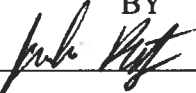


FROM THE JUST STATE TO THE KINGDOM OF ENDS:
BALANCING LOVE AND RESPECT IN KANT

AN ABSTRACT SUBMITTED
ON THE THIRD DAY OF AUGUST 2020
TO THE DEPARTMENT OF PHILOSOPHY
IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
OF THE SCHOOL OF LIBERAL ARTS
OF TULANE UNIVERSITY
FOR THE DEGREE
OF
DOCTOR OF PHILOSOPHY

BY



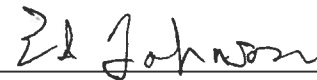
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Abstract

Kant's practical philosophy has two ideals, but Kant seems mostly silent on the connection between them: namely the Just State and the Kingdom of Ends. *Religion within the Bounds of Mere Reason* certainly gives a semblance of an answer, in claiming that we, as a community of humans, require the Just State in order to bring about (or 'think of ourselves as in') the Kingdom of Ends. However, Kant seems to also make it clear that every individual is capable of ethical reasoning *prior* to the civil condition (i.e., prior to the Just State). I argue that ethics is necessary for right, and thus that right is sufficient for ethics. The *necessity* of ethics is found in the creation of the Just State to begin with (and thus the system of right, itself, cannot exist without the pre-existing *ethical* faculty). The *sufficiency* of right is discovered through a kind of practice of the use of our practical reasoning (which I call 'practical practice') through balancing the important tension between cosmopolitan right and civil right, such that we become better at balancing an analogous tension between love and respect. Thus, in this dissertation, I argue that our *individual* attempt to achieve the Just State is sufficient (but *not* necessary) for considering ourselves self-legislating members of the Kingdom of Ends.

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Preface

This dissertation connects several topics that have held great interest to me over the course of my academic career thus far. In my undergraduate studies, I worked on Kant's rational religion and became interested in the problem posed to our autonomy by the role of G-d¹ in the Kingdom of Ends. *The Metaphysics of Morals* and Kant's third critique played a fundamental role in my work there, and led me to his political philosophy generally. In the course of work on my MA, I discovered that Kant's attempt to be very clear about his perfect civil condition (his Just State) leads to some confusion about what role the ruler plays, and how, in particular, one should reconcile the ruler's unique ability to punish (in a particular case) against the judiciary's unique power to judge cases. In that research, I was able to bring in Rousseau's influence on Kant's conception of a civil condition, such that the contrast between Rousseau's pessimism about morality brings out the important moral optimism in Kant's political, and ultimately his moral, philosophy. Pivoting from there, I developed an interest in how his moral philosophy might be connected to itself. The ideals of the Kingdom of Ends and the Just State are both *practical* ideals, and their connection drove much of my PhD work. In doing this work, I have had a chance to expose myself to Kant's religious philosophy, elements of his pre-critical and post-critical thought, his ethical philosophy, and finally his political philosophy. Furthermore, I have immersed myself in

¹ I do this spelling for G-d in keeping with my Judaism.

contemporary work on human rights, which involves important discussions about the ethical foundations of *Recht*, as well as what role the Just State might play in helping to bring out a *good will* (and ultimately the Kingdom of Ends). What I have here prepared is a project that combines the most interesting elements of the foregoing.

Acknowledgments

I would like to thank Richard Velkley for his support as my adviser throughout the course of this project. Much of my understanding of these subjects is indebted to my many discussions with him about Rousseau's political works, as well as, of course, his helpful criticisms of my work on Kant. His willingness to take me on as his advisee, as well as his patience and encouragement over the years, are greatly appreciated.

I would also like to thank Edward Johnson for both his insight throughout this project and his encouragement through some of the more difficult moments of finishing this project. In addition, Johnson, along with Frank Schalow and Christine Korsgaard, were exceedingly helpful to my understanding of Kant's religious philosophy early on in my academic career, and my many discussions with them helped to make that part of my work more refined.

I am indebted, as well, to the great many other professionals with whom I've communicated about my project, including: Katrin Flikschuh, Sorin Baiasu, Paul Guyer, Mark Lebar, James Petrik, John "Jack" Bender, Alyssa Bernstein, Chad Van Schoelandt, Kevin Morris, and Bruce Brower.

I also would like to recognize the research support that I have received through Tulane School of Liberal Arts, and the Murphy Institute.

Finally, I'd like to thank my family and friends for all their support. My 98 year old grandmother, Freda Dorothy Silverman Katz, bears special mention, as without her, my PhD would not have been possible. In addition, my parents and stepparents have all been a devoted cheer squad. Last, but not least, I would like to dedicate my work to my late dog, Tryhard, whose loyalty and love throughout my project will always be remembered.

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Abbreviations:

Christoph Martin Wieland's

Das Geheimniß des Kosmopoliten-Ordens (GKO)

Kant's Works (the Bibliography has these abbreviations after the translations I used):

The Metaphysics of Morals (MM)

Groundwork of the Metaphysics of Morals (G)

'Toward Perpetual Peace' (TPP)

'On the supposed right to lie from philanthropy' (RtL)

Critique of Pure Reason (CPR)

Critique of Practical Reason (CPrR)

Critique of the Power of Judgment (CPJ)

Religion within the Bounds of Mere Reason (R)

'Idea for a universal history with a cosmopolitan intent' (UH)

'An answer to the question: What is Enlightenment' (WE)

'Speculative beginning of Human History' (SBHH)

'On the Proverb: That may be true in Theory, but is of No Practical Use' (TT)

'The End of All Things' (TE)

Terms:

Just State (JS)

Kingdom of Ends (KofE)

Categorical Imperative (CI)

Universal Principle of Right (UPR)

Introduction

Context of the Project

This dissertation is meant to be a contribution to the ongoing project of finding a place for Kant's system of *Recht* in his philosophy as a whole; my suggestion, in this work, is very local to Kant's ethical and juridical philosophy, but has implications that place it in this grander project. As far back as the 1950s, Dieter Henrich's work on the subject concludes that practical freedom (understood as a 'fact of reason') is wholly disconnected from theoretical freedom and disconnected from *Recht*, which "would not originate from moral reasons and motive" (Henrich 1994, 75-76). Over the last 50 years, several philosophers have contributed to this same discussion, such as: Susan Shell, Howard Williams, Patrick Riley, Richard Velkley, and Katrin Flikschuh.² In the course of writing, each gives different weight to Kant's anthropology, they each vary in their approach to Kant's attempt to reconcile freedom and nature, and therefore they give *Recht* a varied place in the discussion. For instance, in *The Rights of Reason: A study of Kant's philosophy and politics*, Shell argues that Kant's anthropology helps us to understand why we see any conflict with nature whatsoever, and she explains how this 'source of conflict' both grounds right and gives us a way to appropriate the natural world without physically overcoming its opposition to our will (Shell 1980, 3-4, 6, 46, 48, 50-51, 59-61, 109, 117, 126, 183-184, 186-187).

² I mean to refer to the following texts: Shell (1980), Williams (1983), Riley (1983), Velkley (1989), and Flikschuh (2000).

Shell's contribution essentially reinvigorated this discussion, and led to two identically named books (though very different in their positions), both published only three years later, by Williams and Riley. In partial agreement with her, in his book, *Kant's Political Philosophy*, Williams allows that nature's ends are harmonious with our moral ends, but he also argues that Kant's system of right and ethics are in opposition to each other (Williams 1983, viii, 1, 4, 7, 10, 12, 18, 22, 29, 36, 39-46). This does not cohere with Shell's central position, which depends on the claim that it is *Recht* that both: 1) gives us the ability to overcome the *perceived* tension between our natural and practical ends, and 2) connects Kant's entire system together (Shell 1980, 46, 109). Enter Patrick Riley, with his *conspicuously* identically titled book, *Kant's Political Philosophy*, in which he defends the view that the role of *Recht* is to serve as morality's tool to allow citizens to self-legislate and to force citizens to act at least in accord with that which the categorical imperative prescribes (albeit for non-ethical motives). What links right and morality, for Riley, is *telos*; namely, the ends of the legal order are determined by that of the moral order (which in turn come from the natural ends we have toward perpetual peace) (Riley 1983, 4-5, 7-9, 64-65). While both Riley and Williams see natural ends as harmonious with our practical aims (contra Shell), their disagreement lies in whether they see *Recht* as itself harmonious (Riley) with morality, or in a tension (Williams) with morality.

Following this interaction of ideas, Velkley and Flikschuh both expand on the position of *Recht*: Velkley's expansion is purely within realm of Kant's practical philosophy, while Flikschuh's contribution is more about how to apply Kant's system of right to modern politics directly. In his book, *Freedom and the End of Reason: On the*

Moral Foundation of Kant's Critical Philosophy, Velkley suggests an elaboration on Shell's work: while *Recht* may indeed help us to find hope in the face of the opposition of nature to our will, that we have this desire to know about the world, but are nevertheless limited (and unable to *theoretically* know), has consequences that reach far beyond how *Recht* may affect our perception of that opposition. Velkley's supposition is that the important question is not what role Kant's revealed limits on our knowledge has; furthermore, teleology's role seems merely to be in helping us to improve ourselves as moral beings. This is not to say that Velkley places no importance on the role of *telos* in Kant's philosophy (as against Williams, Riley, and Shell): in fact, Velkley argues that nature works through culture (and thus *Recht*, as well other aspects of culture) to help humanity morally improve itself. The importance of teleology, therefore, seems to be in virtue of the fact that we are self-directed goal setters. Not only is *Recht* not limited to Shell's position on it, Velkley's position is that Kant's system of right is certainly not in opposition to that of morality (contra Williams), and the connection that does exist is not to be found in teleology (but is instead found, again, in rational goal setting) (Velkley 1989, xi, 1, 8-11, 64, 67-68, 74-76, 79-80, 84, 87-89, 95, 103-104, 111, 116, 135, 152-163). While Velkley's contribution limits itself, in large part, to the political philosophy of the 1700s, Flikschuh takes the discussion one step further by connecting *Recht* to the politics of the 1900s (specifically, 'liberalism'). In her book, *Kant and modern political philosophy*, she argues that the role of Kantian metaphysics in his political philosophy is needed in order to both make sense of the latter, and to show how Kant's system may help to justify cosmopolitan duties that we share with each other (Flikschuh 2000, 7-9, 12-13, 20, 24-25, 35-36, 47-49, 79, 83, 115, 133, 152, 170, 179-205).

Engagement with the Context

While I do not completely agree with any of these contributions to the debate, I find many of their conclusions quite plausible, and some things I find problematic.

Consider Shell's position on freedom:

Through self-scrutiny, reason comes to recognize that by its very nature it sets itself a task which it cannot complete. Yet does not this planned futility in itself constitute a kind of inconsistency? If so, it disappears once we cease to regard the task as the vehicle of satisfaction or happiness, and see it as the vehicle of freedom. It disappears when reason chooses as its end, not happiness, but freedom. In making the choice, reason ceases to be theoretical and becomes practical. (Shell 1980, 61)

Here she posits freedom as the appropriate basis upon which reason must seek to justify its transcendental ideals. This is quite an innovative approach, as it places *Recht* in a position to help explain how the focus of practical philosophy on *freedom* helps to do this justification. Right becomes integral to Kantian theoretical philosophy, and thus his philosophy becomes connected to itself through that freedom:

The subordination of desire to duty and happiness to esteem is the most important and fundamental task of reason.

The concept of right...lies at the heart of this task. It is the recognition of this concept which Kant says set him straight and which he calls the final and most important step in the development of human reason. Through man's concept of right he first opposes nature and begins to discover his own freedom. Man first expresses his sense of right in anger and resentment against the resistance which his will naturally encounters. (Shell 1980, 109)

And through this we become aware that freedom is the goal of both theoretical and practical philosophy. That said, Shell also claims (as one can readily see from the foregoing passage) that this process can only happen by the suppression of desire. While we might forgive her view, given that hedonistic (or otherwise selfish) desire *cannot* ground any *moral* willing, her claims might also include natural ends, and, as I argue in Chapter 1, Kant's teleology, while certainly *not* the ground of his moral philosophy, is harmonious with (even helping us toward) our moral ends.

Williams's interpretation, on the other hand, certainly takes for granted that natural ends and moral ends are harmonious; however, I tend to disagree with Williams, fundamentally, in that politics and morality are not only *not in opposition*, but they are actually in a relationship such that right *depends* on ethics. Consider Williams's straightforward interpretation of Kant's teleological contribution: "Kant is, on balance, optimistic about the future of the human race. ... This is not because he has faith in the character and motives of individual men, but because he believes circumstances will ultimately force men to live in harmony with each other" (Williams 1983, 1). Williams's interpretation of that teleology, as I myself argue in Chapter 1, already places Kant's system of right as a *natural* driving force toward getting that for which we practically aim: "The continual antagonism between man and man within the confines of a civil society forces the individual to excel" (Williams 1983, 10). While we might think that Williams's view of civil society would be such that it *also* helps us to become moral through *practical* means (i.e., not merely *natural* means), in fact, he claims that Kant's politics and ethics are in a kind of seeming opposition.

...It is, after all, political life itself which gives us the hero and the great leader. Politics, it may be said necessarily involves strife, and strife requires robust and ambitious people.

Kant does not, however, share this dramatic view of politics. He is prepared to recognize that politicians act from all sorts of motives other than the moral one, but this he does not see as an excuse for abandoning all thought of principled action in the political reason. If we take a more mundane view of politics, as dealing with decisions which affect the common life of individuals, we can see that, *prima facie*, morality ought to play a role.

...For Kant politics is the 'practising (or carrying out) of the theory of right' (*ausübender Rechtslehre*). When political activity is conceived in this way as enforcing the rule of law it is impossible, he suggests, that politics and morality can come into conflict with each other. (Williams 1983, 40)

I have perhaps oversimplified Williams's position, as he does admit, as you see in the quoted text, that Kant's system, from a certain perspective *does* connect right and ethics.

But the connection he drives home is that politics must be carrying out “the theory of right,” thereby missing the connection for which I argue in Chapters 3 and 4: namely, that right depends on ethics.

Riley, on the other hand, *is sympathetic* to the view that the true ground of morality is in Kant’s teleology, which is somewhat in accord with what I argue in Chapter 1 (there, I argue that telos and morality, for Kant, are harmonious), but somewhat in disagreement with my argument there that teleology simply cannot be the ground for Kantian morality. In speaking of Aristotle’s discussion of any given thing’s form, matter, efficient cause, and final cause (or *telos*), Riley writes:

Kant, in a sense, preserves all this, but in a novel way. Since he wants to steer a minimalist course between any dogmatic assertion of the demonstrable reality of the four types of Aristotelian causality, and a Humean skepticism that would convert these four perspectives into mere questions of human bad habit or custom, he transforms the dogmatic slumber of the Aristotelians into critical philosophy. That is, he certainly does not dispense with form, or matter, or efficient causality, or *telos*, but neither have any of these an absolute reality as things in themselves. ...purposiveness or teleology becomes a possible mode of interpreting the world, once one assumes that causality is not the sole principle of explanation. (Riley 1983, 60)

While this may be a somewhat superficial reading of Riley, I would point out that if ‘causality’ is rejected as the “*sole* principle of explanation,” we seem, then, to be in need of *freedom*; this is the case because causality is the formal condition of theoretical reason, as distinct from freedom, the formal condition of *practical reason*. So, his position leads him to however tacitly conclude that teleology’s possibility exists *in virtue of practical reason*, such that all philosophy can be grounded in natural ends (Riley 1980, 63).

Velkley’s argument highlights Riley’s apparently tacit dismissal of the distinction between teleology and *purposiveness*; while there are not any major points of disagreement, I find Velkley’s discussion to have left out an important part of the connection between ethics and right. Namely, as I argue in Chapter 4, there is an

important tension, within *Recht*, between the cosmopolitan and patriotic duties, and it is analogous to an important *ethical* tension between love and respect. Regardless, Velkley argues that the will, seemingly at war with nature, still directs us toward a unity between our practical ends and the natural ends we observe through theoretical reason. "...if the sacred self-legislative will proves to be the sole source of intelligible unity within reason's principles, the metaphysician finds therein the 'whole' which he seeks. He can be reconciled and end the war of his reason against his own limits" (Velkley 1989, 88). For Velkley, what forms the 'glue,' so to speak, of this connection with the whole is the end that reason has toward the 'highest good,' which he tells us is "the idea of the totality of ends of a human rational striving" (Velkley 1989, 8). I discuss the highest good in Chapter 2, where it is said to be the combination of virtue (the supreme good) and happiness (the complete good).³ I grant that Kant's conception of the highest good is certainly important to Kant's religious philosophy, and, as I argue in Chapter 4, it is his religious philosophy that ultimately explains both how we can act from respect for the law and perhaps also how we can understand the connection, in international right, between ethics and right. However, as I argue in Chapters 3 and 4, there is an important role for the tension between love and respect in finding the more specific connection between ethics and right.⁴

³ The position I put forward (i.e., that the attempt to resolve the juridical tension between cosmopolitan and civil right, helps us to resolve the ethical tension between love and respect) certainly *implicitly* incorporates the complete good. After all, the Kingdom of Ends is not merely something for which we hope, but also that moral world toward which we strive to think of ourselves as within (i.e., we thus, implicitly, strive toward the complete good). However, I should note that Velkley explicitly points to the complete good (i.e., *happiness*) as that toward which we aim in our rational goal setting.

⁴ By this, I only mean that my work is really ultimately about the connection between ethics and right, and not directly about the grander place of right in Kant's philosophy as a whole.

As my own work somewhat dovetails with work in human rights,⁵ I thought it interesting to bring in a more recent contribution to this in the form of Flikschuh's book; there she takes the position that Kant's system of right is applicable to the world today insofar as it has Kant's metaphysical foundations. Her focus is pragmatically (i.e., for the purposes of her project) about Kant's cosmopolitanism in particular. She seems to leave out civil and international right; all three forms of juridical duty are important to Kant's system of right. Since her goal is partly to advance how Kant's system can be applied to contemporary politics, she might be forgiven for having focused only on cosmopolitanism (since application of Kant's system may not necessarily imply that *all* of Kant's system is involved). However, I must insist that cosmopolitanism cannot be properly discussed without at least simultaneously discussing civil right. As she starts her chapter on cosmopolitanism, she sums up the rest of her work so far:

Over the course of the last two chapters I have argued that both the justification of individual property rights and the account of individuals' ensuing obligations of justice are broached by Kant from a cosmopolitan perspective which includes as subjects of Right all those who because they cannot avoid occupying a place on the earth, claim a right to such a place. (Flikschuh 2000, 179)

This idea that cosmopolitanism can somehow do the work of both cosmopolitan and civil right is broached in Chapter 4, wherein I argue that these are distinctive types of right that exist in a tension with each other; in this, therefore, we disagree.

It is not my goal, in this introduction, to give full expositions of these five philosophical points of view on the place of *Recht* in Kant's philosophy as a whole (and even less so am I interested in arguing my points here in the introduction); rather, I merely wish to give the reader context from which to understand the position I take. In

⁵ I explain this in Chapter 1.

my own research, I noticed that Kant's practical philosophy has two ideals, but that Kant seems mostly silent on the connection between them: namely the Just State and the Kingdom of Ends. *Religion within the Bounds of Mere Reason* certainly gives a semblance of an answer, in claiming that we, as a community of humans, require the Just State in order to bring about (or 'think of ourselves as in') the Kingdom of Ends. However, Kant seems to also make it clear that every individual is capable of ethical reasoning *prior* to the civil condition (i.e., prior to the Just State). What I discovered was that ethics is necessary for right, and thus that right is sufficient for ethics. The *necessity* of ethics is found in the creation of the Just State to begin with (and thus the system of right, itself, cannot exist without the pre-existing *ethical* faculty). The *sufficiency* of right is discovered through a kind of practice of the use of our practical reasoning (which I call 'practical practice') through balancing the important tension between cosmopolitan right and civil right, such that we become better at balancing an analogous tension between love and respect. Thus, in this dissertation, I argue that our *individual* attempt to achieve the Just State is sufficient (but *not* necessary) for considering ourselves self-legislating members of the Kingdom of Ends.

Chapter Summaries

Chapter 1 is essentially an interpretation of Kant's Just State. I argue, there, that Kant's juridical ideal entails both global conditions (which includes cosmopolitan and international right) and local conditions (civil right). As there is disagreement about the development of Kant's philosophy through time, I engage with Pauline Kleingeld's position that Kant, in 'Idea for a universal history with a cosmopolitan intent,' argued that, in order to have perpetual peace, the Just State would involve a federation with a sovereign government able to enforce international law against any particular state in that federation. This seems to me to conflate Kant's teleology and his morality; in noticing this, I argue that he could not have meant for that kind of federation in his moral philosophy *just because* he mentions it in his teleology. In the end, I argue that Kant consistently held that the Just State should be a *voluntary* congress without the coercive power of a federal government.⁶

The Kingdom of Ends is given full exposition in Chapter 2. In that chapter, I point out that Kant's notion of this *ethical* ideal is not compatible with the cause and effect universe. In a sense, the Kingdom of Ends (the highest good), therefore, is even less attainable than the Just State. Kant's commitment to transcendently ideal concepts includes both the Just State and the Kingdom of Ends; thus, I use this chapter to prepare the reader to follow the connection for which I argue in the ensuing chapters. The Kingdom of Ends, I point out, is composed of three separate transcendently ideal concepts (in other words, what Kant calls the postulates of pure *practical* reason): G-d,

⁶ Although, I allow that, within Kant's *teleology*, he may well have argued that we must have a coercive federation on the way to that voluntary congress. After all, unsocial sociability, to use a parallel example, is useful toward getting us into a civil condition, but Kant nowhere argues that we ought to be unsocial.

immortality of the soul, and freedom. Since the Kingdom itself is a postulate, Kant's discussion of that Kingdom requires discussion of all four postulates.

