an ensuing confusion, which has led to charges of rigidity, formality and severity. Then I demonstrate that when we make moral judgements we rely heavily on the stock of rules, norms, duties and laws that is extant in our social life. We use these as frames that are already influential in the role and scope of our anticipated moral action. We deliberate primarily by forming a maxim (principle) that must have the consent of all. We do so only occasionally, as the existing stock of rules is already in operation, helping us to reject out-of-hand outlandish or egregious maxims. Finally, I discuss, in very cursory form, some educational approaches based on this way of conceiving Kantian moral theory.

Universalistic moral strategies have a tough time of it right now. Utilitarianism has long passed its point of popularity. Kantian moral theory has fared somewhat better in philosophical and political circles, but poorly in educational ones. There are a number of reasons, I believe, why this is so. First, Kantian moral theory appears excessively formalistic or rule-bound. It seems to reduce to the command: ‘do your duties’. As such, it is unlikely to be popular with teachers and academics that prize flexibility and case-based ethical judgment. Second, it seems to leave no room for consequences. ‘What happens if I act according to duty? Perhaps something terrible will happen to someone. However, this cannot be my problem once I have done my duty, for I have done my duty, after all, and I should not then worry about the consequences of my acts.’ Third, it seems impossibly difficult to follow. I must surrender all of my motives to the arbiter of duty and can act only on those that have ‘moral worth’. Few if any could be expected to follow such a harsh and demanding moral regimen. Fourth, it seems to be built on a now-discredited metaphysics, one that privileges reason and rationality to the detriment of all else. This metaphysics is subjective, individualist, and uncompromising. We live in a post-metaphysical age so why should we adopt a metaphysical theory of morals?
Beyond this, we already have and use ethical models that meet our educational needs. For example, care theory holds great promise as a way of helping children, and especially boys, develop relationship skills. Particularist and other context-based theories of the moral life—for example, John Dewey’s discussion of value inquiry—already suit the needs of educators attempting to craft ethical practices. Recent work on virtue ethics and character development also holds great promise. Why should we invest intellectual time and energy in retrieving Kantian moral theory? I claim that Kantian moral theory gives us something that these other models cannot. This something is a clear and powerful example of how we already operate within the context of moral principles and how we can in turn use these to improve our moral judgements. What I mean by this will become clear as I take us through a (modified) Kantian account of morality. I say modified because strictly speaking, this is not Kant’s theory of morals as historically understood—the ‘standard’ description; rather it is Kant as seen through the lens of certain 20th century interpretations of common sense morality.

In Part I of this paper, I examine why Kantian ethics has had such a hard time of it in Anglo-American contexts. I look at readings of Kant’s moral theory having great force in the 19th and early 20th century and conclude that these have a great deal to do with the ensuing confusion leading to charges of rigidity, formality and severity. In Part II, I demonstrate that when we make moral judgements we rely heavily on our existing stock of rules, norms, duties and laws in our social lives. We use these as frames that are already in play as we engage in our everyday moral judgements and practice. We deliberate primarily by forming a maxim (principle) that must have the consent of all, but we do so only occasionally, as our existing stock of rules, norms, duties and laws is already in operation, helping us to reject out of hand outlandish or egregious possibilities. In Part III I discuss in cursory form, some educational conclusions arising from this way of conceiving Kantian moral theory.