In that discussion, I engage with Allen Wood, whose view is that the immortality of the soul incompletely solves (and therefore does *not* solve) the antinomy that leads to that postulate. Here, I refer to the antinomy of *practical* reason: "...either the desire for happiness must be the motivating cause of virtue, or the maxim of virtue must be the efficient cause of happiness" (Kant *CPrR*, 5:113). Initially, as with all antinomies, both are said to be impossible. However, once we perceive our souls as immortal, and thus free (i.e., once we view the noumenal, or *free*, aspect of ourselves; in other words, our immortal souls), we recognize that virtue can be the cause of happiness. This is because, in addition to the postulate of G-d (which gives us a kind of 'guarantee' that something out there is powerful enough to change the world of sense into the Kingdom of Ends), our human frailty gives us little hope that we will live long enough to experience such providence. Wood points out that the antinomy from which Kant 'derives' G-d and immortality should really be discussed as two antinomies. While not strictly speaking a point of disagreement, it suggests a difference between the problems posed in conceiving of 1) the practical possibility of moral perfection in a person and 2) the notion that people can ever be happy in proportion to their virtue (or worthiness to be happy). Chapters 1 and 2 are almost exclusively expository, which I hope the reader will excuse; it was necessary to set the stage before I make my primary argument. After all, if the dissertation is motivated by noticing two distinct practical ideals, I figure I should explain to the reader what *I think* those ideals are.

In Chapter 3, I argue that freedom is how ethics is manifest in right; and I do this, by pointing out that the term ‘freedom,’ as it is used in the text of the Universal Principle of Right, refers to our desire to act morally (i.e., that freedom we have in virtue of our humanity, considered intellectually). Kant seems to refer to *the* categorical imperative, and yet tells us of many, including: the Universal Principle of Right, the Formula of Humanity, and even *lex talionis*, just to name a few. Since I am interested in the connection between ethics and right, the *two* categorical *imperatives* with which I am most concerned are Kant’s categorical imperative (as the defining principle for *ethical* duties), as he first introduces it in the *Groundwork of the Metaphysic of Morals*, and the universal principle of right. On my reading Kant’s principle for defining ethical duties (i.e., *the* categorical imperative, so to speak) seems to be: “*Act only on that maxim through which you can at the same time will that it should become a universal law*” (Kant *G*, 4:421). The universal principle of right (i.e., the defining principle for the duties of right) is, of course: “Any action is *right* if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law” (Kant *MM*, 6:230). In considering the implications of the connection between these two practical domains, I am careful *not* to claim that right can be *derived* from ethics, but rather that each categorical imperative is merely a restatement of Kant’s supreme principle of morality (as distinct from *the* categorical imperative and the universal principle of right), which I argue is: “I ought never to act except in such a way *that I can also will that my maxim should become a universal law*” (Kant *G*, 4:402). Thus, *the* categorical imperative is a restatement of this principle, inasmuch as the universal principle of right is. In order to

round out this position, I discuss Sorin Baiasu's and Paul Guyer's response to Marcus Willaschek's position that right and ethics are independent. Baiasu's and Guyer's dependentist position (i.e., that right depends on ethics) fails to overcome Willaschek's. However, 1) through my own ontological understanding of the relationship between the supreme principle, the universal principle of right, and the categorical imperative, and 2) through the idea that freedom is how ethics is manifest in right, I argue that right still can be said to depend on ethics.

To argue for this dependentist position, in the fourth and final chapter, I bring together the following: 1) ethics is necessary for right (and thus the rightful condition), 2) respect only requires that you genuinely try to abstract from all inclination (i.e., you can *actually* fail, so long as your attempt is genuine), and 3) there is a tension between cosmopolitan and civil (or patriotic) right that is analogous to a tension between the ethical duties of love and respect. In order to demonstrate the practical necessity of (i.e., the duty to bring about) the civil condition, Kant requires the postulate of private right combined with the freedom (in virtue of our humanity considered intellectually) of the universal principle of right. Furthermore, given the analogous tensions, we can tell a story about how resolving the juridical tension is enough to help us to achieve balance in the ethical tension. Through the discussion of respect, human error in the attempt to balance either the juridical or ethical tension is allowable. In fact, given the dependence direction as I see it, the mere act of attempting to resolve the juridical tension between cosmopolitanism and patriotism is enough to count as having acted from respect for the *moral* law. In discussing these various points, I take issue with Kleingeld's position that civil right merely reduces to (or, rather, is already covered by) cosmopolitanism. Kant is

very clear that cosmopolitanism is a necessary amendment in ‘Toward Perpetual Peace.’ Furthermore, according to my own exposition, the tension between cosmopolitanism and patriotism is not incidental; rather, it is fundamental to my claim that right depends on ethics.

In that chapter, there is also discussion with Alisdair MacIntyre, Christine Korsgaard, Hans Saner, and Margaret Baxley. Essentially, in discussing Baxley and MacIntyre, I defend Kant from the view that his theory might be essentially emotive (or grounded in some preconceived moral notion). In discussing Korsgaard, I argue that her view that all action consists in hypothetical and categorical reasoning either places too high a demand on human action or suggests that humans are incapable of acting immorally. Finally, my interaction with Saner is meant to bring out more forcefully the idea that tension is so important to Kant’s philosophy in almost all aspects of it. Though it is not my central project to connect nature and freedom, both Saner and I argue for tension as the glue that brings different aspects of Kant’s framework together (however, of course, the tensions with which I am concerned are almost entirely juridical and ethical).

At the end of Chapter 4, I also entertain the role of international right in the connection between right and ethics. Unfortunately, I am limited in how much I can adequately discuss in a single dissertation. Nevertheless, I follow Felicitas Munzel in her view that the radical evil (of which Kant writes in *Religion*) of humans, in some sense, *causes* the breakdown of international relations between states. I present each of Kant’s preliminary articles of peace, in conjunction, in order to at least give some illustration of this idea.

In the course of my project, I run across several intellectually controversial topics that require a supposed resolution in order to make my case. In each circumstance, there is a footnote to denote this, but I have dedicated the final part of my dissertation (called 'Further Research') to giving the reader a brief summary of some of the more controversial issues among them. The intention is to, at some point, fill out these holes in further research; and so, I prepare this section in advance so that the reader may have full disclosure as to what they may want to research in order to determine whether my supposed resolutions are plausible.

Chapter 1

The Just State⁷⁸

⁷ In what follows I will not explicitly mention the Universal Principle of Right (UPR). This may seem a bit strange to informed readers, since the UPR is essentially that imperative from which the duties of right are derived. I am only giving a constitutive description of the just state at this point (and not an exhaustive analysis of the duties of right). As I promise in the Introduction, in the third chapter, I will discuss how this ideal political condition and the Kingdom of Ends are connected through a discussion of duties more explicitly; and this will have to involve discussion of the UPR more directly.

⁸ Most (about 75%) of sub-sections 1a and 1b are arguments I have already made in another paper, entitled 'A possible solution to a Kantian paradox through historical analysis of Rousseau.' (All of Section 2, though, is original.)

Section 1: The Local Conditions and The Will that grounds them

1a: The Just State considered merely locally (or patriotically)

The Just State (JS) is a political ideal toward which we necessarily strive as rational beings with freedom in the world of sense (Kant UH, 8:20-22).⁹ More explicitly this state is an ideal form of government wherein each individual limits their actions such that they do not infringe on the external freedom of any other person within that state (Kant *MM*, 6:230-231, 6:311).¹⁰ It is, thus, most straightforwardly conceived of merely locally, that is, patriotically (Kleingeld 2012, 26), as having a coercive government; and it is that conception on which I shall focus in sub-sections 1a and 1b. In *The Metaphysics of Morals* (Kant *MM*), it is described as having a very similar structure to the American federal government: that is, as having an executive, legislative, and judicial branch (Kant *MM*, 6:313). These authorities limit each other passively by each having their own distinct and unique powers: the executive punishes and appoints magistrates, the legislature makes laws under the general united will,¹¹ and the judiciary judges without considering enforcement or universal legislation under the general united will (Kant *MM*, 6:316-318). The executive, for example, as enforcer, is not allowed to actually make the laws it enforces (Kant *MM*, 6:316-317). The legislature, by contrast, is barred from enforcing its own laws (Kant *MM*, 6:317). Finally, the judiciary is barred from using the

⁹ This *freedom* ultimately grounds the connection I see between virtue and right; this is discussed at length in Chapter 3. Obviously, for my purposes here, I only discuss freedom in the context of the JS.

¹⁰ Kant tells us of this political ideal, the JS, in TPP and *MM*. He also mentions it in a few other shorter essays (Kant TT; Kant UH; Kant WE).

¹¹ Discussion of what exactly this means has been deferred to sub-section 1b. It is not absolutely clear what order to present this in, but it seems that it is enough to define the general united will here as the will of all of the people in a given civil condition. I realize that there is some ambiguity here, but that is cleared up later.

general united will as a basis for judgments, but must strictly use *lex talionis* (Kant *MM*, 6:317, 6:331-337). In the ways that these authorities limit each other, Kant claims that the government of any particular state remains just. For example, in ‘Toward Perpetual Peace’ (TPP), Kant points out that even a nation of devils would run it justly under these conditions (Kant TPP, 8:366).

Kant argues, in *MM*, that we ought to bring about this civil condition on the basis that having intelligible ownership (rather than merely empirical possession) will prevent violence.¹² “From private right in the state of nature there proceeds the postulate of public right: when you cannot avoid living side by side with all others, you ought to leave the state of nature and proceed with them into a rightful condition, that is, a condition of distributive justice” (Kant *MM*, 6:307). The idea is this: in a state of nature, people do not wrong each other (insofar as right is concerned) by feuding over who owns what. That is, they do not wrong each other because *they cannot but expect* the others to do the same. They do, however, *formally* wrong (in terms of virtue itself) each other, because “they take away any validity from the concept of right itself and hand everything over to savage violence, as if by law, and so subvert the right of human beings as such” (Kant *MM*, 6:308). Focus here on the last few words: ‘the right of human beings as such.’ These words indicate that we have a duty that stems from the categorical imperative itself: in

¹² It will behoove this exegesis to give a small primer on Kantian notions of private right (and thus ‘ownership’ or ‘possession’). Intelligible ownership (or rational possession, or intelligible possession, etc.) is opposed to empirical possession (or physical possession, or provisional ownership, etc.) within the Kantian framework. “Intelligible possession (if this is possible) is possession of an object without holding it (detention)” (Kant *MM*, 6:246). Empirical possession, on the other hand, is “only possession in *appearance*” (Kant *MM*, 6:246). The state of nature only provides the possibility of empirical possession, and thus merely *provisional* ownership: “Possession in anticipation of and preparation for the civil condition, which can be based only on a law of a common will, possession which therefore accords with the *possibility* of such a condition, is *provisionally rightful* possession, whereas possession found in an *actual* civil condition would be *conclusive* possession” (Kant *MM*, 6:257).

particular the formula of humanity (and thus we have a relevant duty of virtue concerning ‘humans as such’). Namely, maintaining a state of nature when one cannot avoid living side by side is to be willing to hurt or even kill each other to keep what one personally considers their own; for we would surely be violent, as Kant argues there, and thus be prone to these sorts of behaviors. Thus, we would be using each other as mere means and not also as ends.¹³

In a parallel vein, Kant argues, in ‘Idea for a Universal History with a Cosmopolitan Intent’ (UH), that we ought to bring about the same civil condition on teleological grounds. Kant’s argument here depends primarily on the claim that the world is determined by natural laws: “Whatever concept one may form of *freedom of the will* in a metaphysical context, its *appearances*, human actions, like all other natural events, are certainly determined [bestimmt] in conformity with universal natural laws” (Kant UH, 8:17). Thus, based on some teleological claims about people, Kant argues, in this work, that part of our teleology as a species is to make a civil condition. He does this through an exploration of several teleological theses.¹⁴ The fourth thesis is that with which we are

¹³ I will talk more about the formula of humanity in the Chapter 3, as part of the discussion of the formal connection between the JS and the Kingdom of Ends. My ultimate claim is that right depends on ethics. In Chapter 4, this discussion, concerning how we go from private right to public right, is expanded upon in order to show that ethics is necessary for right. In the same chapter, the formula of humanity, in particular, ends up being integral to the discussion of how right is sufficient for ethics.

¹⁴ We are not directly concerned here with the first three, but I will quickly go over them here: The first thesis: if nature were not such that all organs, and indeed all creatures, had some ‘intended use’, then it would not make sense to think of nature as being ruled by natural laws. That is, if nature is lawful, then “[all] of a creature’s natural capacities are destined to develop completely and in conformity with their end” (Kant UH, 8:18). The second thesis: Our natural capacities that help us to use reason can only be developed as a species, and not in any individual human being. This is because a person has to use trial and error (and not instinct) to develop these capacities (and thus ultimately the use of his reason). Since we are temporally limited, and since these natural capacities have an intended end (the first thesis), it follows that we can only develop these capacities as a species and not as individuals (for we die before we get it right). (Kant UH, 8:18-19) The third thesis: “Nature has willed that man, entirely by himself, produce everything that goes beyond the mechanical organization of his animal existence and partake in no other happiness or perfection that what he himself, independently of instinct, can secure through his own reason” (Kant UH,

initially concerned: “*The means that nature uses to bring about the development of all of man’s capacities is the **antagonism** among them in society, as far as in the end this antagonism is the cause of law-governed order in society*” (Kant UH, 8:20). People tend toward society because they find their natural capacities to be most easily developed there. On the other hand, individuals have a tendency to isolate themselves, “for he finds in himself the unsociable characteristic of wanting everything to go according to his own desires, and he therefore anticipates resistance everywhere, just as he knows about himself that for his part he tends to resist others” (Kant UH, 8:20-21). This constitutes what Kant calls ‘unsocial sociability’: the tendency of people to enter into society and to do exactly that which serves to undermine that society. This unsocial sociability, Kant explains, brings out humanity’s natural capacities:

Now this resistance awakens all of man’s powers, brings him to overcome his tendency towards laziness, and, driven by his desire for honor, power, or property, to secure status among his fellows, whom he neither *suffers*, nor *withdraws from*. In this way, the first true steps from barbarism to culture, in which the unique social worth of man consists, now occur, all man’s talents are gradually developed, his taste is cultured, and through progressive enlightenment he begins to establish a way of thinking that can in time transform the crude natural capacity for moral discrimination into definite practical principles and thus transform a *pathologically* enforced agreement into a society and, finally, into a *moral* whole. (Kant UH, 8:21)

In other words, and to put it more succinctly, because of theses 1, 2, and 3, it follows that the unsocial sociability of humans can only serve the purpose of helping them to perfect that part of their reason that makes them able to act contrary to inclination (and

8:19). The explanation is fairly straightforward: given theses 1 and 2, it follows that reason, as the ability to act counter to instinct, is something that must have an intended end. Thus the intended end of his reason cannot be merely to develop his natural capacities that help him to use reason, but also to develop reason itself (which includes our ability to act contrary to our inclinations) (Kant UH, 8:19-20).

ultimately, therefore, to make a moral whole from an otherwise pathologically originated society).¹⁵

This brings us to Kant's fifth thesis (and the thesis wherein Kant explicitly mentions the teleological underpinnings of the JS): "*The greatest problem for the human species, whose solution nature compels it to seek, is to achieve a universal **civil society** administered in accord with the right*" (Kant UH, 8:22). Given what Kant says about unsocial sociability, there must

...be a society in which one will find the highest possible degree of *freedom under external laws* combined with irresistible power, i.e., a perfectly *rightful civil constitution*, whose attainment is the supreme task nature has set for the human species; for only by solving and completing it can nature fulfill her other objectives with our species. (Kant UH, 8:22)

The idea is that since we have this unsocial sociability, the society we do form (even with the unsocial aspects) must fit with the two aspects of that unsocial sociability: freedom, within the constraints of external laws (the unsocial part), combined with the rightful civil constitution (in order that society stays together and does not get undermined). "All the culture and art that adorn mankind, as well as the most beautiful social order, are fruits of unsociableness that is forced to discipline itself and thus through an imposed art to develop nature's seed completely" (Kant UH, 8:22).¹⁶ In what follows, I will describe what constitutes this irresistible civil constitution.

¹⁵ This idea that unsocial sociability is *teleologically* helpful mirrors the important *moral* tensions (in which I include both *Recht* and virtue), I discuss in Chapter 4, between cosmopolitanism and patriotism, and between love and respect.

¹⁶ For more discussion of this, Hans Saner has a parallel discussion of the role of unsocial sociability in the context of the formation of the JS in his work *Kant's Political Thought: Its Origins and Development* (Saner 1973, 7-68). In Chapter 4, this discussion (here) of unsocial sociability will have served as a primer for the important tension involved in the balancing of respect and love (the central point of my argument).

In describing the JS, Kant tells us that it must be comprised of three mutually balancing *authorities* (Kant *MM*, 6:313). These three authorities are each embodied in a *person*, with: “the *sovereign* authority (sovereignty) in the person of the legislature; the executive authority in the person of the *ruler* (in conformity with the law); and the judicial authority (to award each what is his in accordance with the law) in the person of the judge” (Kant *MM*, 6:313).¹⁷ These three authorities are completely distinct in their powers, and each limits the others’ powers: “...each complements the others to complete the constitution of a state...But,...they are also subordinate...to one another, so that one of them, in assisting another, cannot also usurp its function” (Kant *MM*, 6:316).

Kant explains that the decisions of the legislative authority (*the sovereign*) must be in accord with the *general united will* of the people (Kant *MM*, 6:316). The *general united will* is that will that supports the common good of the people in the state. “It can be said of these authorities, regarded in their dignity, that the will of the *legislature*...with regard to what is externally mine or yours is irreproachable” (Kant *MM*, 6:316). In the *Groundwork of the Metaphysic of Morals*¹⁸ (*G*), he writes that “humanity so far as it is capable of morality, is the only thing which has dignity” (Kant *G*, 4:435). When Kant describes the dignity of something, he means that it cannot be sold for any price (Kant *G*,

¹⁷ Kant’s use of the term ‘person’ is confusing, and I shall indulge a short discussion of this term here so that the reader may better be able to follow what Kant has in mind. When Kant uses the term *person*, he is no doubt referring to non-things. A thing has no dignity (no intrinsic worth), whereas a person has dignity through his freedom (that is, he cannot trade his freedom for any price, for this would be beneath his dignity). Speaking abstractly like this, it seems that a ‘person’ need not be a single human, but could be a group of humans (Kant *MM*, 6:223). One might argue that Kant really only gives us a conception of the freedom of individual people as moral agents (or persons), and not groups of people acting as a single moral agent (or person). This is a valid contention, but not one I wish to discuss in any detail. I will say that the way Kant lays out these authorities, as ‘persons,’ suggests that he might want us to extend our conception of ‘person’ to include groups of people.

¹⁸ The Paton translation uses the singular ‘Metaphysic’ in its title, and since this is the translation I use, I cite its actual title, despite its being somewhat oddly titled.

4:434). Thus, Kant is saying that insofar as the legislative authority is a person, i.e., a rational, moral being with dignity, this person must follow an imperative to act only according to the *general united will* of the people. Otherwise, the legislator(s) would be selling the dignity of the legislature (as *the sovereign*) for a price.¹⁹

Further, since *the sovereign* (i.e. the legislative authority) must act in accord with the *general united will*, *the sovereign's* decisions cannot be reproached; acting otherwise would be tantamount to treason (Kant *MM*, 6:316). *The sovereign's* decisions must accord with the *general united will* of the people, because there is no possibility of doing wrong to *oneself* if one is making choices about one's *own* external freedom (the freedom we have to grab this or that object, for example).²⁰ However, Kant seems also tacitly to be saying that it is possible to do wrong to *others* if we make choices about *their* external freedom. Thus, in order for a legislative body to be sure to be acting in accordance with *right* (i.e., to be just), it must only make decisions that accord with the *general united will*. So, the just *sovereign*, whose primary function is lawmaker, would never make decisions according to their own private wills; this would make them reproachable (Kant *MM*, 6:313-314). Despite the obvious fact that sometimes the legislature will make mistakes, so long as *the sovereign* acts in accord with the general united will, it cannot be reproached for any wrongdoing (even if it makes a decision that happens, a posteriori, not

¹⁹ This 'general united will' would seem, in order to make sense of the ensuing reason, to be some kind of *omnilateral will*; an *omnilateral will* can be a will of all the people living in close proximity to one another, and it forms the social contract necessary to have conclusive, rather than merely provisional, ownership (Kant *MM*, 6:257). An *omnilateral will* can also be understood as the *general united will*. Kant never explicitly equates the *general united will* with the general will (GW). Kant says, though, that the *general united will* must reflect, and is formed by, the GW, but I will go into more detail with this in sub-section 1b (Kant *MM*, 6:311-313).

²⁰ I cannot violate my own external freedom by exercising it. But someone else can violate my external freedom by exercising theirs (and I can violate theirs by exercising mine).

to reflect that will) (Kant *MM*, 6:316). Therefore, in order to have working government, we must not reproach *the sovereign*, not merely because this denies *the sovereign* his dignity, but *also* because reproaching *the sovereign* would be tantamount to treason: only *the sovereign* can attempt to ‘fix’ any mistakes it has made (Kant *MM*, 6:321-322).²¹

The *ruler*’s primary powers (in addition to being the agent of the state) are to punish, appoint magistrates, and give directives (i.e. decrees...not laws) (Kant *MM*, 6:316). It should be noted that the *ruler*, unlike *the sovereign*, is only able to make decisions about other people’s (besides the *ruler*’s) external freedom (Kant *MM*, 6:316). The ability to punish, for example, is limited to the ability to punish someone else, and thus limit *his* external freedom. Kant explains that “it is no punishment if what is done to someone is what he wills, and it is impossible *to will* to be punished” (Kant *MM*, 6:335).²² The ability to punish, in other words, cannot also imply the ability to punish oneself. Appointing magistrates amounts to giving others positions of power, and thus affects the external freedom of others. The giving of decrees amounts to a sort of rule-making in accordance with the laws set forth by *the sovereign*. Since the ruler is able to make decisions only about others’ external freedom, the *ruler* cannot be *justly resisted*

²¹ Note that otherwise, the general united will itself would then not ultimately be sovereign. The idea of sovereignty is confusing; hopefully the following will clear it up a bit. The *sovereign will* is the GW at the formation of the state, and the *general united will* at any specific point in the state’s existence; it is that to which the legislature appeals in making law. *The sovereign*, here, refers to the legislature. A state is *sovereign* as a result of its legitimacy having come from the *sovereign will*.

²² What Kant means in the passage here is that a person cannot will a given punishment in vacuo (punishments are defined, partially as something that we do not in principle will on ourselves). For example, a person who steals rationally wills that what belongs to others does not really belong to them, but what follows is that the person who steals has rationally willed that nothing that belongs to him really does belong to him. Thus, if the person is punished by the loss of the ability to own property for some statutory period of time, they, in some sense, *did* will this result (Kant *MM*, 6:335). On the other hand, it would seem semantically inappropriate to say that a person wills, in a vacuum, that they should be under a punishment wherein they do not own anything.

(Kant *MM*, 6:316). If the people were to resist the *ruler*, whose decrees and appointments are so essential to efficient governance, they would be taking away a power proper only to *the sovereign* himself. Only *the sovereign* (not some disgruntled group of citizens) has an obligation to resist an unjust *ruler* (since *the sovereign*'s decisions must reflect the *general united will*, as explained above) (Kant *MM*, 6:317, 320). “[The *ruler*]...prescribes to the people rules in accordance with which each of them can acquire something or preserve what is his in conformity with the law (through subsumption of a case under it)” (Kant *MM*, 6:316). These decrees are made in accordance with higher laws that *the sovereign* has made in accordance with the *general united will*.²³

The *judge*'s primary role is to judge what each person deserves in civil and criminal cases, and the “verdict of the highest judge...” cannot be reversed; further, neither *the sovereign* nor the *ruler* can judge (Kant *MM*, 6:316-317). “It can be said of these authorities, regarded in their dignity, that...the verdict of the highest judge...is irreversible (cannot be appealed)” (Kant *MM*, 6:316). Notice that this does not say that the judge cannot be reproached; it merely says that any decision a judge makes cannot be reversed by any other authority, and the verdict of the highest judge cannot be repealed by anyone. Such verdicts may be wrong, or reproachable, but they are not reversible. The *judge* is chosen by the people²⁴ and not by *the sovereign* or the *ruler*, neither of which can judge. Kant explains that if *the sovereign* were to judge, it would be beneath his dignity, because he might do harm to someone else by infringing on their external

²³ These ‘rules’ are, in other words, very specific to certain cases and thus not really universal enough to be rules for all cases. Hence they are not also laws. They *can* be changed by the ruler (i.e., modified and even nullified), so long as this action does not violate a law set forth by *the sovereign*.

²⁴ Kant does not give a clear account of exactly how this ‘choosing’ is done. It is unclear why he does not give us this account.

freedom: “it would...be beneath the dignity of the head of state to play the judge, that is, to put himself in a position where he could do wrong” (Kant *MM*, 6:317). Neither can the *ruler* judge: the rights of each citizen *ought* to be only passive with respect to both *the sovereign* and the *ruler* (Kant *MM*, 6:317). That is to say, no citizen, other than those that are *the sovereign* or *ruler*, should be able to make decisions that are afforded to *the sovereign* or *ruler*. Further, though the *ruler* can make decrees in certain cases, he cannot judge in those cases who is guilty and for what crime, for example. Thus, to change this dynamic, such that the *ruler* exercises a right directly over an individual person’s external freedom (by making a judgment in a particular case), would be wrong (Kant *MM*, 6:317). In other words, only the judge judges, and therefore neither of the other two authorities can repeal (reverse) the highest decision of the judicial authority.

Since each of these authorities has powers proper to it and these powers are assigned in a manner that deliberately excludes the others, it follows that these powers should not be assigned to the same person (i.e., the same authority) (Kant *MM*, 6:316). In particular, these three authorities, while distinct, complement each other and also “are subordinate to one another” (Kant *MM*, 6:316). As stated earlier, the JS (considered locally) is comprised precisely of these three distinct authorities, and since they each have their own powers, and these powers comprise all the primary functions of a JS, these authorities complement one another to form a *complete* and *just* state (again, locally). Thus, passively (by the mere fact that they cannot have each other’s powers) they are each limited by the others. Whenever any of the authorities acts, it does so “under the condition of the will of a superior” (Kant *MM*, 6:316). I take this ‘superior will’ to be the *general united will* and thus ultimately the *general will* (GW). If we require the GW in

order to form the rightful condition (the JS) to begin with, then we might also think that the decisions of each of these authorities must really be in accord with the GW under which the state is formed. But, effectively it is not the GW, but the general united will with which these authorities must be in accord (Kant *MM*, 6:313).²⁵ Since the *general united will* is embodied in the three authorities of the JS (Kant *MM*, 6:313), it follows that these authorities are in accord with the *general united will* as well (i.e., they must be if we are to have a system of right a priori).

The GW is *sovereign* and it is instantiated, as the *general united will*, in the three authorities of a JS. “Unconditional submission of the people’s will (which in itself is not united and is therefore without law) to a *sovereign* will (uniting all by means of one law) is a fact that can begin only by seizing supreme power and so first establishing public right” (Kant *MM*, 6:372). Recall that the GW is required in order to leave the state of nature and enter into a rightful condition wherein provisional ownership can be replaced by conclusive ownership (Kant *MM*, 6:257) Thus, to say that we require a ‘sovereign will’, as Kant puts it, to seize power and establish public right, is to say that we require a GW (a will uniting them). It is only after this is done that we can then describe that will as the *general united will*. It is important to note that the GW is not said here to be *the sovereign*. It is *sovereign*²⁶ in the sense that, in an existing civil condition as the *general united will*, it governs the decisions of the three authorities and directly guides the actions of *the sovereign*. The “three authorities in a state, which arise from the concept of a

²⁵ This will not be discussed further here. A proper discussion of it will occur in the sub-section 1b. For now, one should simply take it at face value that the *general united will* and the GW are not equivalent.

²⁶ Note here, again, that I imply a distinction between ‘sovereign’ and ‘the sovereign’; the distinction being that the former refers to the ‘sovereign will’ and the latter refers ‘the legislature.’

commonwealth as such..., are only the three relations of the united will of the people” (Kant *MM*, 6:338). That is to say, the GW is *sovereign* and the three authorities aforementioned are merely the ways in which the *general united will* is expressed. To understand fully this description of the JS, we should distinguish between the GW, the *general united will*, and the *omnilateral will*.

1b: The Will

In this section, we shall discuss the differences between GW, the general united will, and an omnilateral will. In order to accomplish this, it is important to first give some account of what Kant means by ‘will.’ Here I shall focus on what Kant means by the following terms: ‘will,’ the ‘GW,’ the ‘general united will,’ and an ‘omnilateral will.’ What is of interest here is what it means for any of these wills to be considered ‘sovereign.’

The ‘will,’ as distinguished from ‘choice,’ is the capacity to make moral choices.²⁷ Note that Kant seems to equate the will with practical reason:

The faculty of desire...is called a faculty to *do or refrain from doing as one pleases*...The faculty of desire whose inner determining ground...lies within the subject’s reason is called the will...The will itself...has no determining ground; insofar as it can determine choice, it is instead practical reason itself. (Kant *MM*, 6:213)

There are really two things being described here: ‘the will’ and ‘choice.’ The former is from the German *Wille* and latter is from the German *Willkür*. Consider that Kant even

²⁷ In her book, *Self-Constitution: Agency, Identity, and Integrity*, Christine Korsgaard suggests that any action that seems not captured by this description of ‘the will’ (e.g., non-moral action, like making a sandwich), is actually so captured. I discuss her view in more detail in Chapter 4. The purpose of my work is not to settle this issue; but one could say very simply that all *willing* contains a moral component (or, alternatively, that there are always moral considerations).

taxonomizes these terms: "...not only *choice* but also mere *wish* can be included under the will" (Kant *MM*, 6:213). But it is not clear yet what it means that the will, as a faculty without any determining ground, is just practical reason itself. Kant writes that pure reason can be practical only "by the subjection of the maxim of every action to the condition of its qualifying as universal law" (Kant *MM*, 6:213). This condition for pure reason to be practical sure sounds a lot like what I call 'the supreme principle of morality': "I ought never to act except in such a way *that I could also will that my maxim should become a universal law*" (Kant *G*, 4:402).²⁸ So, for the purposes of this discussion, it suffices to say that 'the will' is 'the capacity to be moral.'²⁹ So, then 'choice' would be our actually choosing based off of some determining ground, while a 'wish' would be similar but without the actualization involved in 'choice.' A 'choice' can be either moral or not. When it is *not* moral, it involves choosing based off of heteronomous principles, as in having *any* goal (as primary) other than that of making universal law (Kant *G*, 4:433).³⁰

Having covered what Kant means by 'will,' the following will cover what is meant by 'omnilateral will.' Strictly speaking, Kant never mentions, at least in the Gregor translation of *MM*, the actual term 'omnilateral will.' But he does write this:

Now, a unilateral will cannot serve as a coercive law for everyone with regard to possession that is external and therefore contingent, since that would infringe upon

²⁸ In Chapter 3, I explain that the categorical imperative is actually a restatement of this supreme principle, when the latter is considered to be a command concerning maxims. In a parallel vein, when mere action (i.e., not the maxim behind action) is considered its focus, the supreme principle can be restated as the universal principle of right. The argument for this is not made here, but is left for that later chapter.

²⁹ There will be more discussion of the *Groundwork* in both Chapters 2 and 3.

³⁰ To use an analogy, the will (of any particular individual) is to choice (or that individual's choosing), as a shovel is to shoveling. Just as we can improperly use our will to choose not to be moral, we can improperly use a shovel to do something else besides shoveling (like hammering, chopping, etc.).

freedom in accordance with universal laws. So it is only a will putting everyone under obligation, hence only a collective general...and powerful will, that can provide everyone this assurance. – But the condition of being under a general external...lawgiving accompanied with power is the civil condition. So only in a civil condition can something external be mine or yours. (Kant *MM*, 6:256)

Notice that Kant is not making it an absolute condition of right (e.g., the guarantee of possession, in this case) that everyone's will in the world should be involved in any given omnilateral will. What Kant means, rather, is that an omnilateral will is the will of everyone *in a particular civil condition* (i.e., in a particular JS, when considered merely locally).

Though the GW and general united will seem to fit the definition of an omnilateral will, and though they are both referred to as the sovereign will, they are each sovereign at their own appropriate times. If the GW is required in order to go from a state of nature to the civil condition, then it certainly qualifies as an omnilateral will (Kant *TPP*, 8:352; Kant *MM* 6:372). On the other hand, if the general united will is required to have a sovereign will over all three authorities of a JS, then a general united will is also a sort of omnilateral will (Kant *MM*, 6:313). If the GW and the general united will were the same, then that would make Kant a sort of legal positivist; i.e., he would be committed to the original omnilateral will (the GW) being the sovereign will over the nation in question the entire time the nation remained in existence. But he is not committed to the consequent. Consider what Kant writes with regard to the revocation of the holdings of a church: "Those affected by such reforms cannot complain of their property being taken from them, since the reason for their possession hitherto lay only in the *people's opinion* and also had to hold as long as that lasted" (Kant *MM*, 6:324-325). Further, consider what he writes about the necessity to change a defective constitution: "A change in a

(defective) constitution, which may certainly be necessary at times, can therefore be carried out only through *reform* by the sovereign itself” (Kant *MM*, 6:321-322). So, not only can people’s (practically reasoned) opinions change (that is, not only can their will change), but a constitution can become defective through that change. Since Kant was, thus, not a legal positivist, it follows that the general united will and the GW are not the same. To put it another way, the original omnilateral will that created the civil condition (the GW) is distinct in quality from the currently existing omnilateral will that maintains that civil condition (the general united will). What this amounts to is that the GW is sovereign at the time of the creation of the state, but the general united will is sovereign at any given moment in that state.

Now, to make matters a bit more complex, Kant asks us to think of ourselves as cosmopolitan citizens of the world in both *MM* and *UH* (Kant *MM*, 6:352; Kant *UH*, 8:22). In the following section, I will discuss the details of what was alluded to in my earlier exegesis of the teleological underpinnings of the *JS*. Recall the fifth thesis: “*The greatest problem for the human species, whose solution nature compels it to seek, is to achieve a universal **civil society** administered in accord with the right*” (Kant *UH*, 8:22). Notice that the quote indicates that this civil society is ‘for the whole human species’ and is meant to be a ‘universal civil society.’ If we skip forward to the seventh thesis, we get: “*The problem of establishing a perfect civil constitution depends on the problem of law-governed **external relations among nations** and cannot be solved unless the latter is*” (Kant *UH*, 8:24). So clearly there are some implicit global conditions on what counts as a *JS*. In what follows, I will discuss these implicit global conditions.

Section 2: The Just State (considered globally)³¹

Thus, the JS, construed in its totality, does not merely have local conditions, but also has global conditions. Kant's contribution to the peace project of the 18th century (i.e. the Just State considered both in a local civil condition and considered globally as a union of states) is still a great source of disagreement among scholars. This disagreement mirrors contemporary political debates concerning what it is about certain Intergovernmental Organizations (IGOs) (e.g., the UN, the European Union, the G8, and the United States) that leads to, or maintains, peace.³² After all, we seem to have had some peace in the latter half of the 20th century and even now; but there is still the question of how IGOs contribute to this peace. IGOs could bring about peace through coercive means *or* it could be that the particular form of democracy in many of the countries that constitute the members of those IGOs promote a voluntary peace. Regarding the latter, for example: it seems that countries that hold similar political values seem to *not* go to war as easily, especially when those countries are democratic (Doyle 1983a, 212-213).³³ But what exactly it means for countries to share political values is itself a point of argument. For instance, in his book, *Kant's Political Legacy: Human Rights, Peace, Progress*, Luigi Caranti discusses the disagreement as to whether *liberal democracies* and *republics* are identical (Caranti 2017, 9). In TPP, Kant, himself, seems to make a distinction between democracies and republics:

So that a republican constitution will not be confused with a democratic constitution (as usually happens), the following must be noted. ...*democracy* in the strict sense of the word

³¹ The majority of the following and all of the parts of sub-section 2a were published (while writing this dissertation) as 'Kant's 'Bund': A Voluntary Reading' (Katz 2018).

³² I use the abbreviation 'IGO' in line with Caranti's usage of the same (Caranti 2017, 10, 164, 193, 197-198).

³³ There is disagreement on this claim. For further discussion see: Caranti (2017), Doyle (1983), and Babst (1964; 1972).

is necessarily a *despotism* because it establishes an executive power in which all decide for and, if need be, against one (who thus does not agree), so that all, who are nevertheless not all, decide; and this is a contradiction of the general will with itself and with freedom. (Kant TPP, 8:351-352)

I will leave aside the obvious issue of what sort of voting situation Kant expects in republics that would *not* lead to a similar situation where the majority have somehow left out the minority from particular decisions. But suffice it to say, there is much one can say on whether countries that seem to share enough of the right democratic republican values can promote a peace. For my purposes, though, I wish to discuss *Kant's views* on what kind of IGO contributes to a world peace; and I will be including Caranti's discussion of the historical context of Kant's view (Caranti 2017, 108-115). Kant argues that a very specific kind of intergovernmental organization is necessary for the peace between nations; however, there is disagreement, as one would expect, as to what constitutes the *just* IGO for Kant's perpetual peace.

In *MM*, Kant tells us that, even among neighboring states, we must (that is, we have a duty to) leave the state of nature among nations "to enter a lawful condition." He describes this lawful condition (what we are calling an IGO) among states as a "voluntary coalition of different states which can be dissolved at any time, [and specifically] not a federation (like that of the American states)" (Kant *MM*, 6:350-351). In other words, it is to be a congress of states without a coercive federal government. So, even though the Just State (JS), at the local level, has this form of government, the congress of states (the JS construed as a universal state, in other words) has no such federal government.³⁴ This is in

³⁴ This is contextually important to this chapter, which discusses the local and global conditions of the JS. Kant's teleological view, portrayed in UH, is meant only to be an optimistic view of how our teleology leads us to the same outcome as that which we ought to bring about. In this discussion of Kleingeld, there will be some allusion to the agreement of our teleology with our moral goals.

contradistinction to Pauline Kleingeld's position that Kant really did, at one time in his intellectual development, mean for his 'congress' to ultimately be one ruled by a single federal government analogous to the government of a local state (Kleingeld 2009, 173-174, 177-179; 2012, 45-46). She explains this development by: (1) appealing to a semantic ambiguity in the term '*Bund*'; (2) making claims about with which 18th century works Kant was acquainted; and ultimately (3) attempting to draw a parallel between the unsocial sociability of individual people within a state and the unsocial sociability of individual states in a larger community of states. In this paper, I argue that while Kleingeld's claims are superficially supported by the text, her claims depend on her apparent conflating of teleology and morality.

2a: An Introduction to the International Conditions of Just State

Kant asks us to think of ourselves as cosmopolitan citizens of the world (and not just as citizens of our individual and respective countries) in both *MM* and *UH* (Kant *MM*, 6:352; *UH*, 8:22). In the latter, Kant has a couple of theses regarding our natural teleology that are relevant to this point. Note the fifth thesis: "The greatest problem for the human species, whose solution nature compels it to seek, is to achieve a universal **civil society** administered in accord with the right" (Kant *UH*, 8:22). This thesis refers to a *universal* civil society, or in other words: a civil society "for the [whole] human species." Skipping forward to the seventh thesis: "The problem of establishing a perfect civil constitution depends on the problem of law-governed **external relations among nations** and cannot be solved unless the latter is" (Kant *UH*, 8:24). So clearly there are some implicit global conditions on what counts as a JS.

Similarly, to our duty to leave the state of nature and enter in the civil condition between individual humans in close proximity, we have a duty to leave the state of nature among nations (Kant *MM*, 6:344-345). I write ‘similarly’, because the duties to leave the respective states of nature are actually very different. The conditions that bring on the duty are, however, the same (hence I use ‘similarly to’ and not ‘exactly as’). Just to expound briefly on the difference: The duty to enter in a civil condition involves the implementation of the irresistible constitution of the civil condition itself (the general united will) uniting all in that local civil condition. But the duty to enter into a civil condition with other nations specifically restricts that union from having such an irresistible authority over the nations in that global civil condition. Consider the following:

The elements of the right of nations are these: (1) states, considered in external relation to one another, are (like lawless savages) by nature in a non-rightful condition. (2) This non-rightful condition is a *condition* of war (of the right of the stronger), even if it is not a condition of actual war and actual attacks being constantly made (hostilities). Although no state is wronged by another in this condition (insofar as neither wants anything better), this condition is in itself still wrong in the highest degree, and states neighboring upon one another are under obligation to leave it. (3) A league of nations in accordance with the idea of an original social contract is necessary, not in order to meddle in one another’s internal dissensions but to protect against attacks from without. (4) This alliance must, however, involve no sovereign authority (as in a civil constitution), but only an *association* (federation); it must be an alliance that can be renounced at any time and so must be renewed from time to time. (Kant *MM*, 6:344-345).

In other words, the countries are in a state of nature with each other until they form this league of nations. Even if the countries are not at war, the condition is considered non-rightful because the states are in close proximity to one another and might war with each other in the future. The potential for the sovereignty of any particular general united will (of even one state among all nations) to be overtaken by some other general united will is enough to obligate the nations to enter into a sort of civil condition with the other nations of the world. Furthermore, and in the same vein, the reason they cannot have a sort of

federal government forcing them to stay in a union is that to create such a super-government would be to create something more sovereign than all the sovereign general united wills (all of the states) in such a federation. Thus, this league of nations must be a voluntary congress of states where each state can choose to leave that union at any time.³⁵

2a-i: Kleingeld's Developmental View

However, there is a contention in the contemporary literature that this congress, at one time in Kant's intellectual development (specifically in UH), involved a federal government. Most notably Kleingeld argues this in her book *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship* and in her essay 'Kant's Changing Cosmopolitanism' (Kleingeld 2012; 2009).³⁶ In the former, for example, she writes:

In [UH], [Kant] advocates the establishment of a strong federation of states with coercive authority at the federal level, and...he appeals to the enlightened self-interest of rulers to defend the feasibility of this ideal. He does not propose a merely voluntary association but argues that a strong, state-like federation of states is required to guarantee the external security of states. (Kleingeld 2012, 45)

In the latter, she writes:

Kant uses [the term 'cosmopolitan condition'] to refer to a situation in which the external relations among states are governed by enforced laws. This of course requires a higher-level political institution, which he refers to as a 'federation of peoples' or a 'federation of

³⁵ Kant says as much:

By a *congress* is here understood only a voluntary coalition of different states which can be *dissolved* at any time, not a federation (like that of the American states) which is based on a constitution and can therefore not be dissolved. – Only by such a congress can the idea of a public right of nations be realized, one to be established for deciding their disputes in a civil way, as if by a lawsuit, rather than in a barbaric way..., namely by war. (Kant *MM*, 6:351)

³⁶ To be fair to Kleingeld, she ultimately allows that Kant rejects this federal government over states. She reads him as having changed his mind between having written UH and TPP. While I admit that Kant's thought had to have evolved as he wrote, I do not think his fundamental system changed as much as Kleingeld is arguing. That said, I am only arguing against her interpretation of UH, and not also against her developmental claims about Kant's thought, in general. Such an argument would require an altogether different paper.

states' ... (8:24) This is to have legislative, executive, and juridical powers at the federal level, including a 'united power giving emphasis to that law' (8:26).³⁷ (Kleingeld 2009, 174)

She essentially argues in both works that in line with what Kant argues about unsocial sociability concerning the JS at the local level, unsocial sociability can only really help us to acquire that moral whole if the unsocial aspect of individual *nations* in a *community of nations* is tempered by the irresistible authority of a constitution over and above the states in that community.³⁸

Part of Kleingeld's argument is purely historical. She points out that Kant is presenting his cosmopolitan ideal in a long tradition of proposals, and not in a vacuum. "[Kant] himself acknowledges the Abbé de Saint-Pierre and Jean-Jacques Rousseau as his predecessors (IaG 8:24, GTP 8:313)."³⁹ Saint-Pierre, Kleingeld points out, had argued for something like this over and above the Christian rulers of Europe "with a permanent senate and an international court of arbitration, backed up by an international military force, to settle disputes between the member states."⁴⁰ Rousseau had apparently summarized Saint-Pierre's views and presented them, in 1761, under the title: 'Extrait du Projet de Paix Perpétuelle de Monsieur l'Abbé de Saint Pierre' (Rousseau 1964). However, in 'Jugement

³⁷ All citations within this quote are meant to refer to AK pagination in UH. They are not my citations, but they are accurate to the text.

³⁸ The goal of my *dissertation* is to work out how the JS and the Kingdom of Ends are connected, and it is this connection that one should understand by 'moral whole.' For now, it is sufficient that we are aware that there is a moral whole toward which unsocial sociability is meant to help us strive. Kleingeld and I agree that such a moral whole exists, though we may disagree as to what constitutes it.