I KANTIAN MORAL THEORY IN 19TH AND 20TH CENTURY ENGLAND AND AMERICA: A BRIEF OVERVIEW

In the English-speaking world, Kant’s moral theory has historically had a difficult reception. England and the Continent were moving in two very different philosophical directions at the time of Kant’s writing. While the continent, and particularly Germany, enmeshed itself in idealism, England was on the verge of embracing utilitarianism. Idealism, rooted in metaphysics, bore little resemblance to the burgeoning utilitarianism in England, which was avowedly anti-metaphysical. Both utilitarianism and Kantian moral theory were universalist in role and scope; but utilitarianism relied on sentiments, not duty, as the basis of moral judgment. Sentimentalism already had a strong reception in Great Britain, through Frances Hutcheson, David Hume and Adam Smith, and was in vogue at the time of the arrival of Kantian moral theory.
Though J. S. Mill recognises the affinity between utilitarianism and Kantian moral theory, he initiates a charge that developed into a mantra: that Kant’s moral theory is entirely too formal and rigorous, and that what good it does have is in its consequentialist conclusions:

This remarkable man, whose system of thought will long remain one of the landmarks in the history of philosophical speculation does, in the treatise in question [the *Groundwork of the Metaphysics of Morals*], lay down a universal first principle as the origin and round of moral obligation; it is this:- ‘So act, that the rule on which thou actest would admit of being adopted as a law by all rational beings.’ But when he begins to deduce from this precept any of the actual duties of morality, he fails, almost grotesquely, to show that there would be any contradiction, any logical (not to say physical) impossibility, in the adoption by all rational beings of the most outrageously immoral rules of conduct. All he shows is that the consequences of their universal adoption would be such as no one would choose to incur (Mill, 1962, p. 254).

Subsequent Utilitarians, such as Henry Sidgwick, also see Kantian moral theory this way:

I conceive that all (or almost all) persons who act conscientiously could sincerely will the maxims on which they act to be universally adopted: while at the same time we continually find such persons in thoroughly conscientious disagreement as to what each ought to do in a given set of circumstances. Under these circumstances, to say that all such persons act rightly—in the objective sense—because their maxims all conform to Kant’s fundamental rule, would obliterate altogether the distinction between subjective and objective rightness; it would amount to affirming that whatever any one thinks right is so, unless he is in error as to the facts of the case to which his judgment applies (Sidgwick, 1907, p. 210).

What good Kantian ethics has is due to its agreement with consequentialism. What is interesting (and partly right) about Sidgwick is his attempt to place Kantian moral theory under an ‘intuitionist’ umbrella. That is, the sort of ethical formalism that Kant espouses fits nicely with the doctrine of common sense-ism, wherein acts are moral more or less on the face of them. Sidgwick thinks that utilitarianism can embrace intuitionist moral theories, including the moral theory of Kant, though Sidgwick repeats the concern, common to Mill, that Kant’s Formula of the Universal Law is unworkable.

What makes Kant’s moral theory appealing here is not the Categorical Imperative; it is the force of the obvious. Subsequent interpreters of Kant have followed Sidgwick on this: much of what Kant takes as having moral worth is evident because what counts as moral worth develops in a society whose norms, rules, laws and duties are already broadly moral. To subsume Kantian moral theory under an aspect of intuition has been one way of de-fanging the seeming formalism and rigour of the Categorical Imperative, and it is the way of choice for many, if not most, scholars of
Kant today, including Barbara Herman, Christine Korsgaard and John Rawls. I myself agree with this broadly intuitive take on Kant; the take that suggests our common human reason does most of the moral ‘work’ for us. I shall return to this in Part II.

Analytic and ordinary language philosophy in the 20th century provides a most forceful interpretation of Kantian moral theory. Unlike those that follow in Sidgwick’s path, these thinkers do emphasise the formalism and rigour of the Categorical Imperative. Indeed, they emphasise it de trop. Despite the turn to idealism at the end of the 19th century, a strong and ultimately successful movement, based in a theory of the sentiments, and increasingly using ordinary language and logic, emerged. Pleased with neither utilitarianism nor Kantianism, this movement aimed to contextualise the debates over prescriptive morals by demonstrating their reliance on ordinary language. This movement misunderstood the aims of Kant, and this has had the effect of denying to Kant’s moral theory any prominent role for happiness. In turn, this state of affairs has solidified the view of Kantian moral theory as formal, rigid and inflexible. G. E. Moore himself derided Kant for making a good will the sole good. To Moore’s mind, the absurdity of happiness’s not being a good is palpable:

It is not commonly observed that if a thing is really to be a reward, it must be something good in itself: it is absurd to talk of rewarding a person by giving him something, which is less valuable than what he already has or which has no value at all. Thus Kant’s view that virtue renders us worthy of happiness is in flagrant contradiction with the view, which he implies and which is associated with his name, that a Good Will is the only thing having intrinsic value. It does not entitle us to make the charge sometimes made, that Kant is, inconsistently, a Eudaemonist or Hedonist: for it does not imply that happiness is the sole good. But it does imply that the Good Will is not the sole good: that a state of things in which we are both virtuous and happy is better in itself than one in which the happiness is absent (Moore, 1903, p. 178).

Though much early work on the intuitive interpretation of Kant took place in the first four decades of the 20th century, beginning in the 1950s an even more formulaic approach to Kant emerged. R. M. Hare is a fine example of this tendency. Hare, in his final work, displays this reading of Kant’s moral theory. He chastises those such as John Rawls (as well as earlier intuitionists that tried to temper the austerity and formality of Kant’s talk of duty) for placing moral law under an intuitionist’s umbrella:

Kant was indeed a deontologist, in the sense that he assigned a primary place to duty in his account of moral thinking. But he was not an intuitionist of the stamp of [H. A.] Prichard and [J. M.] Ross. He did not believe, with Prichard, that ‘If we do doubt whether there is really an obligation to originate A in a situation B, the remedy lies not in any process of general thinking but in getting face to face with a particular instance of the situation B, and then directly appreciating the obligation to
originate A in that situation’ . . . Kant would have called this ‘fumbling about with the aid of examples . . .’ (Hare, 1997, p. 148).

Hare lumps Rawls and a number of other intuitionist scholars together, chastises them and proceeds to argue that Kant’s talk of duty was completely context-free. It is this latter view of Kant, the view that trumpets the moral rigour and context-free decision-making of the universal law, that I am critical. It is this view that I believe is responsible for much of the scepticism towards a Kantian moral theory, including a Kantian moral theory in education.

Philosophically unsophisticated interpretations of Kant abound, and this often leads to profoundly mistaken conclusions regarding the severity and formality that Kant assigns to ethics.

To give one recent example, Michael Hand claims that:

Whether or not autonomy as construed by Kant is a defensible educational aim depends on the validity of his account of pure practical reason. Is it in fact true that the universalisable form of an action-guiding principle constitutes a sufficient reason for abiding by it? Surely it is not. Precisely because universalisibility is unrelated to any ‘object of the will’, and therefore to anything human beings desire, hope for or care about it is a property of the wrong logical kind to provide rational grounds for the adoption of a principle of conduct (Hand, 2006, p. 543).

This leads Hand to conclude that ‘[but] from the fact (if it is a fact) that universalisability is a distinguishing feature of defensible moral principles, one cannot infer that they are defensible by virtue of their universalisability. What makes a principle morally defensible is not its universal form, but the tendency of the actions it enjoins to advance the cause of human happiness or flourishing’ (p. 543). Hand goes on to discuss how unhelpful a formalist ethical programme is as an educational aim, and how little autonomy (in all of its senses, but for our purposes, this sense) can contribute to this. Autonomy simply cannot account for the way we desire. Kantian ethics in particular suggests that we can control our desires, yet as Hand claims, ‘desires do not appear to be the sort of things one chooses. I cannot just choose to have a desire to climb Mount Everest, or an interest in poetry, or a preference for jam over marmalade. And while I can choose not to indulge my passions . . . I cannot choose not to have those passions. Desires, like beliefs, cannot be the immediate objects of volitions’ (p. 547). It is this view, the view that Kant and Kantian ethics is rigid, absolutist, and misrepresentative of actual human conduct, which I want to challenge.