³⁹ By IaG, Kleingeld means to refer to UH. By GTP, she means to refer to 'On the Proverb: That may be true in Theory, but is of No Practical Use.'

⁴⁰ She is getting this from St. Pierre's *Projet pour rendre la Paix Perpétuelle en Europe*: Saint-Pierre (1713).

sur la Paix Perpétuelle,’ written not long after, in 1782, Rousseau distances himself from Saint-Pierre’s views (Rousseau 1964).⁴¹ Kleingeld argues that it follows from this information that Kant could not have read this latter text of Rousseau’s since Kant clearly wants to espouse some of Saint-Pierre’s views concerning international peace.⁴² In this historical vein, she points out that Kant “does not propose a merely voluntary association but argues that a strong, state-like federation of states is required to guarantee the external security of states” (Kleingeld 2012, 44-45).⁴³

Another line of argument (and perhaps the main line of argument) she makes is to simply interpret the creation of a league of nations as exactly like the creation of a local JS, in that they both teleologically explain how the unsocial sociability of humanity leads to the creation of a moral whole (in the sense of the JS, anyway).⁴⁴ Here is a notable quote to this effect from both *Kant on Cosmopolitanism* and ‘Kant’s Changing Cosmopolitanism’:

Kant argues, [in UH], that the way in which states leave the international state of nature to join into a state-like federation is structurally similar to the way individuals leave the state of nature to join into a state...*Individuals* unite into a state ‘in which *freedom under external laws* can be encountered combined, in the greatest possible degree, with irresistible power’ (IaG 8:22). Similarly, Kant claims, *states* will ultimately be forced, by the hardship resulting from the rivalry and wars between them, to exit the state of nature and enter a juridical condition. States exhibit ‘the same unsociability’ as individuals; they experience ‘precisely the ills that pressured individual human beings and compelled them to enter into a lawful civil condition,’ and thus states too will come to see the advantages of joining a federation with common laws and law enforcement (IaG 8:24). (Kleingeld 2012, 45-46; Kleingeld 2009, 177-178)

⁴¹ Rousseau wrote ‘Extrait’ and ‘Jugement’ around the same time, but ‘Jugement’ was published posthumously in 1782 (Kleingeld 2012, 45).

⁴² I am here presenting Kleingeld’s position...not my own. Obviously, she is assuming her position on international government to be correct in making this assertion...a position with which I explicitly disagree.

⁴³ I will respond to each part of what I perceive to be Kleingeld’s position, but only after first presenting all the lynch pins of that position.

⁴⁴ I just mean that it is not clear what role the Kingdom of Ends plays with this talk of a moral whole. I discuss this in Chapters 2 and 4.

In other words, on Kleingeld's reading, Kant has argued that individuals in the state of nature have a kind of unsocial sociability that can only have the teleology of serving to help us create a moral whole. Furthermore, this moral whole is understood (by both myself and Kleingeld) to include not just the JS at the local level, but also at the global level (i.e., not merely locally, but internationally as well).⁴⁵ This is apparent, she argues, from the fifth, sixth, and seventh theses in UH. The seventh thesis says essentially that the civil condition requires solving the problem of international relations between nations: "a perfect civil condition depends on the problem of law-governed external relations among nations and cannot be solved unless the latter is" (Kant UH, 8:24). It is within the discussion of this seventh thesis that Kleingeld finds the textual evidence that states, like individuals, must enter into a union with an irresistible constitution over and above them. That is: since states exhibit the same unsocial sociability, they must need to enter into the very same type of civil condition as individuals.

Finally, Kleingeld further supplements her argument for her position through a semantic point about the chosen German word for what we see in the English as 'federation': the word '*Bund*.' She points out that '*Bund*' "is itself neutral as to whether or not the institution has the power to enforce its laws" (Kleingeld 2009, 178). Her argument here is essentially that since '*Bund*' can be understood either as (1) a coercive federal government over and above the states that are unified within it or as (2) a non-coercive voluntary congress (as I interpret the concept), it clearly can mean the former in UH and then change in meaning to the latter in TPP. Again, relying on the historical point made

⁴⁵ Of course, we disagree primarily on what Kant means in UH by the global conditions of that JS.

earlier about Saint-Pierre, Kleingeld claims that the semantically neutral term allows her to make this claim about Kant's position in UH.

2a-ii: A Review of the historical context of Kant's *Bund*

Before I show what seems odd to me about this argument, there are some historical considerations that have already been discussed by Caranti: he points that while Kleingeld is correct to claim that Kant is writing in a tradition, she is wrong to claim that Kant *agreed* with St. Pierre as a result.⁴⁶ There were two different traditions from which Kant drew: “(a) the natural law tradition, which includes the ancient *ius gentium*, and (b) preceding peace projects crafted and forcefully proposed by authors with whom Kant was certainly familiar.” But the second tradition, which is surely that to which Kleingeld was appealing, is not a clear case of simply carrying on the same view from thinker to thinker. There are few interesting and connected reasons to think this: First of all, Kant was living during the French Revolution, and there were very few democracies at the time. “France was perceived by the European autocracies not ‘merely’ as a dangerous model for domestic rebels but also as a new power ready to export its principles through some sort of republican crusade” (Caranti 2017, 108). Kant himself was living under a monarch when he wrote *MM* and *TPP*, and thus his writing of them constitutes a break from what many in his country must have felt about the rabble in France. Thus, Kant's view of the just IGO, while certainly influenced by St. Pierre (one can hardly deny the seventh thesis's mention of St.

⁴⁶ While Caranti never actually writes that Kleingeld is wrong, his assertions show that she could not possibly be right from this historical context. Caranti admits that “Kant's ‘philosophical project’ does not arise from a void” (Caranti 2017, 108). But, as the reader will see, this already does a lot to undermine Kleingeld's position.

Pierre by name), was more likely the *culmination and evolution* of a peace project going on in the 1700s. (Caranti 2017, 111-112)

According to Caranti, Kant argues against *ius gentium*, putting his view at odds with St. Pierre's (thus simultaneously also denying the Rousseauian claim that this federation would be created and enforced through the use of force) (Caranti 2017, 110-113).⁴⁷ "...[*Ius*] *gentium* was mainly an attempt to identify ...the conditions that make war between states just, thus taking for granted that some wars were legitimate. ...[Kant] simply declares all wars as illegitimate" (Caranti 2017, 110-111).⁴⁸ The evidence for Caranti's claim comes from TPP:

...for Hugo Grotius, Pufendorf, Vattel, and the like (only sorry comforters) – although their code, couched philosophically or diplomatically, has not the slightest *lawful* force and cannot even have such force (since states as such are not subject to a common external constraint) – are always duly cited in *justification* of an offensive war... (Kant TPP, 8:355)

Kant uses this kind of argument against both the justification to go to war and the justification for rebellion. Hence this represents a departure from one fundamental aspect of St. Pierre's *coercive* IGO: namely the idea that it can *justly* use war to enforce that countries act 'rightly' with each other. Even if, therefore, we grant that Kleingeld is right that Kant was not aware of 'Jugement sur la Paix Perpétuelle,' it seems odd to have Kant

⁴⁷ I share some views in common with Caranti, but we do differ in some respects. In this case, I do think that Kant was really more interested in talking about peace than what justifies war, and except for rare cases of defensive wars where they are arguably legitimate, wars *are* generally illegitimate on my reading of Kant. Caranti's claim that they are *always* illegitimate seems a bit strong to me. See the next footnote.

⁴⁸ Of course, it is a matter of debate whether Kant really thought *all* wars to be illegitimate. He seems to defend defensive wars, for example. "As for *active violations* which give a *right to go to war*, these include *acts of retaliation*... , a state's taking it upon itself to obtain satisfaction for an offense committed against its people by the people of another state, instead of seeking compensation (by peaceful methods) from the other state" (Kant *MM*, 6:346). This undermines Caranti's claim in my view. But, in agreement with Caranti, it does seem to be the case that Kant was aiming for the conditions that might sustain a peace, rather than the conditions that would make it ok to go to war. I revisit this issue while discussing the sixth preliminary article later in this chapter.

espouse a view that directly contradicts this position. Kleingeld, of course, ultimately agrees that Kant's *'Bund'* was to be non-coercive by *MM* and *TPP*. It is her claim that Kant changed his mind that is at issue. But I just want to point out that Caranti is not, here, merely saying that she should have noticed this from his latter works. Rather, his claim is stronger: from a historical point of view Kant likely was trying to juggle many different aspects of a longer peace project than merely one book by L'Abbé de St. Pierre, and perhaps Kant's works should be interpreted to reflect that juggling act.

In parallel with this, Caranti notes that the political conversation, by the time of *TPP*, had developed some complexity; this naturally leads Kant to a more nuanced and evolved response to the peace project. Published anonymously only months before *TPP*, a pamphlet, entitled *Épître du Vieux Cosmopolite Syrach à la Convention Nationale de France*, debated the same issues that Kant had debated in *TPP*: 1) there is no right of interference between states, in line with the 5th preliminary article; 2) the world republic would not be created by force like its individual nation counterparts; and 3) the 'world federation' is attainable and thus a legitimate political goal. What is important about this, Caranti explains, is that it shows that *TPP* "appears as the answer [to these questions] by a world famous philosopher to the hottest political issues debated in the European context." Kant was struggling to balance a few things: 1) the need for valuing the "autonomy and sovereignty of each people" as against Enlightenment principles; 2) how hard it is to implement perpetual peace as against the moral duty to strive for it; 3) admitting that violence can promote positive change as against the notion that there is no right to rebellion; 4) the practicality of provisional rules as against the necessity of permanent rules; and finally 5) that while we have a duty to strive for perpetual peace, and while it is perhaps

guaranteed anyway (as in UH), it is not also the case that there is no need for that moral obligation as a result (Caranti 2017, 113-114). It seems that, on Caranti's reading, Kleingeld has not offered us the whole picture of that to which Kant was responding, and perhaps the historical leg of her argument is broken.

2a-iii: Kleingeld's seemingly question-begging strategy

In any case, the historical claims, along with what Kleingeld argues about the word '*Bund*', seem to me to beg the question. Perhaps it would be fairer for me to say that Kleingeld depends on her main argument concerning unsocial sociability to go through. Certainly, if she is right about what Kant says in UH, and if Kant's hope was to be in agreement with Saint-Pierre, then it would stand to reason that Kant might have either ignored or not read Rousseau's counter proposals in '*Jugement sur la Paix perpétuelle*.' But she ought not to claim the reverse, as she seems to: that Kant's having ignored Rousseau's latter work, along with his agreeing with St. Pierre, further supports her claims that Kant meant for the federation to be coercive. Furthermore, the ambiguity in the term '*Bund*' does not support her claims unless she has succeeded already at convincing us that Kant meant for the federation to be coercive due to the unsocial sociability of states. Nevertheless, Kleingeld presents the ambiguity in the term as a kind of support for her historical point about Kant's changing his view on what a 'federation' is supposed to be. Since we really cannot do much more here until we tackle what she says there about unsocial sociability, I will deal with that now.

Kleingeld does use the text effectively to argue for her position, but it seems to me that textual support from elsewhere (notably, in UH itself) re-contextualizes what Kant says in discussing the seventh thesis (and there is, thus, no need to build in the assumption

that Kant has changed his mind to explain what he says there). Consider, for example, the very next, the eighth, thesis (and some of the discussion of this thesis):

*One can regard the history of the human species...as the realization of a hidden plan of nature to bring about an internally, and **for this purpose**, also an externally perfect national constitution, as the sole state in which all of humanity's natural capacities can be developed. ... One sees that philosophy also has its chiliastic vision, but one whose occurrence can be promoted by its idea..., though only from afar, and it is thus anything but fanciful. (Kant UH, 8:27)*

The reference to a “chiliastic” view in the second sentence only supports the claim that Kant thought of the JS itself as a mere ideal...something that we cannot ultimately achieve, but for which we nonetheless have a duty to strive (Kant *MM*, 6:350). Thus, though, we initially will attempt to go through a step similar to Saint-Pierre’s coercive federal government, it is in service of getting toward an externally perfect national constitution (teleologically, we may try to form coercive federations, but ultimately, we will want to make a voluntary congress to form that ‘externally perfect constitution’).⁴⁹ We can therefore allow that the seventh thesis speaks of a universal *coercive* federation, without at the same time making the ideal of the JS (the chiliastic vision) synonymous with this coercive federation. On my reading, the eighth thesis refers to the *voluntary* federation to which Kant alludes in the latter works.

We should not confuse teleological claims about what is true about us with what ought to be true. Some of the teleological claims will coincide with what we ought to do, but some will not. For example, we have unsocial aspects. We are violent when we are in

⁴⁹ I will not, here, give a positive argument for this claim of the coercive step toward the voluntary congress. In keeping with *lex parsimoniae* (more commonly known as ‘Ockham’s Razor’), my presenting it here is meant *merely* to show that the text would seem to contextually support this simpler resolution to the dilemma Kleingeld is trying to resolve (simpler, that is, than the solution she espouses).

too close a proximity. *Teleologically*, we can find a use for this unsociability in terms of how it brings out our other natural capacities best, in the context of our also having sociability. But we should not add that we *ought* to be unsocial. Otherwise Kant would be guilty, in UH, of the naturalistic fallacy. Rather, we simply have a teleology that ultimately does help us to bring about what ought to be. Similar, then, to unsocial sociability (and the inherent violence that goes along with it when humans are forced in close proximity in the state of nature), the creation of a Saint-Pierre style federation can be part of what we will do, in service what we ought to do later: i.e., to create that voluntary congress. Thus, Saint Pierre's vision is not clearly what Kant has in mind as part of what we *ought* to bring about (but only, at most, what Kant thinks is part of our *teleology* on the way to making the world a moral whole).

2a-iv: The Teleological Conclusion of the case against Kleingeld

Since making sense of the teleological arguments in UH cannot stop at the seventh thesis, when Kant has nine theses there, one must endeavor to understand the others. The eighth thesis is located only a couple of pages after the relevant passages quoted by Kleingeld and actually does a lot to explain the disparity between the explanation of the seventh thesis and what is said in *MM* and in *TPP*. An “externally perfect civil constitution” serving all of humanity seems most straightforwardly to describe the JS considered globally (and not, say, the Kingdom of Ends).⁵⁰ It seems to me that this global view of the

⁵⁰ It is noteworthy that another way to read the eighth thesis is that it refers to the Kingdom of Ends, and that the seventh thesis, and all of Kant's discussion there about St. Pierre, really does refer to the JS. In fact, the easiest way to make Kleingeld's picture fit with *Universal History* is to read the eighth thesis this way (assuming you think Kant to be a natural teleologist). Kleingeld seems to make this move when she writes: “The final end of history according to the *Idea* seems to be identical to the ‘moral world’ discussed in the *Critique of Pure Reason* under the name of the highest good. In the first *Critique*, this is the ideal ... in which all agents act morally, and in which, as a consequence of their virtuous action, all are happy (A 809/B 837)” (Kleingeld 2009, 185-186). The purpose of *this* discussion, however, is merely to show that

JS must be a voluntary congress of states (even in UH), and this seems further supported by the following two interesting bits from TPP: (1) aside from the rights of people in a given state, and aside from the rights of states in their voluntary congress, there is also the concern of the right of people to have a kind of world citizenship in “a universal nation of men (*ius cosmopolitanum*).” Kant writes that this latter right is “necessary in relationship to the idea...of perpetual peace” (Kant TPP, 8:349). Furthermore, (2) in Kant’s discussion of the second definitive article for perpetual peace – “The right of nations shall be based on a federation of free states” (Kant TPP, 8:354) –, he writes concerning this federation:

This league [of peace] does not seek any power of the sort possessed by nations, but only the maintenance and security of each nation’s own freedom, as well as that of the other nations leagued with it, without their having thereby to subject themselves to civil laws and their constraints (as men in the state of nature must do) (Kant TPP, 8:356).

my way of reading the text keeps Kant consistent between his works on the topic of the JS considered globally (and keeps teleology and morality separate).

I will just briefly say here that the Kingdom of Ends seems out of place in UH, since the work is about our teleology, and the Kingdom of Ends, *in no work* of Kant’s, is talked about in terms of teleology. Rather, the Kingdom of Ends is talked about as a hope that we must have as a result of our being moral. The question of the final ends of our existence are asked in the context of determinism; namely the questions in UH are asked in terms of cause and effect and what we can expect will happen as a result of what has happened. Kant writes:

Whatever concept one may form of *freedom of the will* in a metaphysical context, its *appearances*, human actions, like all other natural events, are certainly determined [*bestimmt*] in conformity with universal natural laws. History – which concerns itself with providing a narrative of these appearances, regardless of how deeply hidden their cause may be – allows us to hope that if we examine *the play of the human will’s freedom in the large*, we can discover its course to conform to rules [*regelmässig*] as well as to hope that what strikes us as complicated and unpredictable in the single individual may in the history of the entire species be discovered to be the steady progress and slow development of its original capacities. (Kant UH, 8:17)

Kant’s position *is* hopeful, in that when we look at UH and at the moral works, we see agreement between that which we ought to do and that which eventually will happen. But there are two points that need to be addressed: Firstly, the Kingdom of Ends is not something we ought to bring about, but rather a *hoped for* consequence of our doing what we ought to do (determined, so to speak, by the categorical imperative). For example, in the ‘Canon of Pure Reason’ in the first *Critique*, Kant distinguishes between that which we ought to do (which he says is not appropriate to discuss in there in the first *Critique*) and that for which we can hope (Kant *CPR*, A 805/B 833). Second, the Kingdom of Ends is noumenal and nothing phenomenal can *cause* anything noumenal, for the noumenal is defined as being separate from the laws of cause and effect (Kant *CPR*, A 252/B 308). Thus, to include the Kingdom of Ends in UH is, in a strict sense, unreasonable, from a teleological point of view.

All that said, I just want to add that I will be discussing, in Chapter 2, whether creating the KofE can still be thought of as a duty, in spite of what is said here.

Thus, it seems to me to be a bit myopic to view the seventh thesis as referring to the JS and to assume that Kant means for the eighth thesis to describe some other universal ideal (e.g., the Kingdom of Ends). We need not add the assumption that Kant has fundamentally changed his mind as to what constitutes the JS at the global level (unless we think he did this *in the course of only two pages!*). In what follows, I will describe precisely what *is* involved in the global aspect of the JS by exploring what is written in both *MM* and *TPP* concerning this state.

2b: The Global Just State revisited

This *voluntary* congress of states requires international rules, which Kant calls ‘articles for perpetual peace among nations’ in *TPP* (Kant *TPP*). Before we continue with a description of these articles, it should be noted that Kant did not believe that this worldwide united congress was possible. He argues that since the world is geographically vast, and the chances are diminished, therefore, that we can adequately protect each other from attacks from outside of that union, it follows that member nations may choose not to remain part of that congress, forming smaller versions of that congress with other nations (perhaps even coercive federations). Thus, “*perpetual peace*, the ultimate goal of the whole right of nations, is indeed an unachievable idea” (Kant *MM*, 6:350). Kant, however, explains that we still have a duty to continually approximate the ideal of perpetual peace among nations.⁵¹ Approximation of perpetual peace is best defined in terms of the articles presented in *TPP* (which is, it seems to me, appropriately titled,

⁵¹ Kant argues that continual approximation of perpetual peace is *a duty*; which will mean a lot to the argument I will make in Chapter 4 concerning the practical connection between the JS and the Kingdom of Ends.

given that Kant merely thinks we have a duty to get *toward* perpetual peace...not to actually achieve it). There are 6 ‘preliminary articles’ and 3 ‘definitive articles.’⁵² As we progress through each article, I will bring in supporting text from *MM*.

Kant’s first preliminary article is this: “No treaty of peace that tacitly reserves issues for a future war shall be held valid” (Kant TPP, 8:343). When peace is understood to be a complete cessation “of all hostilities,” any treaty that entails that we must fight a future war (or otherwise make another treaty at the time when the issue of that future war becomes relevant) itself assumes that some hostility still exists.⁵³ Kant also argues that any such treaties “are beneath the dignity of the ruler” (Kant TPP, 8:343-344). The idea I think is this: Recall that the ruler cannot be justly resisted (Kant *MM*, 6:316). Thus, anything done by the ruler which entails future resistance (directly against the state that the ruler rules, and thus indirectly against the ruler himself) undermines the dignity of that ruler. Any *actual* peace treaty, you see, must nullify “all existing causes for war, even if they are unknown to the contracting parties, and even if they are assiduously ferreted out from archival documents” (Kant TPP, 8:344). In other words, for a peace treaty to be *toward perpetual peace*, it must not defer issues that would lead to a future

⁵² The distinction between ‘preliminary’ and ‘definitive’ seems to involve the following: preliminary articles deal with what duties states have to either avoid war or to positively bring about peace, in relation to each other; whereas definitive articles specifically come out of thinking of the constitution of the JS locally, globally as a relationship of states with states, and globally as a relationship between individuals of local states and those of other local states (Kant TPP, 8:349).

⁵³ One contemporary example of such a bad peace treaty would be the Oslo Accords, which intentionally left out solutions to issues which had been, by the 90s, historically infamous for leading to hostilities between Israel and the Palestinian territories. The contracting parties had not fully discussed solutions to the very problems that were leading to hostilities that were already happening as a result of those very problems. Even if they had discussed it, as in the earlier Camp David Accords, all parties involved would have to assume that any issues that might come up later would only be dealt with through negotiation and not war. Obviously neither the Camp David Accords nor the Oslo Accords fulfilled Kant’s conditions for a peace treaty that is toward perpetual peace. (Kant himself tries to give contemporary examples in his time to explain to his readers what he means. I am just mirroring that here.)

war (on the part of either contracting party). All nations involved in a peace treaty must make sure that any issues that might lead to a future war *that could be known at that time* have been nullified at the time of the signing of the treaty itself.⁵⁴

The second preliminary article is as follows: “No independent nation, be it large or small, may be acquired by another nation by inheritance, exchange, purchase, or gift” (Kant TPP, 344). The reasoning here has to do with the sovereignty of the general united will. In *MM*, Kant refers to the general united will as consisting “of three persons”: the ruler, the legislature, and the judiciary (Kant *MM*, 6:313). Recall that ‘persons’ are distinct from ‘things’ in that the former cannot be sold for any price, because they have a dignity. Thus, to treat a person like a thing is to deny them their dignity. Therefore, as Kant puts it: “A nation is not (like the ground on which it is located) a possession... It is a society of men whom no one other than the nation itself can command or dispose of” (Kant TPP, 8:344). To treat a nation like a thing (i.e., as though it can be acquired through inheritance, exchange, purchase, or gift) “denies its existence as a moral person...and thus contradicts the concept of the original contract, without which a people...has no rights” (Kant TPP, 8:344). Again, to put it succinctly, the general united will maintains the contract that keeps the state together (and irresistible); thus to undermine that will is to contradict the very reason for that will.⁵⁵

⁵⁴ It must also be decided, presumably at the time of the treaty’s signing, that any *unknown* issues will be solved by some other means besides war.

⁵⁵ Examples of things forbidden by this principle would be taking a country from a middle-eastern already existing government, say, and then handing it over to another government (or even another country). The U.S. has notoriously done this over the past century or so in many places in the world. Each time, we did see a continuance of hostilities in the region involving the regime change. Thinking further into the past, colonialization by the U.S. falls under this principle as well.

The third preliminary article for ensuring perpetual peace is: “Standing armies...shall be gradually abolished” (Kant TPP, 8:345). Kant puts forth the point that other nations will want to match the standing armies of your nation, should you maintain a standing army without gradually diminishing its size. On the other hand, some nations might argue that it is better to keep a standing army, because that avoids the cost of small wars here and there. But Kant points out that the expense is actually greater to continually maintain these armies. Most importantly, paying people to be in these armies for the sake of preventing small wars, or even in the service of any war, seems to clearly violate the formula of humanity (namely that people should not be used as mere means) (Kant TPP, 8:345).⁵⁶⁵⁷

Kant’s fourth preliminary article is: “No national debt shall be contracted in connection with the foreign affairs of the nation” (Kant TPP, 8:345). Imagine state A borrows money from state B to wage war (or to maintain an army, for example).⁵⁸ State B has contracted a national debt with state A ‘in connection with’ the foreign affairs of state A. That is to say, both states A and B have violated this article. Kant argues that

⁵⁶ A legislature’s voting to enter a war is very different since, insofar as such a vote is just, the vote reflects the general united will of the people (thus the nation is not using those people as a *mere* means, because their goals are also being respected in the vote) (Kant *MM*, 6:345-346). This is, I think, why Kant writes, in contrast to this: “The voluntary, periodic military training of citizens so that they can secure their homeland against external aggression is an entirely different matter” (Kant TPP, 8:345).

⁵⁷ An example of this today would be literally the U.S.’s own standing army, which encourages other world powers, whose interests are not necessarily aligned with the U.S.’s, to maintain very powerful militaries. In 2016, the largest four armies in the world for example were, in order: China, U.S., India, and North Korea. Furthermore, a contemporary analogue to this would be nuclear proliferation. The crisis between India and Pakistan, or between North Korea and the rest of the world, illustrates exactly this idea of Kant’s. Far from being a deterrent to hostilities, maintaining large armies, or even large amounts of nuclear devices, has actually seemed to be more of a deterrent to peace than war.

⁵⁸ The truth is that Kant’s principle also allows for national debt incurred within a country. For example: of the U.S.’s 2016 debt of more than 19 trillion dollars, slightly less than 13 trillion of that is actually owned by organizations and individuals within the U.S. itself (individuals, pension funds, federal reserve, etc.) (Long 2016).

state A now has “a war chest exceeding the treasure of all other nations taken together” (Kant TPP, 8:345). He argues this on the basis that when we have an international credit system (wherein nations can borrow from each other in this way), the demand to pay back the debt is not immediate (furthermore, paying back the debt might be delayed simply based off the economic stimulus in state A that comes from pouring that extra money into industry). Kant’s assertion that this is a barrier to perpetual peace seems relatively reasonable given this way of arguing. After all, a war chest like that would mean that a nation could wage war indefinitely and with whomever they wanted to. As Kant writes: “This ease in making war, combined with the inclination of those in power to do so – an inclination that seems innate in human nature – is a great obstacle to perpetual peace” (Kant TPP, 8:346).⁵⁹

The fifth article that helps to ensure continual approximation of perpetual peace is: “No nation shall forcibly interfere with the constitution and government of another” (Kant TPP, 8:346). Let’s say that state B is in a sort of civil war...an internal dispute where people are dying. State A cannot interfere in this war, because, to do so, would violate the autonomy of State B to ‘decide for itself’ which faction will run it. Interfering “would be an obvious offense and would render the autonomy of every nation insecure” (Kant TPP, 8:346). Again, remember that the general united will of a people must not be

⁵⁹ To take a random year, U.S. military spending in 2014 was around 610 billion dollars that year. That was only about 36 billion dollars shy of the total amount spent by the next 8 countries combined that year. Given that we have the highest national debt in the world, there is good evidence that Kant is right that incurring national debt in the service of foreign affairs is a great barrier to perpetual peace.

subordinated to any other will (not even the sovereign general united will of another state). Thus, this follows from what was said about the JS considered locally.⁶⁰

Kant's sixth, and final, *preliminary* article is this: "No nation at war with another shall permit such acts of war as shall make mutual trust impossible during some future time of peace: Such acts include the use of *Assassins (percussores) Poisoners (venefici) breach of surrender, instigation of treason (perduellio)* in the opposing nation, etc" (Kant TPP, 8:346). Before we continue, it is important to realize that some wars are justified in a state of nature. So long as we have not gotten all the way to perpetual peace, but are merely toward it, we do have rights to go to war with countries that have exited, or were never part of, our congress. The right to go to war in a state of nature stems from the fact that one nation cannot settle a wrong done to it by another state through a lawsuit unless the two states are in the kind of civil condition entailed by a voluntary *congress* of those states. So, if state A attacks state B, or threatens to do so, or in some other way threatens the existence of state B, then state B has a right to defend themselves (Kant *MM*, 6:346-349; Kant TPP, 8:346). Thus, how states comport themselves in wars is relevant to getting toward perpetual peace. The article under discussion here gives us some guidelines on what should never happen during a war. Kant gives us a list, but it is meant to be a series of examples. He means for us not to engage in acts during war that would make it hard for other countries to trust a peace treaty with them, or would otherwise

⁶⁰ When the U.S., for example, changes the governments of countries in the middle-east, by taking over and helping to oust the leaders there, they undermine the sovereignty of the general united will of that country. Regardless of the fact that these countries, *even internally*, are often in a non-rightful condition anyway (since their governments don't satisfy the conditions of the JS considered locally), one ought to readily see that undermining the autonomy of other nations' GW does not help them to create a rightful condition, but, as we have seen, rather it seems to make the constitution of those states even worse (good examples of this are Libya and Iraq).

undermine the attempt to get toward perpetual peace. For example, spying on an enemy leads to the desire to spy on allies even during times of peace.⁶¹ Another example might be any war fought in such a way where there is a possibility of utter annihilation to both sides; such a war would lead to a kind of perpetual peace, but not the kind Kant has in mind⁶² (Kant TPP, 347). The argument against these actions is simply that to do any of them is to directly, or indirectly, undermine that peace will be maintained in the future.

Having discussed the six preliminary articles, recall that Kant also has three *definitive* articles of perpetual peace. These articles correspond to the three ways of talking about a constitution: the rights of the people of a particular state; the rights of states “in relation to one another”; and finally the right of individuals in any of the member states to consider themselves citizens of the world... “of a universal nation of men (*ius cosmopolitanicum*)” (Kant TPP, 8:349). Kant explains that we have to keep all three of these in mind if we are trying to achieve perpetual peace. If even one nation were to stand apart from the rest of the nations, then even if every other nation were in this voluntary congress, all nations would be in a state of nature *with each other* (i.e., a state of the world where war is possibly justified) (Kant TPP, 8:349). I think the idea here is that if people in any nation did not also think of themselves as cosmopolitan citizens of the world, then that would be one more obstacle to getting each state to enter into the

⁶¹ We’ve seen this in our time, when the U.S. was caught spying (in 2015) on Germany, France, Spain, and Mexico to name a few.

⁶² Nuclear, biological, and chemical weapons seem indiscriminate enough in their destructiveness that they qualify as good examples today of helping to bring about this alternative version of ‘perpetual peace’ (certainly not the kind Kant has in mind, obviously).

voluntary congress. In what follows, I will discuss these three distinct rights under the umbrella of helping us to approximate perpetual peace.

The first of the three definitive articles for helping to get toward perpetual peace is this: “The civil constitution of every nation should be republican” (Kant TPP, 8:349). We have to start by discussing what a ‘republican constitution’ is, and why not having one is contrary with right.⁶³ It is not completely clear exactly how the voting would go in the JS considered merely locally above, but it should have been implicit in my earlier discussion that regardless of the nuances of voting, the legislature is a group of representatives, representing the people when they vote. Recall from sub-sections 1a and 1b: This legislature is supposed to vote only in accord with the general united will, and not based on any other corporate or private will. Kant says too that the judges are also chosen by the people (Kant *MM*, 6:313-316, 6:321-322). Most importantly, here, the legislature is a representative body with the right to declare war (Kant *MM*, 6:345-346). Just to make the point stronger, Kant writes: we have to “derive this right [to go to war] from the duty of the sovereign to the people” (i.e., not from the duty of the people to the sovereign) (Kant *MM*, 6:346). We see Kant argue, in parallel, in TPP: “If...the consent of the citizenry is required in order to determine whether or not there will be war, it is natural that they consider all its calamities before committing themselves to so risky a game” (Kant TPP, 8:351). On the other hand, if the citizenry could just be forced to go to war at the behest of any authority in government (whether legislature, ruler, or judge),

⁶³ By focusing on the relationship between a republican constitution and the duties involved in declaring war, I intend for this discussion to center on how this constitution of a local JS helps to bring it toward perpetual peace with other nations.

then that would be to treat them like livestock (Kant *MM*, 6:345). Such a thing would contradict the formula of humanity, and thus be contrary to right.⁶⁴⁶⁵

Furthermore, Kant tells us why republicanism is better for perpetual peace than despotism (Kant *TPP*, 352; Kant *MM*, 6:316-317). It is important to note that one quality of republicanism is that it separates the executive and legislative authorities from each other. In other words, it is opposed to despotism: “A *government* that was also legislative would have to be called...despotic” (Kant *MM*, 6:316-317). If a *ruler* were despotic, then the despot’s interests, with regard to *his* external freedom, would be served, and not the common interests of the citizens of the land. A just *ruler* would be one, therefore, that allows “each [citizen to be] in possession of himself and...not dependent upon the absolute will of another alongside him or above him” (Kant *MM*, 6:317). This means that the just *ruler* does not also make laws, because that would make the citizens dependent upon him for law-making (a task that should reflect their own wills). “In a despotism the ruler independently executes laws that it has itself made; here rulers have taken hold of the public will and treated it as their own private will” (Kant *TPP*, 8:352). So, clearly the despotic government is not consistent with right.

⁶⁴ This claim depends on my argument in Chapter 3 and Chapter 4, wherein it is argued that the *ethical* tension, between respect (not treating someone as a mere means) and love (treating them also as an end), grounds the *juridical* tension, between cosmopolitanism and patriotism experienced when trying to achieve a JS.

⁶⁵ Of course, there is an empirical issue that Kant does not explicitly mention: namely, that a people who is treated as a possession by its government will no doubt be more likely to attempt to overthrow that government than if they had more representation. This kind of thing had, after all, happened in France in the 1700s and in the English colonies around the same time (i.e., in both cases, there was a revolution against a government which did not base their decisions on the will of the people, but rather on the decisions of the ruler of those people).

It seems to me that the foregoing has to do with perpetual peace, most transparently, in the following way: if a people is sent off to war, without their consent (i.e., without the consent of the general united will), then clearly that would be a barrier to *peace*. Before we continue, let's define aristocracy and autocracy: Autocracy is a form of government where one person rules everyone in the state. Aristocracy is a form where several people (all equal with each other) rule over everyone else (Kant *MM*, 6:338). When the private will of a few people, or even one person (as in an aristocracy or autocracy), is in control of when to go to war, war is more likely in that condition, because that small group of people in control have inclinations (and thus peace becomes *less likely*). Admittedly, Kant explains that a benevolent monarchy would be good, but that we cannot depend on such a benevolent form of autocracy...eventually the monarchy would be inherited to someone not so benevolent, for example (Kant *MM*, 6:339).⁶⁶ The smaller the number of rulers, the more prone that government is to despotism, on Kant's view: "With regard to right itself..., [simpler forms of government are] the most dangerous for a people, in view of how conducive it is to despotism" (Kant *MM*, 6:339). On the other hand, "the smaller the number of persons who exercise the power of the nation (the number of rulers), the more they represent and the closer the political constitution approximates the possibility of republicanism, and thus, the constitution can hope through gradual reforms finally to become republican" (Kant *TPP*, 8:353). However, in terms of despotism considered as a logical barrier to peace (and not merely an empirical barrier), we must explore the despotic issues of having a democracy.

⁶⁶ Kant does distinguish between autocracy and monarchy, but the distinction drawn in *MM* is not absolutely important to make these points.

Kant is explicitly opposed to democracy on the grounds that it is the most clearly despotic, and that this despotism (as opposed to aristocratic or autocratic despotism) inevitably leads to violent revolution.⁶⁷ In truly democratic states, as opposed to for example representative democracies, everyone rules everyone. Democracy is defined this way: “first, it unites the will of all to form a people; then it unites the will of the citizens to form a commonwealth; then it sets this *sovereign*, which is itself the united will of the citizens, over the commonwealth” (Kant *MM*, 6:339). What Kant means is that in a democracy the humans involved do generate a general united will, but then they set that will not merely as legislature but also as *ruler* (which is what I take him to mean by ‘set...over the commonwealth’). One can see how this is necessarily despotic given the definition: a ruler is despotic when it is also the legislature. Kant argues that democracy is thus unable to have a ruler that considers itself a servant of the people (as Kant quotes Frederick II: ‘I am merely the nation’s highest servant’) (Kant *TPP*, 8:352-353). Remember that the ruler’s role is merely to enforce the laws set forth by the legislature, both to keep the legislature from being reproachable and to keep the ruler from being resistible. For consider a ruler who acts as legislature: he could easily err and thus be wrong (i.e., be resistible); after all, his will is his private will, and thus is not the general united will (so the people could justly resist him...a contradiction in right, since the ruler, as part of the constitution of the JS, cannot be justly resisted). Consider a legislature which also enforces its laws: such a sovereign would be a despot as well, for they would thus be reproachable; they would likely make errors in their attempt to enforce the law,

⁶⁷ As stated earlier, the simpler the form of government (the fewer who rule) the more conducive such a state is to despotism. That said, an aristocracy is not ‘clearly’ despotic...it just can become so easily...an autocracy even more easily. But a democracy is already in a despotic condition, by definition.

and thus be reproachable (which is a contradiction, since a legislature in a JS cannot be justly reproached). All that said, despotism, in a democratic state, cannot be changed to a rightful condition without a “violent revolution” (Kant TPP, 8:353). This is where we see what this has to do with perpetual peace: if a given state cannot be in the rightful condition except by violent revolution, and while in a despotic condition is more likely to go to war, then a non-republican form of government (i.e. a despotic one) is a great barrier to perpetual peace on both logical and empirical grounds.

The second of Kant’s three definitive articles for perpetual peace is: “The right of nations shall be based on a federation of free states” (Kant TPP, 8:354). Kant does not mean, by a ‘federation of free states,’ a civil condition exactly like the local one embodied by the aforementioned republican government (with a ruler, legislature, etc.). There are couple of reasons: one reason is already covered earlier in this chapter; namely, to create a federal government over other nations is to subordinate the general united will of each of the member states. The second reason is that we cannot talk about the duties of nations in relation to each other if we really mean for the federation of nations to be united under a federal government. Many “nations in a single nation would constitute only a single nation, which contradicts our assumption (since we are here weighing the rights of *nations* in relation to one another, rather than fusing them into a single nation)” (Kant TPP, 8:354).⁶⁸

⁶⁸ This should supply us with further evidence against Kleingeld’s position, which recall is that the federation (as presented in UH) of free states *is* precisely a federal government with a ruler, legislature, and judiciary. Kant explicitly says the contrary, in fact: “This league [of peace] does not seek any power of the sort possessed by nations, but only the maintenance and security of each nation’s own freedom, as well as that of the other nations leagued with it, without their having thereby to subject themselves to civil laws and their constraints (as men in the state of nature must do)” (Kant TPP, 8:356).

This ‘league of peace,’ as Kant calls it, is required to help get us toward perpetual peace. The league, recall, will need to exist in some form in order to prevent war, because in a state of nature, the only remedy for wrongs done by another state is war. “Nations can press for their rights only by waging war and never in a trial before an independent tribunal, but war and its favorable consequence, victory, cannot determine the right” (Kant TPP, 8:355). Kant says that nations are in a non-rightful condition with each other, but that even the state of nature among states is a condition with states that can determine what is right in themselves: “For as nations they already have an internal, legal constitution and therefore have outgrown the compulsion to subject themselves to another legal constitution that is subject to someone else’s concept of right” (Kant TPP, 8:355-356). But, to determine what is right between nations, we need the league to exist at all; i.e. it must be a voluntary congress...a ‘league of peace.’ In connection with republicanism, an enlightened republican state will be more likely to want to be part of this league of peace because it is the only way to be in line with right: “reason absolutely condemns war as a means of determining the right and makes seeking the state of peace a matter of unmitigated duty” (Kant TPP, 8:356). Thus, a voluntary congress is of fundamental importance to getting toward perpetual peace.

The third definitive article for perpetual peace is: “**Cosmopolitan right** shall be limited to conditions of universal hospitality” (Kant TPP, 357). Kant explains that “cosmopolitan right (*ius cosmopoliticum*)” is the right to “[*offer*] to engage in commerce with” any other person in any other nation in the world (Kant *MM*, 6:352). To understand this article then, let’s look at what Kant means by ‘hospitality’: “the right of an alien not to be treated as an enemy upon his arrival in another’s country” (Kant TPP, 8:358). Kant

is limiting this to a right to visit, since deciding to actually become a citizen of another country requires the internal consent of that country's general united will, and is thus something covered under the first definitive article: republicanism. The right to visit, he explains, "belongs to all men by virtue of their common ownership of the earth's surface; for since the earth is a globe, they cannot scatter themselves infinitely, but must, finally, tolerate living in close proximity, because originally no one had a greater right to any region of the earth than anyone else" (Kant TPP, 8:358). The idea here is that since the earth is a globe, its surface has a limited square footage, so to speak. Thus, since living in close proximity is an inevitability, a person living anywhere must ultimately be able to tolerate others living on the earth: Kant explains that though we don't have a right to anyone else's land, since we all originally had the same potential claim to the land, people "stand in a community of possible physical *interaction (commercium)*" (Kant *MM*, 6:352). Thus we require international laws to govern commerce: "[Cosmopolitan] right [is so named because it] has to do with a possible union of all nations with a view to certain universal laws for their possible commerce" (Kant *MM*, 6:352).

Just as this right does *not* extend to being able to become a citizen elsewhere, neither does it allow a country to settle in unclaimed land without any view to how that settling will affect nations in close proximity to that land.⁶⁹

If the settlement is made so far from where that people resides that there is no encroachment on anyone's use of his land, the right to settle is not open to doubt. But if these peoples are shepherds or hunters (like the Hottentots, the Tungusi, or most of the American Indian nations) who depend for their sustenance on great open regions, this settlement may not take place by force but only by contract, and indeed by a contract that

⁶⁹ Oceans are certainly part of the issue here, but only as a means of travel to get to other lands. We certainly have a cosmopolitan right to use the oceans to move between land masses, because we require this use to be able to make offers of commerce to any people in any nation we wish.

does not take advantage of the ignorance of those inhabitants with respect to ceding their lands. (Kant *MM*, 6:353)

In other words, in the case of settling, a law still has to exist concerning how we will relate to those people, understood as a relationship between states (that is, those laws covered under the second definitive article, in an attempt to prevent war, or the mere possibility of one; both of which would be non-rightful). Thus, the right to ‘visit’ other lands and engage in commerce does *not* extend to settling in unclaimed lands.

It is only with this view of *ius cosmopolitanum* that we can tend toward a cosmopolitan constitution, and thus be also toward perpetual peace.

...the right to hospitality [is] the privilege of aliens to enter, only so far as [this privilege] makes attempts at commerce with native inhabitants possible. In this way distant parts of the world can establish with one another peaceful relations that will eventually become matters of public law, and the human race can gradually be brought closer and closer to a cosmopolitan constitution. ...Because a (narrower or wider) community widely prevails among the Earth’s peoples, a transgression of rights in *one* place in the world is felt *everywhere*; consequently, the idea of cosmopolitan right is not fantastic and exaggerated, but rather an amendment to the unwritten code of national and international rights, necessary to the public rights of men in general. (Kant *TPP*, 8:358, 360)

As long as we allow each other to engage in these sorts of acts of commerce, and as long as we learn what sorts of unwritten amendments to make to the unwritten laws concerning commerce, we are tending toward a cosmopolitan constitution and thus to perpetual peace: “Only such amendment allows us to flatter ourselves with the thought that we are making continual progress towards perpetual peace” (Kant *TPP*, 8:360).⁷⁰

⁷⁰ Kant tells us in the latter half of *TPP* that nature’s purposiveness guarantees perpetual peace (or at least tending toward it) (Kant *TPP*, 8:360-368). This mirrors the arguments he makes in *UH*. Again, it seems to me that Kant did *not* think that we should think of teleology as telling us what we ought to do, but rather as a way of understanding perpetual peace not merely as a product of freedom (a moral ought), but as a product of necessity as well.

Concluding Remark

In the foregoing chapter, I hope to have described Kant's ideal political condition, but this is not the only ideal practical condition: Kant also has an ideal *moral* condition. The former is understood to be constituted by a local and global set of conditions. Locally, we require a coercive federal government, composed of a legislature, a ruler, and a judiciary. Globally we require a voluntary congress of *all* states, where each state in the congress must adhere to the nine (when taken altogether) articles that get the congress toward a condition of perpetual peace. Kant's perfect moral condition will have similar components to the JS *considered locally*, but its existence is considered more to be a hope, and a consequence, of our rational (and thus moral) deliberations. In Chapter 2, I will attempt to explain this latter condition – this Kingdom of Ends –, and most importantly Kant's reasoning behind it.