Such interpretations are apt to lead in turn to a dismissal of Kant, and Kantian ethics and moral theory, as a legitimate source of insight for educational practice. Some of this is due no doubt to the above reading of Kant: the reading of Kant through a utilitarian, analytic and ordinary language lens; but pragmatism in America has also contributed mightily to this false reading, and since John Dewey is foremost amongst the popular
philosophers of education, his views on Kant may well be uncritically accepted.

II READING KANT AS A COMMON SENSE MORALIST

Hand is correct about this: for Kant, autonomy is the supreme principle of our (human) wills (Kant, 1996a, 4: p. 440). Autonomy is the law of freedom. Freedom is our capacity to make laws for ourselves. Kant credits the Enlightenment as that age that recognised human beings no longer required external authority (the Church) to lead them morally. Human beings are able to do this themselves, if they recognise, and give themselves, a moral law that they then follow. This state of affairs is for Kant, freedom: freedom is the capacity to follow the moral law. For reason (the capacity for self-legislation) to give itself up to laws other than its own, to surrender itself to ‘objects of volition’, is tantamount to the loss of freedom. Reason caught in such a position can no longer legislate for itself. Of course, it can be very tricky to determine whether one is acting from a desire or duty. Actions grounded in inclination, Kant says, do not have moral worth. Only those grounded in duty do. Some means of recognition is required if people are to distinguish acts grounded in inclinations from those having moral worth. Many have taken Kant’s discussion of the Formula of Universal Law to be this means.

The idea of self-legislation in section one of the Groundwork is expressed as follows: ‘I ought never to act except in such a way that I could also will that my maxim should become a universal law’ (G, 4: p. 402). Making a moral judgment involves constructing a maxim. A maxim is a statement that reveals the action one wishes to take and one’s reasons for deciding upon this course. I may wish to punish my pupil with detention because he has responded sarcastically to my question. Do I have the right to do so? On one reading of Kant, I submit my maxim to ‘the universal law’. If the action proposed is in accord with this law, it has moral worth. If however, it does not, it is not morally worthy. Note that I submit a specific maxim to see whether it can or cannot be consented to: I do not bring a bare and formal law down to bear on all my actions. This reading contradicts Hand’s account of the matter, though, as I shall show, even this reading is too formalist.

The maxim developed must meet all the requirements of self-legislation. What Kant calls the Categorical Imperative is an expression of one’s self-legislative activity. The Categorical Imperative is the moral law, stated in such a way that all actions having moral worth must meet certain criteria before they can be considered morally worthy. The Categorical Imperative, as the form of moral worth, demands two things of our judgements. First, they must not contradict themselves. The moral law insists that I act the way all other rational beings should act. Maxims that have contradictions have no moral worth. We may call these: ‘contradictions in conception’. Reason ought to act only in ways that suggest that the practical outcomes of those actions reason engages in are not
self-defeating. A maxim may be logically consistent but practically impossible or contradictory to carry out. These maxims are also morally unworthy. We may call these maxims ‘contradictions in the will’. A maxim that cannot be universalised because the agent who acts upon it would be unable to, under the conditions set by universalisation, carry out the act as she desires, falls into this contradiction. Kant says that only acts done from duty alone (acts whose ground is consented to by all) have moral worth. If it is done from some other basis than this, it is morally unworthy, even if the ‘right’ action is the outcome (Kant, 1996a, G, 4: 390; 4: pp. 399–400). Kant gives examples to illuminate his points. Contra Hare, these are not deductions or proofs of the Categorical Imperative: they are examples to serve his point (examples that evidently fail, to judge by their reception). Kant means these examples to highlight that maxims can and do count as having moral worth (Kant, 1996a, 4: p. 397). The examples I choose below are drawn from section one of the Groundwork.