Chapter 2

The Kingdom of Ends⁷¹⁷²

⁷¹ In keeping with the way the JS is described in Chapter 1, I will *not* be including in this exegetical description any details about what the duties of virtue are (nor how they are derived). Thus, neither the categorical imperative, nor any derived ethical duty will be discussed.

⁷² A large portion of this chapter is drawn from my undergraduate thesis, entitled *A Discourse on the Religious Consequences of Kant's Moral Foundation*. This chapter builds on that by going into more detail concerning Kant's religion.

Introduction

Unlike the JS, which is a mere political ideal, the Kingdom of Ends (KofE) is described in the *Critique of Pure Reason (CPR)* as a moral ideal (a hope really) which, in some sense, ‘lies beyond’ the sensible world (Kant *CPR*, A 798-799, 808/B 826-827, 836). The KofE is a systematic union of rational beings all working under the same laws, where those laws are reached through the categorical imperative (Kant *G*, 4:433). Kant describes this union, not just in terms of its laws, but also in terms of its citizenry, so to speak: As a member, each rational being would be a legislator but would also be subject to the law, but the ruler of the KofE would not be subject to its laws, as he would be subject only to his own will. A person can only be *head* (i.e., ruler) of that KofE when he is a “completely independent being, without needs, and with an unlimited power adequate to his will” (Kant *G*, 4:434). It is important not to think of the KofE as part of the sensible world. Rather, we should recall Kant’s distinction between our noumenal and phenomenal selves (Kant *MM*, 6:418). Presumably, when we consider ourselves as homo phenomenon (i.e., as natural beings in the world of sense) *and* as homo noumenon (i.e., as free beings in the intelligible world), our highest ideal is the JS. Whereas, when we consider ourselves as only homo noumenon, our highest ideal is the KofE. This ideal is wherein we consider ourselves as without inclination, and able to act merely on maxims which we can universalize (into law), and wherein we act out of respect for that law (Kant *G*).⁷³ In what follows, I will attempt to give a step by step account of the KofE and

⁷³ Remember that both the JS and the KofE are ideals, neither of which are to be understood as actually achievable for independent reasons. The JS is merely an ideal toward which we must strive because, as *rational beings in the sensible world*, our ability to create the perfect civil condition is empirically limited. The KofE is merely an ideal because we cannot understand it as an effect of any antecedent cause in the sensible world; it is, after all, only a conception of ourselves in a systematic union with each other beyond

how Kant imagines the elements of this Kingdom are justified: the existence of G-d, the immortality of the soul, and freedom (as opposed to nature, as the causality of the members of that kingdom).⁷⁴

Section 1: A framework for the Kingdom of Ends generally

1a: Ethico vs Physico Theology

The KofE is an ethicotheological idea, and not a physicotheological idea (i.e., we can only justify it through the use of practical reason; not merely with speculative reason). Kant defines each of these in the *Critique of the Power of Judgment (CPJ)*: “**Physicotheology** is the attempt of reason to infer from the **ends** of nature (which can only be cognized empirically) to the supreme cause of nature and its properties. A **moral theology** (ethicotheology) would be the attempt to infer from the moral ends of rational beings in nature (which can be cognized *a priori*) to that cause and its properties” (Kant *CPJ*, 5:436). The former precedes the latter, because if we are going to ask questions about the final end of nature (and thus its original cause), we must first ask about the purposiveness we presume nature to have (Kant *CPJ*, 5:436-437). Kant argues, though, “that physicotheology, no matter how far it might be pushed, can reveal to us nothing about a **final end** of creation” (Kant *CPJ*, 5:437). He argues in this way: we presuppose, in trying to find natural ends, that there will be some ultimate cause, and thus some ultimate purpose (i.e. ‘end’), to nature. Within empirical observation, I can only know so much though. I cannot ever know the ultimate purpose or even, therefore, the ultimate

the sensible world (i.e., the KofE is beyond the Kingdom of Nature, and so the KofE cannot be understood as being caused by anything within the Kingdom of Nature).

⁷⁴ Freedom will be at the center of the connection between virtue and right, and will play a major role in the part of the argument contained in Chapter 3.

cause (Kant *CPJ*, 5:437). “[A physicotheology] can never, even if we were capable of having an empirical overview of the whole system as long as concerns mere nature, elevate us beyond nature to the end of its existence itself, and thereby to the determinate concept of that higher intelligence” (Kant *CPJ*, 5:438). A purely speculative use of reason cannot, therefore, ever yield the concepts entailed by the KofE, because to talk about the original cause of nature is to talk about an uncaused cause... something that is not within the scope of empirical observation. “Physical teleology certainly drives us to seek a theology, but it cannot produce one, however widely we may scrutinize nature through experience and however much we may supplement the nexus of ends discovered in it with ideas of reason” (Kant *CPJ*, 5:440). What we require is an ethicotheology to get us all the way to the concepts entailed by the KofE.⁷⁵

Before we go into detail about how ethicotheology succeeds where physicotheology fails, it behooves this discussion to supplement it with a short discussion of the distinction between speculative and practical reason. Kant first introduces this latter distinction in the *CPR*: “Now if reason is to be a factor in these [logical] sciences, something in them must be known *a priori*, and this knowledge may be related to its object in one or other of two ways, either as merely *determining* it and its concept... or as also *making it actual*. The former is *theoretical*, the latter *practical* knowledge of reason” (Kant *CPR*, B ix-x).⁷⁶ Kant’s prime examples of theoretical knowledge include

⁷⁵ The argument here has been boiled down to its most essential elements. Kant actually supplements what I exposit here with claims about how a physicotheology cannot show that the original cause is the G-d of the kingdom of ends, even if it might be able to suggest to us an intelligence with sufficient power to have created the world, with some original purpose in mind (Kant *CPJ*, 5:438-441). It does not seem necessary to give the extra details of that argument in this exposition.

⁷⁶ In many places, Kant uses the terms ‘theoretical’ and ‘speculative’ interchangeably. In other places he does not, but I see no reason to settle the issue here. For the purposes of simplicity in this essay, I will take

mathematics and physics: the former uses only a priori principles to derive its conclusions, whereas the latter borrows from experience to derive its conclusions. By distinction, *practical* knowledge involves knowing what it takes to accomplish that which we theorize to be possible through speculative reason. Speculative reason can, therefore, only ask about what is; and there are, as a result, limits to its use. I can inquire into what lies beyond the sensible, but I cannot answer the question within a merely speculative use of reason. Practical reason, on the other hand, allows us to think about what ought to be the case, or even what we want to be the case. For our purposes, it is only within the scope of practical reason that I can derive anything beyond the sensible: the assumptions of what is involved in the KofE (the existence of G-d, freedom, and the immortality of the soul) “as made on behalf of the necessary practical employment of my reason - ...is not permissible unless at the same time speculative reason be deprived of its pretensions to transcendent insight” (Kant *CPR*, B xxix-xxx). We shall discover, through the ensuing discussion of ethicotheology, what Kant means by this, and ultimately, thus, what he means when he famously writes: “I have...found it necessary to deny *knowledge*, in order to make room for *faith*” (Kant *CPR*, B xxx).⁷⁷

We are surely not authorized to deny ‘knowledge’ to make room for ‘faith’ unless reason’s primary interest is practical, and *not* speculative. Kant specifically discusses this in the *Critique of Practical Reason (CPrR)*: “The interest of [reason’s] speculative use: consists in the cognition of the object up to the highest a priori principles; that of its

the route of treating the terms synonymously. But I grant that a good exegesis of Kant’s epistemology might require an argument to clear up the confusion.

⁷⁷ Kant does not mean that we deny knowledge that we have, but rather that we allow that speculative reason cannot tell us everything (for it cannot explain how we come to ‘know’ anything about the supersensible). It is this move that opens up the door for practical reason to give us a kind of rational faith.

practical use, in the determination of the *will* with regard to the ultimate and complete purpose” (Kant *CPrR*, 5:119-120). This is just a repeat of what was already asserted in the *CPR* (Kant *CPR*, B xxix-xxx). Kant argues that practical interest has priority over speculative interest: while both types of reason judge “according to a priori principles,” “all interest is ultimately practical and even the interest of speculative reason is only conditional and is complete in practical use alone” (Kant *CPrR*, 5:121). To put it a bit more simply, the interest of speculative reason is to determine the objective reality of objects of experience, but we can only *want* to know what things are in themselves in virtue of our practical reason (that form of reason in which we determine what ought to be the case, and what we want to be the case).

Most importantly for our purposes: this means that speculative reason must allow practical propositions, so long as speculative reason does not already have proof of the impossibility of these propositions. So, to pick one postulate necessary for the KofE, speculative reason cannot prove G-d exists, but it cannot prove He does not...thus if practical reason demands we assume G-d exists, then speculative reason must cede to the interests of practical reason. Indeed, Kant asserts as much and more:

These postulates are those of *immortality*, of *freedom* considered positively (as the causality of a being insofar as this being belongs to the intelligible world), and of the *existence of G-d*. The *first* flows from the practically necessary condition of adequacy of [one’s] duration to the complete fulfillment of the moral law; the *second*, from the necessary presupposition of independence from the world of sense and of the ability to determine one’s will according to the law of an intelligible world, i.e., the law of freedom; the *third*, from the necessity of the condition for such an intelligible world, in order for it to be the highest good, through the presupposition of the highest self-dependent good, i.e., the existence of G-d. (Kant *CPrR*, 5:132)

In Section 2, I will go over each of these postulates and how Kant claims to have practically proven them. For now, this passage is meant to simply assert that Kant did

think that practical reason got us the very elements necessary for a KofE as noted earlier. Speculative knowledge of the world is not thereby expanded: "...how freedom is even possible and how we are to present this kind of causality theoretically and positively – into this we do not thereby have insight; rather that there is such freedom is only being postulated through the moral law for its sake" (Kant *CPrR*, 5:133). On the other hand, since reason's primary interest is always practical, speculative reason does not get to deny the *practical* necessity of the Kingdom of Ends (something which, while it cannot be proved *speculatively* possible, cannot be proved to be *speculatively* impossible) (Kant *CPR*, A 797-803/B 825-831; *CPrR*, 5:146).

In a similar vein, Kant thinks that philosophical theology is allowed to take concepts from biblical theology and figure out how we can reasonably still talk about the supersensible. Kant writes about this in the preface to the first edition of *Religion within the Boundaries of Mere Reason (R)*:

Over against biblical theology...there stands on the side of the sciences a philosophical theology which is a property held in trust by another faculty. This theology must have complete freedom to expand as far as its science reaches, provided that it stays within the boundaries of mere reason and makes indeed use of history, languages, the books of all peoples, even the Bible, in order to confirm and explain its propositions, but only for itself, without carrying these propositions over into biblical theology or wishing to modify its public doctrines, which is a privilege of divines. (Kant *R*, 6:9)

This comes from the early part of Kant's *Religion*, and is most obviously an attempt to make sure that the Church understands his work *not* to be a challenge to their doctrine, but rather an alternative way to look at the same basic religious precepts: philosophical theology presupposes, to start, *only* the rationality of the believer (thus, on Kant's account, this theology does not make any other presuppositions, let alone ones about the supernatural, *to start*). While part of the message is indeed meant to be an appeal to

Christians, there is a more universal implication: we ought to think of Kant's postulates as consistent with reason, and not as dogmatic speculative assertions about the world.

1b: The *interest* in the Kingdom of Ends

In the *Groundwork* and the *CPrR*, Kant tells us that the only morally acceptable incentive for following the moral law is *respect*; in making this claim, Kant explains that reason cannot have an incentive without an interest, and this interest must be in the KofE.

Duty is the necessity to act out of reverence for the law... Now an action done from duty has to set aside altogether the influence of inclination, and along with inclination every object of the will; so there is nothing left able to determine the will except objectively the *law* and subjectively *pure reverence* for this practical law, and therefore the maxim of obeying this law even to the detriment of all my inclinations. (Kant *G*, 4:400-401)

What is essential in all moral worth of actions is that *the moral law must determine the will directly*. ... Now if by *incentive* (*elater animi*) one means the subjective determining basis of the will of a being whose reason does not by its very nature necessarily conform to the objective law, then it will follow, first, that no incentives at all can be attributed to the divine will but that the [moral] incentive of the human will (and of the will of every created rational being) can never be anything other than the moral law. ... respect for the moral law is a feeling that is brought about by an intellectual basis, and this feeling is the only one that we cognize completely a priori and the necessity of which we can have insight into. (Kant *CPrR*, 5:71-73)

We can look at the word 'reverence' there as synonymous with 'respect' as the terms are used in this same context in other translations of Kant's works (which implies, on my view, that these two terms are meant to refer to the same concept). What is asserted between the *Groundwork* and Kant's second critique is that when we act such that our action has moral worth, we act from duty; this means that we act from a feeling of respect that we have for the moral law itself. In practice this means, for example, not lying to

one's customers because the moral law dictates that one ought not to lie, and for no other goal whatsoever.⁷⁸

But to understand what Kant means when he says that we can have insight into the a priori necessity of this feeling of respect, we must explore how the KofE is connected to our moral intentions. To explain this a priori necessity, we must understand *first* that respect comes from humility.

[The] propensity to make oneself, in terms of the subjective determining basis of one's power of choice, an objective determining basis of the will as such can be called *self-love*, which, when it makes itself legislative and an unconditioned practical principle, can be called *self-conceit*. Now, the moral law, which alone is truly objective..., excludes entirely the influence of self-love on the supreme practical principle and infinitely impairs self-conceit, which prescribes the subjective conditions of self-love as laws. Now, what in our own judgement impairs our self-conceit humbles us. (Kant *CPrR*, 5:74)

In other words, if we decide that each subjective maxim we have can be made objective, then our self-love becomes self-conceit. So, either we have mere self-love or we have self-conceit (either we understand our inclinations to just be ours, and subject to moral approval or disapproval, *or* we view our inclinations as immune from moral judgment). Even if we are not conceited, we still have these inclinations and the corresponding maxims, and thus self-love. Thus, when the truly objective moral law presents itself, it necessarily humbles us. This leads to the moral feeling of respect, which can therefore be counted as an incentive to action: "...this feeling of a rational subject affected by inclinations is called humiliation (intellectual contempt), yet in reference to the positive basis of this humiliation, the law, it is at the same time called respect for the law" (Kant

⁷⁸ I will qualify this in Chapter 4, but insofar as Kant can be understood simplistically, this is accurate enough to characterize what Kant means when he says we must act from respect for the moral law for our actions to have any moral worth.

CPrR, 5:75). An analogy may help: imagine I rationally understand that I ought to take advice from, say, some particular gymnast, when it comes to gymnastics. I still want to do things my way, and I take umbrage at someone else's giving me advice generally. But since I take the gymnast to be an expert, I humble myself when I take his advice. I immediately recognize that for no other reason, I take this gymnast's advice out of respect for that gymnast. This discussion informs how we understand our 'interest' in the KofE, as I explain below.

The incentive of respect is connected with the interest we have in the KofE, but this interest is not at the same time the ground of duty. In the *CPrR*, Kant explains: "From the concept of an incentive arises that of an *interest*... Since in a morally good will the law itself must be the incentive, *moral interest* is a pure sense-free interest of practical reason alone... [reason's interest in its practical use is] in the determination of the *will* with regard to the ultimate and complete purpose" (Kant *CPrR*, 5:79, 120). He is saying that this incentive of respect comes from an interest in the highest good (which necessarily entails the postulates, and thus the KofE itself): This highest good involves a combination of the supreme and complete good. Virtue is the supreme good, while happiness is understood as the complete good (Kant *CPrR*, 5:110). By 'virtue' we mean acting from duty (from respect) for the moral law, and by 'happiness' we mean viewing oneself as being virtuous. Consider this passage from Kant's *Religion*:

...whenever we consider the human being, as he strives toward the good, with respect to the relation of his moral good to the divine *goodness*, has to do with *moral happiness*, by which we do not here mean the assurance of the everlasting possession of contentment in one's *physical state* (freedom from evils and enjoyment of ever mounting pleasures), i.e. *physical happiness*, but the assurance of the reality and *constancy* of a disposition that always advances in goodness (and never falters from it). (Kant *R*, 6:67)

That is to say, moral happiness lies merely in knowing that we have only a good disposition, and in nothing extrinsic at all. But the highest good then requires the postulates (as will be argued below), which means that since the ‘ultimate and complete purpose’ can only be the highest good, it requires the KofE (G-d, the immortal soul, and freedom) (Kant *CPrR*, 5:132). So, it follows then what Kant says in the *Groundwork* on the same subject:

...the Idea of a purely intelligible world, as a whole of all intelligences to which we ourselves belong as rational beings (although from another point of view we are members of the sensible world as well), remains always a serviceable and permitted Idea for the purposes of rational belief, though all knowledge ends at its boundary: it serves to produce in us a lively interest in the moral law by means of the splendid ideal of a universal kingdom of *ends in themselves* (rational beings)... (Kant *G*, 4:462)

We can have this interest in the KofE only because we *can* view ourselves as intelligible beings in community with all other intelligible beings, such that happiness can be rationally hoped for in proportion to virtue.⁷⁹ That is to say: insofar as we view ourselves as intelligible beings, we are able to generate the very idea of the KofE, and thus make such an interest practically possible; but, again, the interest in the KofE does not ground moral choice (and in fact cannot).

1c: The Kingdom of Ends understood as a consequence and a duty

The KofE is a consequence of our ethical reasoning (it is thus a hope, but does not ground our moral choice). Kant’s second critique is again helpful:

As pure practical reason [reason] seeks for the practically conditioned (which rests on inclinations and natural need) likewise the unconditioned; moreover, it does not seek this unconditioned as a determining basis of the will, but, even when this determining basis

⁷⁹ When we consider ourselves as merely sensible, subject only to deterministic laws, we cannot hope for a moral world at all. Furthermore, when we consider ourselves as both sensible *and intelligible*, our ideal is, *at best*, the JS. It is only when we consider ourselves *only as noumenal* that we can hope for the moral world.

has been given (in the moral law), it seeks the unconditioned totality of the *object* of pure practical reason, under the name of the **highest good**. (Kant *CPrR*, 5:108)

This passage alludes to that interest (to which I was just now referring) in the KofE. Specifically, while we may have this interest in the KofE, this interest is not meant itself to be the acceptable ground of moral choice (i.e., it is not meant to be ‘a determining basis of the will’). The latter part of this quote explains that the interest we have in furthering this highest good is still a consequence of our moral reasoning when we are indeed acting from duty. This is repeated in *Religion*:

But that every human being ought to make the highest possible *good* in the world his own *ultimate end* is a synthetic practical proposition a priori, that is, an objective-practical proposition given through pure reason, since it is a proposition that exceeds the concept of the duties in this world, and adds a consequence (an effect) of these duties that is not contained in the moral laws and cannot, therefore, be evolved out of them analytically. For these laws command absolutely, whatever their consequences; indeed, they even require that we abstract from such consequences entirely whenever a particular action is concerned, and thereby they make of duty an object of the highest respect, without proposing to us, or assigning, an end (and an ultimate end) such as would constitute some sort of inducement for it and an incentive to the fulfillment of our duty. (Kant *R*, 6:6-7)

So, on the one hand we can think of the highest good as a necessary consequence of our acting from duty, but on the other we must be careful not to make this sublime consequence the ultimate ground for our moral choice. After all, having *any* goal (as primary) other than that of making universal law would not be considered autonomous (Kant *G*, 4:433).

The KofE has all the same authorities as the local JS: a legislature, a ruler, and a judiciary; but this kingdom is only considered globally (i.e., considered universally as applying to all rational beings):

A rational being belongs to the kingdom of ends as a member, when, although he makes its universal laws, he is also himself subject to these laws. He belongs to it as its *head*,

when as the maker of laws he is himself subject to the will of no other. ...A rational being must always regard himself as making laws in a kingdom of ends which is possible through freedom of the will – whether it be as member or as head. The position of the latter he can maintain, not in virtue of the maxim of his will alone, but only if he is a completely independent being, without needs and with an unlimited power adequate to his will. (Kant *G*, 4:433-434)

Herein we can see that a person, when considered as a rational being, views himself as maker of the laws of the KofE. Since an independent being, without needs and limited only by their will, can only be G-d, Kant must be referring to G-d as head. Consider now what Kant means by G-d's being the head:

...there are three [attributes] that are attributed to G-d exclusively, yet without the addition of magnitude, and that are one and all moral: he is the *alone holy one*, the *alone blessed one*, the *alone wise one*, because these concepts already carry the unlimitedness with them. According to the order of these properties, he is thus also the *holy legislator*..., the *benign governor*, and the *just judge*... (Kant *CPrR*, 5:131)

So, herein we can see that since G-d is part of the KofE, that kingdom does in fact have all three aspects of the local JS. The universality of the kingdom is implicit from the fact that it comes from considering oneself as a rational being. Kant explicitly points out this universality of this kingdom in *Religion*: "...every species of rational beings is objectively – in the idea of reason – destined to a common end, namely the promotion of the highest good as a good common to all" (Kant *R*, 6:97). Thus, Kant thinks of the KofE as having a constitution analogous to the local JS, but with a universality like unto that of the global JS.

In the same vein as the creation of the JS, there is an ethico state of nature (as opposed to a political state of nature). Kant's *Religion* is where he first suggests the analogy:

...just as the rightful (but not therefore always righteous) *state of nature*, i.e. the *juridical state of nature*, is opposed to the [*juridico-civil* (political) *state*], so is the *ethical state of nature* distinguished from the [*ethico-civil* state]. ...Further, since the duties of virtue concern the entire human race, the concept of an ethical community always refers to the ideal of a totality of human beings, and in this it distinguishes itself from the concept of a political community. (Kant *R*, 6:95-96)

Kant is perhaps being imprecise here. He means that the universality of the KofE makes it distinct from the JS considered locally, because *political* state-hood is merely a community of rational beings living too close to each other to not enter into such a state. Just as, in the case of the political state of nature, when we are in the ethical state of nature, we have a duty to leave that state and enter into the KofE with each other:

Human beings...mutually corrupt one another's moral predisposition and, even with the good will of each individual, because of the lack of a principle which unites them, they deviate through their dissensions from the common goal of goodness, as though they were *instruments of evil*, and expose one another to the danger of falling once again under its dominion. Further,...the ethical state of nature [is] a *public* feuding between the principle of virtue and a state of inner immorality which the natural human being ought to endeavor to leave behind as soon as possible. (Kant *R*, 6:97)

To understand fully this passage, it is necessary to simply mention that Kant thinks of humans as having a form of original sin, for which we are responsible as a species (Kant *R*, 6:32-33). Since we are responsible for this propensity (or 'predisposition,' as Kant sometimes calls it), we have a duty to overcome it.⁸⁰ This duty can only be effectively carried out if we try to bring about a social situation where our dispositional states will be rewarded (i.e., the highest good, where virtue is rewarded with happiness). Thus, in a

⁸⁰ It seems to me that 'original sin' is not really necessary in a Kantian frame. Kant's underlying claim is that we are all both predisposed to be evil and good. I find his argument for this to be somewhat theologically motivated, rather than purely rationally motivated. The theological question of whether original sin has a place in Kant's system is, however, not ever decided in this dissertation. Suffice it to say, I am unsatisfied by Kant's having included this in his system. From now on (and as this is meant to be exegetical anyway), I will simply presume his rational theology, which absolutely does include 'original sin', or what Kant also calls 'radical evil' in man.

relatively simple, yet analogous, sense, we have a duty, so to speak, to further the highest good.