The First Example: The Honest Shopkeeper

Kant demonstrates the claim that difficulty can arise when noting ‘this distinction [of duty] when an action conforms to duty and the subject has, besides, an immediate inclination to it’ (Kant, 1996a, 4: p. 398). Here the moral agent faces the difficulty of having to make a [moral] choice but is burdened by the immediacy of the inclination. He must somehow curb his inclination. Kant gives us the example of the shopkeeper who, in not overcharging an inexperienced customer (a child), does so from his interest in being perceived as an honest merchant so that his business does not decline. We cannot, Kant concludes, call this act a moral one because it is done out of self-interest (ibid.). Note what is being called into question: not that the subject has an inclination, but that he acts on this inclination rather than on what can be consented to.

The Second Example: The Grieving Philanthropist

The second example is weightier. Here, a dutiful person, unfortunate in life but ‘strong of soul and more indignant about his fate than despondent or dejected, wishes for death and yet preserves his life without loving it, not from inclination or fear but from duty . . . [If this is the case,] then his maxim [of preserving his life] has moral content’ (Kant, 1996a, 4: p. 398). The duty here is self-preservation: we are not to take our lives. Kant furthers this example. ‘Suppose, then, that the mind of this philanthropist were overclouded by his own grief, which extinguished all sympathy with the fate of others, and that while he still had the means to benefit others in distress their troubles did not move him because he had enough to do with his own; and suppose that now, when no longer incited to it by any inclination, he nevertheless tears himself out of this deadly sensibility and does the action without any inclination, simply from duty; then the action first has its genuine moral worth (ibid.). In this extension of the example,
the individual in question helps others despite his misfortunes. This help, Kant claims, has moral worth precisely because it follows from duty alone—in this case, the duty to help his fellow human beings.

We might want to pause here and reflect on what Kant asks us to take from this example. First, Kant assumes (and rightly so) that the person in question has the mental capability to recognise duty for its own sake. This assumes the individual’s cognitive faculties are such that he can reason his proposed action out. This immediately excludes those who, for example, are afflicted with mental illness to the extent that they can no longer reason appropriately. Second, it gives no weight whatsoever to moral luck. It does not matter what situation a person finds herself in; what counts is whether the act undertaken has its ground in a morally worthy maxim—one that can be consented to by all. Fortune or fate does not license moral agents to make exceptions from themselves.

The Third Example: The Gouty Patient

In the third example, Kant wants us to see that, though happiness (contra Moore) is indeed an (indirect) duty, nevertheless, ‘under pressure from many anxieties and amid unsatisfied needs, [this] could easily become a great temptation to transgression of duty’ (4: p. 399). Here Kant cautions us not to fall into the trap of calculating the ‘sum’ of our happiness. It is very tempting, Kant says, to unite all inclination into one sum and overlook this or that inclination inasmuch as it has little bearing on the great mass of happiness. Yet we are to promote our happiness not from the sum of our inclinations but from duty alone. This is (one of) Kant’s arguments against making happiness or flourishing the apex of ethics: we simply cannot separate out what counts as our happiness from what counts as happiness in general, and follow only the latter. Often times, we are of two minds about, or are ambivalent towards, our own happiness, never mind that of others. To sort these out is an exercise in futility—a far more difficult exercise, I might add, than attempting to discern whether one’s actions can be consented to by all. This is why Kant is keen to yoke happiness to duty.

Kant also gives us the example of the gouty man who ‘can choose to enjoy what he likes and put up with what he can since, according to his calculations, on this occasion at least he has not sacrificed the enjoyment of the present moment to the perhaps groundless expectation of a happiness that is supposed to lie in health’ (4: p. 399). Kant continues, ‘But even in this case, when the general inclination to happiness did not determine his will; when health, at least for him, did not enter as so necessary into this calculation, there is still left over here, as in all other cases, a law, namely to promote his happiness not from inclination but from duty; and it is then that his conduct first has properly moral worth’ (ibid.).

The Fourth Example: Kant’s False Promise

At this point in the argument, Kant has not yet defined fully the Formula of Universal Law, or the Categorical Imperative. He does so here, and
immediately upon doing so he provides an example of a question that
demonstrates the full force of the Law. He chooses himself as the moral
agent here: ‘[May] I, when hard pressed, make a promise with the
intention not to keep it?’ (4: p. 402). On the face of it, this cannot be a
maxim of moral worth. We cannot choose to deceive through making false
promises, as common human reason already insists. We still, however,
must decide on the grounds of the obligation to make promises. First, we
can follow the maxim of prudence: Kant should not make false promises
because it could be disadvantageous to him. Here, Kant says, he bases his
maxim ‘only on the results feared’ (ibid.). This maxim does not have
moral worth. Rather, Kant must ask himself:

Would I indeed be content that my maxim (to get myself out of
difficulties by a false promise) should hold as a universal law (for myself
as well as others)? And could I indeed say to myself that every one may
make a false promise when he finds himself in a difficulty he can get out
of in no other way? Then I soon become aware that I could indeed will the
lie, by no means a universal law to lie; for in accordance with such a law
there would properly be no promises at all, since it would be futile to
avow my will with regard to my future actions to others who would not
believe this avowal or, if they rashly did so, would pay me back in coin;
and thus my maxim, as soon as it were made a universal law, would have
to destroy itself (4: p. 403).

Many commentators think that Kant wants these and other examples to
serve as proofs for the Categorical Imperative. According to them Kant
meant these examples to us all how to make moral judgments. According
to them, the Categorical Imperative functions as a testing device to ensure
that all subjective maxims have moral worth. Those that cannot ‘pass’ the
test of universalisation are morally worthless. Testing occurs on this
reading, in one of two ways. First, a moral agent forms a subjective
maxim. This is most likely of the form of a universal statement. The moral
agent may say: ‘I wish to do X based on Y for the purposes of Z’. The
agent then ‘brings’ this maxim to the Categorical Imperative. The agent
asks herself: can the maxim I hold be universalisable? Does it have the
consent of all? Could all reasonably carry this out without contradiction?
If the answer is yes, then both the ground of the action and the action has
moral worth. If no, then the ground of the action is morally unworthy.

This way of approach is terribly misleading. Kant in fact claims that
conscious invocation of the Categorical Imperative in the determination
of specific moral choices occurs rarely. As Kant says: ‘Some actions are
so constituted that their maxim cannot even be thought without
contradiction as a universal law of nature, far less could one will that it
should become such’ (4: p. 424). There are, however, occasions when we
do seem to use the Categorical Imperative in this manner. These examples
seem to highlight how these cases might take place. In the Doctrine of
Virtue, Kant argues that in certain instances, a person may have two
grounds of obligation that necessitate a choice. Practical reason mandates.
that when faced with such a choice, one is to choose the *stronger* ground of obligation: the ground that, characteristically, is done in accordance with duty alone (Kant, 1996b, 6: p. 224). Most moral decisions, though, do not require conscious access to the Categorical Imperative. Rather they are or are not morally worthy *on the face of them*. The Categorical Imperative may well be a set of formulae expressing self-legislative capacity. The extant duties derived often carry sufficient moral weight to determine the bulk of one’s moral acts *without* further deliberation of moral worth.