Section 2: Proving that we are authorized to the postulates

2a: Antinomy of Practical Reason

Recall that there are two parts of the highest good: the supreme good (virtue), and the complete good (happiness); well, Kant proposes an antinomy, the solution of which will lead us to a derivation of the postulates. Kant explains: “this linkage (like any linkage as such) is either *analytic* or *synthetic*” (Kant *CPrR*, 5:113). It is apparent that virtue simply *is not* rewarded with happiness in phenomenal experience (not even when happiness is described as ‘viewing oneself as virtuous’). Thus, the connection between virtue and happiness cannot be analytic. For, to be analytic, happiness would have to already be contained in the concept of virtue (which empirical experience tells us to be false), or else virtue would have to be contained in the concept of happiness (which is empirically false as well, for we can easily imagine someone who views themselves as virtuous, but is not so). (Kant *CPrR*, 5:112-113) But there are two ways to connect virtue and happiness *synthetically*, and neither seem possible at first (this would be a major problem for Kant if neither were *in fact* possible; hence, this is what Kant calls the antinomy of practical reason).

...either the desire for happiness must be the motivating cause for virtue, or the maxim of virtue must be efficient cause of happiness. The first is impossible *absolutely*, because...maxims that posit the determining basis of the will in the longing for happiness are not moral at all and cannot be the basis of any virtue. But the second is *impossible also*, because any practical connection of causes and effects in the world, as a result of the determination of the will, conforms not to moral attitudes of the will but to acquaintance with the laws of nature and to the physical ability to sue them for one’s aims, and because consequently no necessary connection, sufficient for the highest good,

of happiness with virtue in the world can be expected [to come about] through the most meticulous observance of moral laws. (Kant *CPrR*, 5:113)

In order then, consider the first way to think about the synthetic connection: ‘desire for happiness is the motivating cause for virtue.’ This is said to be impossible because of the definition of moral value. For an action to have moral value (to be virtuous), we must do the action merely (or, perhaps, primarily) from respect for the moral law itself.⁸¹ Thus, any other motivation, as in any toward happiness (even when happiness is viewed as ‘viewing oneself as virtuous’), is heteronomous (i.e. not autonomous), and thus not moral.

Consider now the second way: ‘the maxim of virtue is the efficient cause of happiness.’ Again, this is said to be impossible, for a different set of reasons altogether: First of all, the concept of cause and effect is one that can only be understood in terms of natural laws (i.e. speculative, and not practical, reason), and not in terms of practical laws (i.e. moral laws). Second of all, (and this follows from the immediately preceding sentence) even if we had an idea of the KofE (with, however, no rational derivation of the postulates involved in that kingdom), we cannot infer, *ipso facto*, that happiness will ever be rewarded by virtue (for that would require deference to some law of nature...some law of cause and effect). There has to be some kind of connection between virtue and happiness, but so far we seem to have shown that there is no such connection (i.e., no analytic connection and no synthetic connection). This is most problematic for Kant, for it would mean that morality itself was a mere illusion: if “the furtherance of the highest

⁸¹ I discuss respect in more detail in Chapter 4. What it turns out counts as respect is that you genuinely try to abstract from all inclination; i.e., it is the genuine attempt, and not any contingent success, that counts as moral worth.

good...is an a priori necessary object of our will and is inseparably linked with the moral law,” (i.e., if it is a duty to further the highest good), then the impossibility of this connection (between virtue and happiness) “must also prove the falsity of the moral law” (Kant *CPrR*, 5:114).

Kant explains that the solution to this antinomy is to assume there is a noumenal⁸² world (i.e. that we are free, and not merely determined⁸³) in addition the phenomenal world; unfortunately, this solution will not work for the first attempted synthetic connection: ‘that the desire for happiness is the motivating cause for maxims of virtue.’ This is what Kant means when he says that this first attempt is “*false absolutely*” (Kant *CPrR*, 5:113,114): even on the supposition that there is also a noumenal world⁸⁴, in addition to the phenomenal, if my motivations are toward happiness (or any other extrinsic consequence for that matter), then any ‘moral’ maxims derived from these motivations will yield an action *merely* in accord with the moral law. To be acting *also* from respect for the moral law, I must abstract from all extrinsic consequences. If we consider ourselves also as homo-noumenon (as rational beings *as well as* beings in the world of sense), then the moral law is real and we fail to act autonomously (for our motivations toward happiness are extrinsic). If we are merely homo-phenomenon (merely

⁸² We are authorized to do this, since the noumenal is not impossible, and since we require it for the use of practical reason, and finally because, as has already been shown, reason’s primary interest is practical and not speculative.

⁸³ Kant actually distinguishes this antinomy from the antinomy of pure speculative reason, which actually handles the conflict between freedom and determinism. At the same time, though, Kant is drawing an analogy in saying that the solution to the antinomies both involve the presumption of the noumenal in addition to the phenomenal (Kant *CPrR*, 5:114). The point here is not to bring in and discuss the antinomy of pure speculative reason, but rather to quickly allude to it and say that showing that we are authorized to assume the existence of the noumenal is already a kind of practical demonstration that we are free.

⁸⁴ This is still the most favorable condition for a synthetic connection, which will be made clear in subsection 2a.

sensible beings, and all our rationality merely an illusion), then morality does not exist at all⁸⁵ (so deriving a connection between *virtue* and anything would be a futility). The situation is quite different with the second attempt at a synthetic connection: that virtue is the efficient cause of happiness.

2b: Freedom, Immortality, and G-d: Grounding our Hope that Virtue will be rewarded with Happiness

The second attempt at a synthetic connection (i.e., that ‘the maxim of virtue is the efficient cause of happiness’), however, goes through once we assume the existence of the noumenal world (in effect, Kant means by this: ‘once we assume we are *free*’). To be sure, it is clearly the case that the second connection fails when we are considered merely as sensible beings, for then the only *reality* is the sensible world and its laws of cause and effect (virtue, far from being a cause for happiness, more often than not does *not cause happiness*). However, once we assume the noumenal (and consider ourselves as homo-noumenon), it becomes possible that a moral attitude could have the effect of bringing about happiness (Kant *CPrR*, 5:114-115).⁸⁶ Even if the cause is not so direct, we are authorized to assume an “intelligible originator of nature,” and can thus cognize an indirect connection: wherein this creator judges us worthy of bringing about a KofE (a future world) where virtue is rewarded with happiness (Kant *CPrR*, 5:115). Since, the

⁸⁵ I will not argue for this here. I find it to be a relatively straightforward point though: morality, as Kant understands it, requires the ability to self-legislate the law, and this self-legislation can only be *real* if we are actually *rational* beings in the world of sense. To put it even more simply: we cannot blame the lion when it rips the throat of a rival lion; but we could blame a human being who did this to a rival human.

⁸⁶ This is echoed in Kant’s parallel discussion of the same topic in the *CPR*: “...since we are necessarily constrained by reason to represent ourselves as belonging to [a moral] world, while the senses present to us nothing but a world of appearances, we must assume that moral world to be a consequence of our conduct in the world of sense (in which no such connection between worthiness and happiness is exhibited), and therefore to be for us a future world” (Kant *CPR*, A 811/B 839).

highest good “is the necessary highest purpose of a morally determined will” (Kant *CPrR*, 5:115), it follows that the KofE (including the concept of G-d) connects virtue and happiness through hope. What we have done here shows that we are authorized not just to assume a noumenal world, but more directly that we are authorized to think of ourselves as *free* (as rational beings in the KofE, where the acts of freedom are capable of being the efficient cause for happiness).⁸⁷ We shall see that, from here, we can derive the final two postulates needed to give an ontology of the KofE: the immortality of the soul and the existence of G-d.

We have to consider ourselves as capable of what Kant calls ‘completely adequacy’ to get from this sensible world to the KofE (the future world), and thus through a discussion of complete adequacy, Kant shows that we are authorized (again by practical reason) to assume we have immortal souls. He explains that what would make us completely adequate to get to the KofE is holiness: described in the *Groundwork* as distinct from a ‘perfectly good will,’ the holy will is a will whose actions are necessitated (rather than prescribed) by the moral law (Kant *CPrR*, 5:122; *G*, 4:414).⁸⁸ But “no

⁸⁷ Again, *freedom* lies at the core of the connection between virtue and right, discussed in Chapter 3.

⁸⁸ We should note a discrepancy between what is being said here and what is said concerning the duties of virtue, thought of as *prescribing* the moral law, in *MM* (in the ‘Doctrine of Virtue’ mostly). (Kant *MM*, 6:379-380) In the *Groundwork*, as has just been shown, Kant explains that in the KofE, there would be no oughts, because everyone would have this holy will (wherein the law *describes* the actions of its members). But we clearly have duties of virtue when we think, for example, of the fact that we have a duty to try to leave the ethical state of nature and enter into a KofE (an ethical community): In *Religion*, Kant explains that *we cannot have a duty* to leave the *ethical* (as opposed to political) state of nature in a JS (Kant *R*, 6:95). The most reasonable way to reconcile this paradox (that we have a duty to leave the ethical state of nature and we also lack such a duty in a JS) is to say that we do not have a duty of *right* to leave the ethical state of nature. Since there is only one other set of duties, we must be so obligated under *virtue* (not *right*)...note too that duty implies obligation and not description. Analogously, we cannot even have a duty of right to exit the political state of nature and enter into a JS (for, in order for there to be any duties of right, there must be a general united will to legislate the particular duties themselves)...yet we have a duty to do just that nonetheless (thus it must be a duty of virtue).

I will talk more about this in Chapter 4, but suffice it to say that there does seem to me to be a distinction between (1) what it means to consider oneself as an intelligible being in a kingdom of morals

rational being in the world of sense is capable [of this holiness of will] at any point of time in his [sensible] existence” (Kant *CPrR*, 5:122). Kant is ultimately saying that it is impossible to conceive of ourselves as reaching complete adequacy when we presume our existence to be temporally limited. We must consider the following to see how he gets to this conclusion: Since we have a duty to further the highest good, we have a duty to achieve this holiness of will (Kant *CPrR*, 5:122). Thus, since “this adequacy is...practically necessary, it can be encountered only in a progression proceeding *ad infinitum* toward that complete adequacy” (Kant *CPrR*, 5:122). In other words, since we cannot conceive of ourselves as ever getting a purity of will that is holy (one where our actions are necessitated, rather than prescribed by the moral law) as beings with needs in the world of sense, we must think of ourselves as *infinitely* progressing toward having this moral disposition. Kant continues: “This infinite progression...is possible only on the presupposition of an *existence* and personality – of the same rational being – continuing *ad infinitum* (which is called the immortality of the soul)” (Kant *CPrR*, 5:122). To put it more simply, if we hope to be in the KofE (as a result of having a duty to further the highest good), we must presume that we have immortal souls (and because of the primacy of reason’s practical interest, we are therefore authorized to presume this).

Kant demonstrates, as well, that we are authorized by practical reason to presuppose the existence of G-d: essentially arguing that the connection between the supreme good and the complete good (that virtue is the efficient cause for happiness)

with all other ethical beings and (2) what it means to actually exist in the KofE as some future world. The former allows us to talk of duties of virtue in terms of obligation, whereas the latter presumes that those same duties would be, just like any natural law, ways of describing the actions of the members of that future world (i.e., they would not really be *duties*, as such).

leads not just to the presupposition of the immortal soul, but also to G-d. Kant tells us in the second critique:

The [moral] law must also lead to the possibility of the second element of the highest good...to the **happiness** commensurate to that morality, and must do so with just as little self-interest as [when we are trying to achieve a good moral disposition by ignoring all extrinsic consequences and acting only from respect for the moral law]... In other words, it must lead to the presupposition of the existence of a cause adequate to this effect; i.e., it must postulate the *existence of G-d*, as belonging necessarily to the possibility of the highest good... (Kant *CPrR*, 5:124)

Here he is saying that we must not *merely* explain how we can reach the supreme good (i.e., how we can become virtuous), for the highest good *also contains the complete good*. Further the same level of self-restraint is necessary in trying to achieve that good. Since I cannot think of myself as able to cause the world to be such that I will be happy as an effect of my having attained virtue, and since, nevertheless, we must still hope that we can be in the KofE (considered as a future world where virtue is the efficient cause for happiness), it cannot be that we merely have immortal souls; for nothing in the kingdom of nature can have an effect that would end the kingdom of nature and bring about the future world. Consider what Kant has to say on this in his third critique: "...given all of the capacities of our reason, it is impossible for us to represent [the subjective condition of happiness and the objective condition of virtue, the two requirements of the highest good (i.e., final practical end),] as both **connected** by merely natural causes and adequate to the idea of the final end as so conceived" (Kant *CPJ*, 5:450).

So, he continues, we need also to assume that there is an uncaused causer who can do something that can transform the kingdom of nature into the KofE (Kant *CPJ*, 5:450). Kant explains, in the first critique, that this uncaused cause must be G-d: "The alleged necessary connection of the hope of happiness with the necessary endeavor to render the

self worthy of happiness cannot...be known through reason. It can be counted upon only if a *Supreme Reason*, that governs according to moral rules, be likewise posted as underlying nature as its cause” (Kant *CPR*, A 810/B 838). Even if we have immortal souls (in other words, even if our rational selves are not temporally limited), we could still not comprehend how we can make this sensible world into the KofE. Furthermore, when happiness is considered to be *viewing oneself as worthy to be happy* (i.e., *viewing oneself as virtuous*), we add into our presupposition (of an uncaused cause) a supreme judge that can judge us worthy at some future time such that the future world would come about. This judge would have to have a holy will and be all knowing, and be “a completely independent being, without needs and with an unlimited power adequate to his will” (Kant *G*, 4:434). Thus, we are practically authorized to assume the existence of G-d in addition to freedom and the immortality of our souls.

Section 3: Wood’s alternative view of the antinomy of practical reason

3a: The two antinomies of practical reason

There are alternative ways to understand Kant’s discussion of the antinomy of practical reason (and the ensuing proofs of the postulates: freedom, the immortality of the soul, and the existence of G-d). In particular Allen Wood, in his book entitled *Kant’s Moral Religion*, has an interesting alternative exegesis:

...[Each] of the two practical postulates arises from the resolution of a separate antinomy, a separate dialectical argument threatening the practical possibility of the highest good. ...[The] attainment of the highest good...requires two distinct states of affairs be realized: (1) complete moral perfection of will must be attained and (2) happiness must be enjoyed insofar as it is deserved... The respective arguments for immortality and for the existence of G-d as necessary postulates of practical reason are founded on the resolution of the dialectical threat to the conceivability, the practical possibility, of each of these two distinct states of affairs. (Wood 2009, 106)

Wood seems here to be saying that Kant really should have argued for these two postulates based off of two antinomies of practical reason, rather than the single antinomy from which these postulate demonstrations started. One antinomy concerns immortality, while the other concerns G-d.

Regarding immortality: “The argument for the [immortality of the soul (the first postulate)]...depends upon the dialectical threat to the practical possibility of moral perfection in man” (Wood 2009, 106-107). Wood explains that the dialectical threat currently under examination comes from Kant’s claim that rational beings in the world of sense cannot hope to ever attain holy wills. Hoping to explain further, Wood goes on to say that Kant’s distinction between a holy will and perfectly good will shows that the holy will is one that is descriptively moral (not normatively moral). This is important because what makes this possible is that we lack the obstacles (i.e., bodily inclinations understood in a certain way⁸⁹) that would make us not want to follow the moral law. Thus, as long as we are part of the world of sense, it will be impossible to conceive of ourselves as capable of having holy wills (Wood 2009, 107-108). We are, therefore, authorized to presuppose the soul is immortal so that we can infinitely approach this holiness of will by attempting to eliminate the obstacles to this goal (Wood 2009, 119).

⁸⁹ When we understand inclinations as in conjunction with an internal predisposition to act in line with those inclinations, regardless of what the moral law commands (the propensity to evil), we are describing obstacles to moral progress. The propensity to evil (and thus the source of obstacles to becoming moral) cannot be grounded in the sensuous nature of the human being, because these inclinations “bear no direct relation to evil (they rather give the occasion for what the moral disposition can demonstrate in its power, for virtue): we also cannot presume ourselves responsible for their existence (we cannot because, as connatural to us, natural inclinations do not have us for their author).” In other words we can’t place the ground of the propensity for evil (i.e., the ground for obstacles to moral progress) squarely in the lap of our natural inclinations, because these inclinations are not something for which we are responsible (Kant *R*, 6:32, 35).

But, this postulate of immortality only solves “*part* of the dialectical problem raised by the first antinomy of practical reason...because it does not tell us how this endless progress (or the disposition corresponding to it) fulfills the supreme condition of the highest good” (Wood 2009, 121).⁹⁰

Wood explains that the second antinomy (the solution of which leads to the postulate of the existence of G-d) is the dialectical threat to the idea that people can ever be happy in proportion as they are worthy of that happiness (i.e., in proportion to their virtue). We can easily conceive, Wood explains, that the sensible world might actually be such that one could be virtuous and indeed still be happy in proportion to that virtue. So, this cannot be what Kant means (Wood 2009, 125). Wood continues: “The concept of the highest good is not brought to realization merely when the virtuous are also happy, but is only fulfilled when the virtuous can be said to be happy *because* they are virtuous” (Wood 2009, 126). After all, as Kant puts it, the connection we need is expressed as ‘virtue is *the efficient cause of* happiness.’ On Wood’s account, Kant solves this second antinomy “by pointing out a dialectical illusion, an illusion engendered by our confusing the world of appearances with the intelligible world” (Wood 2009, 129-130). This is an allusion to Kant’s claim that the solution to the (single) antinomy of practical reason is to presuppose a noumenal reality in addition to the phenomenal, or sensible, reality of which we are more readily aware. Wood continues: “In order to conceive the practical

⁹⁰ There is much more to be said on this in terms of Kant’s philosophical theology. I have chosen to leave out the majority of such an exposition, since: (1) to do so would be too much of a digression from the dissertation topic, and (2) I have some major disagreements with how Kant carries out his moral religion in *Religion* (this is why I have, thus far, used this mature work *only* to show that parts of my own exegesis of his works as a whole maintain a certain level of consistency in his later works). Furthermore, Wood does not go into what is argued in *Religion* anyway; so to bring it up now would be even fairly digressive from the immediate discussion.

possibility of the highest good, we must somehow postulate a systematic connection in nature between virtue and happiness, and purposive harmony with our moral volition which guarantees this volition an actuality and efficacy in the world” (Wood 2009, 130). Herein, Wood uses the locution ‘connection in nature.’ He has not made a mistake; rather he is opening the discussion up to talking about two different conceptions of the highest good: one that is a future world beyond the sensible (and is thus separate and distinct from the sensible world) and another that is a future world that can happen in our sensible world (Wood 2009, 130-131).

Wood claims that Kant has not addressed the relationship of these two conceptions of the highest good in the first critique (but then claims that Kant has done this in other more mature works). Wood argues that these two conceptions are *both* required to accept a moral purposiveness in the world like the one Kant describes (Wood 2009, 131). Once we accept this moral purposiveness as something which we are authorized to presuppose, we must postulate G-d as the supreme author of the world; for to expect that our moral actions (and dispositions) will have an effect (and thus to expect that the world has moral purposiveness behind it), we must suppose an author of the world whose will is *holy* (as Kant defines the concept), and whose knowledge of that world is limitless (Wood 2009, 133, 139).

3b: There is only one antinomy

Wood’s alternative view seems to me to have two major issues: (1) the postulates are not derived from the solution to independent antinomies, for neither of the ‘two antinomies’ presented by Wood are antinomies in the Kantian sense; (2) the future world is consistently thought to be something outside of nature. We shall begin by discussing

the first issue.⁹¹ Wood depends on the concept of ‘dialectical threat’ to claim that there are in fact two antinomies: the postulate of immortality is said to come from the dialectical threat to the moral purity of a person; the postulate of G-d is said to come from the dialectical threat to virtue’s being the efficient cause of happiness. I have argued, in my own exegesis (which, as Wood readily admits, is more textually accurate) that Kant solves *the* (as in *the only*) antinomy of practical reason: that we have two available synthetic connections between virtue and happiness, but that neither seem possible at first (and notably, the impossibility of each option, in turn, forces us to consider the other option only to find out it is impossible too). This is solved, on my account of Kant, by ‘simply’ appealing to the noumenal, which not only reveals how we can become virtuous, but simultaneously how we can hope to be happy in proportion to our (and as a result of our) virtue.

To see why Wood’s claim that there are two antinomies does not work, I would like to defer to Kant’s introduction of the term ‘antinomy’ in the first critique (admittedly, this introduction of the term concerns pure reason, but an analogous description of it would work fine). Kant explains, there, that there are three “kinds of dialectical syllogisms”⁹² (not all of which are antinomies!): The first kind is called “the transcendental paralogism.” The second is called “the antimony of pure reason.” The third is called “the ideal of pure reason” (Kant *CPR*, A 339-340/B 397-398). What concerns us, of course, is only what he calls ‘the antinomy of pure reason.’ Kant describes it this way: “From the fact that my concept of the unconditioned synthetic unity

⁹¹ The second issue is discussed in sub-section 3c.