Furthermore, Kant claims that the point and purpose of the specific examples provided in the *Groundwork* are to demonstrate how we can say that there *is* such a thing as a universal self-giving law. One must note the position of the examples in relation to the development of the Categorical Imperative. The example of the shopkeeper is designed to provide ammunition for Kant’s claim that a good will is that which is good apart from any other purpose (Kant, 1996a, 4: p. 397). Here Kant wishes to demonstrate the way in which a maxim *could* form based in a good will rather than an incentive. The same goes for the grieving philanthropist example. To preserve one’s life and to be philanthropic in the face of overwhelming circumstances suggests that one *has* a good will and that one’s actions *are* morally worthy. It does not suggest, by the way, that one cannot have any other incentives; only that the ground upon which one acts is a morally worthy one. In the example of the gouty patient, Kant discusses duty. The gouty patient that does his duty does so despite his unhappiness owing to his disease. This allows Kant to segue into his second claim: ‘an action from duty has its moral worth not in the purpose to be attained by it but in the maxim in accordance with which it is decided upon . . .’ (4: p. 400). From this claim flows the central one: ‘duty is the necessity of an action from respect for [moral] law’ (ibid.). It is enough, Kant thinks, that these examples are *demonstrations* of his claims (*not* proofs, *contra* Hare) that serve to bring his point home. Upon laying out the Categorical Imperative, Kant tells us (slyly in my estimation) that all of the preceding is simply to say that *common human reason* can and does operate this way!

After discussing examples of morally and non-morally worthy maxim formations, Kant states:

Thus, then, we have arrived, within the moral cognition of common human reason, at its principle, *which it admittedly does not think so abstractly as a universal form [allgemeinen Form] but which it actually has always before its eyes and uses as the norm for its appraisals. Here it would be easy to show how common human reason, with this compass in hand, knows very well how to distinguish in every case that comes up what is good and what is evil, what is in conformity with duty or contrary to duty, if, without in the least teaching it anything new, we only, as did Socrates, make it attentive to its own principle; and that there is, accordingly, no need of science and philosophy to know what one has to do in order to be honest and good, and even wise and virtuous (4: p. 404).
The Categorical Imperative seldom operates as an overt procedure to test out maxims for moral worth: rather, morally worthy maxims are so in large part because of prior moral judgements. The Formula of Universal Law exists as an objective expression of Law and as a subjective maxim: in this sense, the law exists as the end achieved. However, this end cannot be other than the construction of morally worthy maxims (judgements), for this is the only way to preserve self-legislative activity (autonomy). When Kant claims the Formula of Universal Law is the end of our subjective maxims, we must be aware that this end cannot be actualised other than through the construction of morally worthy maxims. As such, it is a legislative expression of reason, itself the conclusion of the logic of carrying out the construction of morally worthy maxims. The construction of morally worthy maxims and the ends to which the maxims serve are thus inseparable. The separation of maxim from law can only be one of functional, and not principled, significance.

What I am claiming is that the Categorical Imperative does not exist outside of or beyond the universalisation of a subjective maxim. The Categorical Imperative forms in the process of maxim formation and not before this. The Categorical Imperative operates as a general warrant that indicates to us that we must form our maxims in such a way that they become universalisable. Becoming universalisable and achieving moral worth means that the subjective maxim is categorical and imperative. But the context in which this law is active is always already the existing stock of norms, rules, laws, and duties built up in interpersonal, social, and public discourse. Since the Categorical Imperative, shorn of all content, is merely form, it cannot operate under any other conditions than this. Now one immediately suspects that this is not in line with Kant’s thinking on the subject. For example, in The Critique of Practical Reason, Kant claims, ‘If a rational being is to think of his maxims as practical universal laws, he can think of them only as principles that contain the determining ground of the will not by their matter but only by their form’ (Kant, 1996b, 5: p. 27). And further, ‘Now, all that remains of a law if one separates from it everything material, that is, every object of the will (as its determining ground), is the mere form of giving universal law. Therefore, either a rational being cannot think of his subjectively practical principles, that is, his maxims, as being at the same time universal laws or he must assume that their mere form, by which they are fit for a giving of universal law, of itself and alone makes them practical laws’ (ibid.). Kant asks us to think of our maxims as universal laws. To do so, he says, we must abstract the principle from all content. Only then can we see that the law we have formulated is free from empirical condition. Universalising the maxim accomplishes this task. Must we assume, though, that there exists a practical, universal law before the universalisation of a maxim? I claim the answer is ‘no’. Kant says that we must separate the principle from the matter, the form from the content. Nevertheless, this is an intellectual process only and not an actual moral judgement. True enough, the result is plainly a universal law. This law, however,
... can be represented only by reason and is therefore not an object of
the senses and consequently does not belong among appearances, the
representation of this form as the determining ground of the will is distinct
from all determining grounds of events in nature in accordance with the
laws of causality, because in their case the determining grounds must
themselves be appearances. But if no determining ground of the will other
than universal lawgiving from can serve as a law for it, such a will must
be thought as altogether independent of the natural law of appearances in
their relations to one another, namely the law of causality (5: pp. 28–29).

Kant claims that if we want to make a moral judgement that is empirically
condition-less, we must develop our subjective maxims in such a way that
they are conceived as under a law. I see no conflict between my claim that
the universal law builds up in the formation of subjective maxims and the
claim that we must think of the universal law as a form distinct from
empirical conditions. In those cases when we construct a subjective
maxim, we are already gauging the maxim’s moral worth. We do this by
asking whether this maxim accords with all that may assent to the
proposed act and the context we construct this maxim from is our existing
stock of norms, rules, laws and duties. I see no reason why we must claim
that the practical law is the form and the subjective maxim the content or
matter for other than intellectual purposes. I see every reason why we
ought to think of the subjective maxim as containing both its form (the
Categorical Imperative) and its matter (the specific act one wishes to
pursue) for moral judgements. This in my estimation obviates the charges
of rigorism and formalism—complaints common to Dewey, Hand, the
19th and early 20th century utilitarians, and analytic philosophers.

III CONCLUSION: HOW MIGHT THIS WORK IN EDUCATION? SOME
EXAMPLES

Here I can only gesture towards ways in which a Kantian moral education
might take place. Given the focus on the universalisability of maxims, the
aim of this education is to teach a child the habits of moral-maxim
formation. The child is to internalise the process of moral-maxim
formation by first learning the existing stock of duties extant (the ‘rules’ of
society), how specific cases work within these (judgement) and what to do
when particular cases do not ‘fit’ well with the rules (maxim-formation).
Children thus begin learning the ‘rules’, how these rules are ordered,
where and when they apply, and most importantly, how to make
judgements of particular cases in light of these. Having internalised these
rules, those cases that fit and those that do not, together with the resulting
challenge to the rule, the child is ready to undertake conscious maxim-
formation.

Up to this point, a child’s moral education need not look different from
the ways and means of existing moral education. The child is taught, and
she models appropriate behaviours in particular circumstances, the rules
that govern these actions, and finally, how to make judgements of proper
action given the rules of conduct. Only the process of moral-maxim formation differs. This is where scenarios can be helpful. We can give children examples of people that act in different ways and ask them to come up with possible grounds of obligations that ‘fit’ with the actions. So for example, a teacher may use an historical example (say, Napoleon forsaking his First in Command at Waterloo) as a point of departure for an examination of what, given the student’s position in Napoleon’s shoes, her motivation might be in this scenario. Does it have moral worth? Perhaps we could draw examples from fairy-tales. What about the father of Hansel and Gretel, abandoning his children in the woods? Perhaps we wish to draw upon a literary example, say, in Emily Bronte’s Wuthering Heights, Heathcliff’s ferocious treatment of Linton, premised on his cruel past and his pining for Catherine. The children will easily show that Heathcliff’s motives for acting this way have no moral worth. Equally, we can use exemplars of moral worth to emphasise the possibility of acting dutifully and the merits that accrue when doing so.

These are mere examples and a full programme of Kantian moral education needs development. Nevertheless, a Kantian moral education does not require a great deal beyond the moral education many teachers already provide children. Nor does it require an allegiance to a specific creed, metaphysical viewpoint or comprehensive conception of the good. The minimal requirement is that we recognise and promote the universalisation of maxims so that they may be shown to have moral worth.

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