⁹² A dialectical syllogism is essentially thought of as a problem to be solved. The solution depends on no empirical premises, but the solution still yields a real concept (Kant *CPR*, A 338-339/B 396-397).

of the series [of conditions for any given appearance], as thought out in a certain way, is always self-contradictory, I conclude that there is really a unity of the opposite kind” (Kant *CPR*, A 340/B 398). Since speculative reason deals with appearances in terms of description, and practical reason deals with appearances in terms of prescription (and goals, etc.), we can essentially transfer this definition from speculative philosophy over into practical philosophy without losing anything. What Kant describes as the antinomy of practical reason fits this description because we have two synthetic connections suggested between virtue and happiness and they are both impossible (the impossibility of each leads to consideration of the other, which we in turn find to be impossible...hence they are self-contradictory). Thus, since the solution is of a dialectical syllogism, we will need a solution not grounded on empirical premises: namely, we will need the presupposition of the noumenal (moral or rational), in addition to the merely sensible, world.

But Wood’s ‘two antinomies’ do not present two synthetic connections, both of which are impossible, and the impossibility of each leads to considering the other (which in turn is found to be impossible). The dialectical threat, for example, on our ability to be able to have a purity of will is not present at all in Kant’s description of *the* antinomy of practical reason. That antinomy, recall, was always about the *connection* between virtue and happiness (not specifically about whether and how we can be said to become virtuous). Furthermore the threat is not an antinomy...it is merely the case that if we presume the world to be merely sensible, it will be hard to conceive of ourselves as able to become completely moral (and attain virtue in the first place). To claim this threat to be an *antinomy* is to claim that there are two counter-claims that can explain, in this case,

how we can become completely moral. But, as Wood points out, only one claim comes close to working: that we have immortal souls. Furthermore, the threat on virtue's being the efficient cause for happiness is not itself an antinomy either. Again, only one proposal is offered: the existence of G-d. Though Wood does not seem to successfully propose two antinomies, he does, I think, give a very thoughtful discussion of the topic and I do think that despite the semantic issue of using the term 'antinomy,' Wood's exegesis is very much on point.

3c: The Kingdom of Ends is beyond the Kingdom of Nature

Embedded in Wood's discussion of G-d is the claim that the highest good can be understood in two distinct ways: one as being the future world beyond the world of sense, while the other is the future world in the world of sense; it does not seem that way even in the quote Wood gives to make this claim (I have replaced the particular English translation of the same text with the translation I am using):

...it is not impossible that the morality of [one's] attitude should have a connection, and moreover a necessary one, as cause with happiness as effect in the world of sense, if not a direct connection then still an indirect one (by means of an intelligible originator of nature), a linkage which in a nature that is merely an object of the senses can never take place except contingently and cannot be sufficient for the highest good. (Kant *CPrR*, 5:115)⁹³

It is indeed the case that we might be able to imagine, in the sensible world, that contingently virtue is rewarded with happiness. But the keyword is 'contingently.' We need the synthetic connection between virtue and happiness to be a priori (i.e.,

⁹³ The translation he uses is very similar, but I will write it here to be fair to Wood: "It is not impossible that the morality of intention should have a necessary relation as cause to happiness as an effect in the sensuous world; but this relation is indirect, mediated by an intelligible Author of nature. This combination, however, can occur only contingently in a system of nature which is merely the object of the senses and as such is not sufficient to the highest good" (Wood 2009, 131).

necessary). Thus even if, on the presupposition of the existence of G-d, we supposed that it was mere contingent possibility that virtue will be rewarded with happiness, the concept of the highest good would fail to give us the practical interest we need (in the KofE) behind the earlier discussed incentive of respect. We require that virtue be the efficient cause of happiness as a matter of *necessity*, and *not contingency* (given that we *do* improve our moral dispositions, of course). Thus, there is no concept of the highest good as existing in the sensible world.

Conclusion

In the service of presenting the formal connection between the JS and the KofE, I hope to have here presented an illuminating exegesis of the KofE (and its rational grounding). We should not think of these demonstrations as proofs that G-d exists, that our souls are immortal, that there is a future world at all, or even that we are free. All of these are mere postulates of practical reason: i.e., we have shown, merely, that any rational being will be authorized to postulate these things based off of the fact of freedom (our actions themselves, especially when we view ourselves as deliberating morally). The highest good is necessary as generating the interest (in the KofE) behind the respect (or reverence) we have for the moral law. To think ourselves moral is to simultaneously authorize us to presume that we are free, that there is a future world, and thus that our souls are immortal, and finally that G-d exists. Insofar as we think ourselves as rational beings (and sensible beings), we consider ourselves as beings with freedom in the world of sense; simultaneously, we are able to conceive of ourselves in an ethical community with all other rational beings. This ethical community is thus simultaneously thought of as a future world for which we hope, and as a way of viewing our relationship with other

rational beings in the here and now: as future world, we require immortality and G-d in order to think ourselves capable of having a holy will and as having happiness in proportion with virtue. Insofar as the KofE is the way we view ourselves in the here and now, the duties of virtue tell us what we *ought to do* even in the absence of a rightful condition. This latter way of viewing the KofE will be very important to the discussion in the next chapter. The perfect political condition (the JS) and the perfect moral condition (the KofE) are independently thought of as practical ideals. In Chapter 3, I hope to show, through an analysis of freedom, that the grounding principle of ethics (the categorical imperative) is manifest in the universal principle of right; thus, I hope to show the JS and the KofE are, in terms of their duties, practically connected.

Chapter 3

Virtue and Right: A Logical Fork in the Road

Introduction

In the prior two chapters we discussed the structure of each of Kant's practical ideals, but there was no discussion of the duties that are relevant to each of them: the JS's being connected to duties of right (*Recht*) and the KofE's being connected to duties of virtue. As this dissertation is concerned with connecting the two ideals, discussing a possible connection between the *duties* of right and virtue may serve to excite the reader's interest in finding the practical connection that I see between the two ideals. In order to connect right and ethics, I will be focusing on the *formal* relationship between these three propositions (only the first two of which are actually *imperatives*): 'the supreme principle of morality' (Kant *G*, 4:392, 402), the Universal Principle of Right (UPR) (Kant *MM*, 6:230), and the fundamental (or formal) principle of virtue (Kant *MM*, 6:389). I conceptualize the connection thusly: the supreme principle can be restated as both what Kant calls 'the single Categorical Imperative' (CI) (Kant *G*, 4:421) and the UPR. The fundamental principle of virtue itself is needed to understand how it can be restated as the CI (and indeed all *ethical* formulations of it).⁹⁴ In the context of the dissertation's main topic (the connection between the JS and the KofE), this chapter serves to show that freedom in the UPR is how ethics is manifest in it; in agreement with Marcus Willaschek's discussion below, it is when we consider the UPR (and its derived duties) from the ethical perspective that we see the beginning of how right depends on ethics.

⁹⁴ When referring to this particular imperative, I will describe it as 'the CI'; but other times in the dissertation, I will refer to categorical imperatives more generally as 'a categorical imperative,' 'this categorical imperative,' 'this juridical categorical imperative,' 'this ethical categorical imperative,' etc.

Since I am taking an alternative view of the standard interpretation of these Kantian terms, for the purposes of this discussion (and you will see each of these discussed in more detail below), I here lay out the quotes that I think capture the supreme principle, the fundamental principle of virtue, the CI, and the UPR. The supreme principle is this: “I ought never to act except in such a way *that I can also will that my maxim should become a universal law*” (Kant *G*, 4:402). The fundamental principle of virtue is understood in this complex quote (which, again, I discuss in its own section below):

Ethics adds only that this principle is to be thought as the law of *your* own will and not of will in general, which could also be the will of others; in the latter case the law would provide a duty of right, which lies outside the sphere of ethics. . . . Only the concept of an *end* that is also a duty, a concept that belongs exclusively to ethics, establishes a law for maxims of actions by subordinating the subjective end (that everyone has) to the objective end (that everyone ought to make his end). (Kant *MM*, 6:389)

The CI seems to be: “Act only on that maxim through which you can at the same time will that it should become a universal law” (Kant *G*, 4:421). Finally, the UPR is: “Any action is *right* if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law” (Kant *MM*, 6:230). The connection between these, as I described briefly in the foregoing paragraph, is discussed in more detail in what follows.

While it might seem simple enough to draw out the logic used to relate virtue and right in the way I describe above, there are two hurdles: (1) the subject of the connection between virtue and right is far from simple; and (2) this subject is even further from non-controversial. We need look no further than the concept of freedom as it is employed in the UPR to see why its being a restatement of the supreme principle is not simple.

Freedom, as it is used there is apparently ambiguous if entirely unclear (but further analysis of other works Kant had already written by the time of *MM*, as we shall see, will show that there is in fact a clear concept of freedom employed there). *Furthermore*, there seem to be several who disagree on what the connection might be, or even on if there is any connection at all; two major positions emerge from this disagreement: that of independence theorists⁹⁵ and that of dependence theorists⁹⁶ (Caranti 2017, 29). In this chapter, after a short exposition of the three foregoing imperatives and their connection, I will go through both Paul Guyer's and Sorin Baiasu's⁹⁷ most recent contributions to the dependence/independence debate, by considering their responses to Marcus Willaschek's argument for simple independence; in so doing I hope to show that the most sophisticated arguments for dependence fail to appreciate the formal connection as I see it, and I will conclude by explaining that formal connection as concisely as possible.

Section 1: *The* [several] Categorical Imperative[s]

There seem to be many categorical imperatives in Kant's *Groundwork* (and in *MM* as well); therefore, identifying *the* CI can be tricky. As anyone who has taken an undergraduate philosophy course in Kant's ethics will report, there is only a single

⁹⁵ Willaschek (1997; 2002), Wood (2002), and Pogge (2002) have each advanced their own arguments for the independence position.

⁹⁶ Gregor (1963), Molholland (1990), Weinrib (1992), Carr (1989), Bielefeldt (1997), Habermas (1990), Guyer (2005), and Ludwig (2002) have each held varying positions, but are all dependence theorists. It's important to note that dependence theory, as I use it here, only suggests that there is some general relationship of dependence between virtue and right. This could be that right *depends* on ethics or vice versa. The use of the term 'derivable from' (e.g., that ethics can be 'derived from' from right or vice versa) might seem interchangeable with 'depends on,' but, for example, in Chapter 4 I argue that right can be dependent on ethics *without* being derivable from it.

⁹⁷ While many philosophers seem to put Baiasu in the category of 'independentist,' I find his position to be more of a synthesis of some of the major contributions to this debate (Baiasu 2016; Caranti 2017, 29).

categorical imperative, and Kant, they will say, argues that we can derive (or perhaps even ‘discover’) all of our duties from this imperative. However, upon looking more closely, this seems an oversimplification; one could hardly blame them for believing this. After all, Kant himself famously writes: “There is therefore only a single categorical imperative and it is this: ‘*Act only on that maxim through which you can at the same time will that it should become a universal law*’” (Kant *G*, 4:421). But this passage is odd, since there seem to be more than a few categorical imperatives in the *Groundwork* itself (Kant *G*, 4:402, 421, 426, 429, 431, 433-434, 436-440, 447). I will not go through each of these iterations⁹⁸, but rather will focus on only a few and how Kant seems to see the connection: (what I call) the supreme principle of morality, *the* [single] CI (aforementioned), the formula of humanity, the UPR, and the fundamental principle of virtue (Kant *G*, 4:402, 421, 429; *MM*, 6:230, 389). Focusing on just these five imperatives⁹⁹, my exposition of Kant will serve to shed light on how I believe he must have seen the formal connection between virtue and right.

The most straightforward way to read the *Groundwork of the Metaphysic of Morals* seems to be to take it as a sort of step by step approach whereby Kant is able to

⁹⁸ It is not a good idea to go into too much detail here, as this is not the central focus of my dissertation (or even this chapter). Kantian interpretation often relies on one taking a position on the issue of how Kant reconciles there being a single categorical imperative and yet many. There are those who argue for a sort of derivation (e.g., Sensen 2011b); and then there those who think this derivation is problematic (e.g., Cureton 2013). This subject is easily as complex as trying to connect duty and virtue.

⁹⁹ There are still yet more ‘categorical’ imperatives in *MM* itself: e. g., “The law of punishment is a categorical imperative...But what kind and what amount of punishment is it that public justice makes its principle and measure? ...only the *law of retribution (ius talionis)*...can specify definitely the quality and the quantity of punishment” (Kant *MM*, 6:331-332). So that would seem to mean that what we typically call *lex talionis* is considered here to be a categorical imperative as well. We simply cannot thoroughly cover the topic of the one and the many categorical imperatives here.

draw out the important distinctions relevant to the work for which it is the ‘groundwork’:

The Metaphysics of Morals. In the former, Kant writes, for example:

Intending, as I do, to publish some day a metaphysic of morals, I issue this *Groundwork* in advance. For such a metaphysic there is strictly no other foundation than a critique of *pure practical reason*... ..[A] critique of practical reason, if it is to be complete, requires, on my view, that we should be able at the same time to show the unity of practical and theoretical reason in a common principle... Here, however, I found myself as yet unable to bring my work to such completeness without introducing considerations of quite another sort and so confusing to the reader.

...[Since] a metaphysic of morals, ...can be in a high degree popular and suited to the ordinary intelligence, I think it useful to issue separately this preparatory work on its foundations so that later I need not insert the subtleties inevitable in these matters into doctrines more easy to understand. (Kant *G*, 4:391-392)

I think it fairly plain that Kant means for the *Groundwork* to be a foundational text that deals with these ‘subtleties,’ so that whatever is brought up in *MM* is more easily understood to the layperson. But what is also noteworthy is that Kant perceives the *Groundwork* as, itself, a step toward fully understanding the metaphysics of morals generally (which seems to need some coverage in another work: *CPrR*). However, it is *MM*, itself, that is most important to this exposition (and it may even be the most important work, all things considered).¹⁰⁰

1a: The duality of the supreme principle

Kant starts the *Groundwork* by attempting to define duty (or at any rate, that from which we can derive duties); and from this starting place, he thinks he can derive what we come to know as ‘the CI.’ He writes that the supreme principle is “I ought never to act except in such a way *that I can also will that my maxim should become a universal law*”

¹⁰⁰ The *Groundwork* was originally published in 1785. The *CPrR* was published in 1788 (the second of the three critiques). Finally, *MM* was published several years later in 1797, and, as Roger J. Sullivan writes in the introduction to the Gregor translation of the latter: “...*The Metaphysics of Morals* reflects his most mature views on the topics discussed in it” (Gregor 1996, vii).

(Kant *G*, 4:402). Kant adds that all that is required here is “bare conformity to universal law as such” (Kant *G*, 4:403). And further Kant puts forth the notion that “ordinary reason...has the aforesaid principle before its eyes” (Kant *G*, 4:402). It is from this that he eventually claims that there is a single CI: “*Act only on that maxim through which you can at the same time will that it should become a universal law*” (Kant *G*, 4:421). But we know this latter imperative to come from an understanding that we must act from duty and not merely according to what duty requires (Kant *G*, 4:400-401).

So, I disambiguate this thusly: there are two ways to read ‘I ought never to act except in such a way that I can also will that my maxim should become a universal law.’ The first way is to read it as a law prescribing mere action. On this first way, we are commanded to act ‘*in such a way that...*’ In other words, we are commanded to act as we would *if we were* acting on the maxim that we would universalize; but this allows that we might actually act on a maxim that is not universalizable (think here of the shopkeeper who is honest with customers only to further his business goals)...that is to say, not moral. This way of reading it is supported by Kant himself, writing that all that is required is bare conformity with universal law (or as we might put it, laws made or discovered by universal *legislation*). The second way (and this is most likely how the ‘single CI’ is to be read) is that we should act on the right maxim itself. It is from here that I think it safe to call ‘I ought never to act except in such a way that I can also will that my maxim should become a universal law’ the *supreme principle of morality*. This way of disambiguating two different readings of categorical imperatives is not a mere speculation; Kant seems to intend this in several places, and even seems to explain it more readily in *MM* itself, as we shall see. But, suffice it to say, Kant restates the

supreme principle of morality as the CI (how this works is discussed more in sub-section 1b, below).

This is not the only time Kant could be understood to see an imperative as commanding two things at once; notably, and of utmost importance to this discussion, in *MM*, he seems to do this regarding the formula of humanity (first presented in the *Groundwork*): “The duty of love for one’s neighbor can, accordingly, also be expressed as the duty to make others’ *ends* my own (provided only that these are not immoral). The duty of respect for my neighbor is contained in the maxim not to degrade any other to a mere means to my ends (not to demand that another throw himself away in order to slave for my end).” (Kant *MM*, 6:450) In this passage, Kant is discussing our duties to others, having characterized them as falling into only two categories: duties of love and duties of respect.¹⁰¹ The language he uses is clearly pulled from the formula of humanity: “*Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end*” (Kant *G*, 4:429). So then this formula of the CI commands us in the following two ways: insofar as we are to treat people never merely as a means, we are to treat people with respect; and insofar as we are to treat people as an end, we are to treat people with [practical] love.¹⁰²

1b: Restating the supreme principle as the CI

Having set this precedent (in terms of the formula of humanity) of being able to find multiple imperatives in the guise of one, it seems to me that the connection between

¹⁰¹ I will go into more detail about the importance of this split in Chapter 4.

¹⁰² Again, I will go over this more in Chapter 4.

these various imperatives is such that one can understand [what I'm calling] the supreme principle of morality as any of the following three: (again what I'm calling) the CI, the UPR, and the formula of humanity.¹⁰³ Herein I will discuss how it can be understood as the CI itself: “Act only on that maxim through which you can at the same time will that it should become a universal law” (Kant *G*, 4:421). When he presents the supreme principle of morality as seeming to be satisfied by mere conformity to universal law, he opens up the possibility that the same principle could be interpreted to also include more than mere conformity. It is, after all, immediately after the presentation of the supreme principle that he renders for us why we should never make false promises. In that discussion he writes: “I ask myself only ‘Can you also will that your maxim should become a universal law?’ Where you cannot, it is to be rejected, and that not because of a prospective loss to you or even to others, but because it cannot fit as a principle into a possible enactment of universal law” (Kant *G*, 4:403). Of course, that the maxim is rejected does not thereby imply that the action done did not happen to be in conformity with a universalizable maxim: for example, if you make and then keep a promise, but not because you ought to make honest promises and keep them; instead say you make and then keep a promise to a woman who you'd like to woo. In the latter case, we can reject the maxim and still do the action and be in *mere* conformity with the right maxim.

However, I think the fact that Kant uses the *lying* promise as his first example shows that he wants the reader, at this stage in the *Groundwork*, to focus on acting not merely in accord with universal law, but from *respect* (or *reverence* in the Paton

¹⁰³ I have left off the fundamental principle of virtue for now, as its discussion requires that we first discuss, at least, how the supreme principle can be restated as the CI.

translation) for that law. When we consider the lying promise, we consider a case where it is impossible to act on the right the maxim, *and* it is impossible to act as if we were acting on the right maxim. Whereas, in the example of making a keeping a promise, both are possible. So, by picking the lying promise, Kant seems to want us to focus on what the right maxim (rule for action) should be, rather than how to act merely in accord with how one would act if they were acting on the right maxim. He mentions ‘reverence’ (respect) immediately after, and this I think supports the claim. Consider what immediately follows his discussion of the lying promise:

For such an enactment reason compels my immediate reverence, into whose grounds...I have as yet no *insight*, although I do at least understand this much: reverence is the assessment of a worth which far outweighs all the worth of what is commended by inclination, and the necessity for me to act out of *pure* reverence for the practical law is what constitutes duty, to which every other motive must give way because it is the condition of a will good *in itself*, whose value is above all else. (Kant *G*, 4:403)

Herein Kant uses the backdrop of the good will (as part of the common ordinary knowledge of morality) in order to explain that while the supreme principle at first seems to be satisfied by mere conformity to universal law, in fact when we reason morally we care very much about whether we are *actually* acting on the right maxim (and not merely accidentally acting how we would if we were acting on that maxim). Thus, we get: “*Act only on that maxim through which you can at the same time will that it should become a universal law.*” (Kant *G*, 4:421) The verbiage “I have as yet no *insight*” is a sort of rhetorical claim: Kant is, in this section, discussing this stuff for the first time to the lay reader. As a result, he approaches the topic as though in their shoes, walking slowly through the material so anyone can follow. To make this restatement work, it seems to me that Kant makes use of the fundamental principle of virtue, which I will now discuss.

1b-i: The Fundamental Principle of Virtue: A Justification for Disambiguation

The fundamental principle of virtue, which effectively allows for *ethical* duties to be derived from the supreme principle of morality (i.e., it allows the supreme principle to be understood as the CI), effectively serves as a backdrop for understanding how Kant connects a command for actions with a command concerning maxims. This fundamental principle of *virtue* is this:

Ethics adds only that this principle is to be thought as the law of *your* own will and not of will in general, which could also be the will of others; in the latter case the law would provide a duty of right, which lies outside the sphere of ethics. ... Only the concept of an *end* that is also a duty, a concept that belongs exclusively to ethics, establishes a law for maxims of actions by subordinating the subjective end (that everyone has) to the objective end (that everyone ought to make his end). (Kant *MM*, 6:389)

Here, one should understand the reference to ‘this principle’ to refer to the supreme principle. I explain in more detail below. Now, Paul Guyer points out that the connection between virtue and right is problematic specifically due to the fact that right concerns actions and virtue concerns maxims (Guyer 2005, 201).¹⁰⁴ However, viewing the principle of virtue as a way of understanding how the supreme principle can be understood as a principle concerning *virtue* can I think dissuade us from so readily splitting up virtue and right. In speaking of how duties stand in relation to some universal law, Kant tells us: “The formal principle of duty, in the categorical imperative ‘So act that the maxim of your action could become a universal *law*,’ already indicates this” (Kant *MM*, 6:388-389). One way to read this is that the quoted imperative just is the formal principle of duty; another way to read it is that there is some formal principle located within the formula of universal law itself (the formula of universal law is an

¹⁰⁴ When we go over Guyer’s dependence position, I will discuss this particular point a bit more.

iteration of the CI in the *Groundwork*). It seems to me that underlying Kant's discussion of this in *MM* is something more fundamental: a principle, not to derive duties, but rather to explain how ethics is related to right; I call this the fundamental principle of virtue. With this principle, as I describe below, we are able to 'restate' the Supreme Principle of Morality as the CI, because when you apply the fundamental principle of *virtue* to the Supreme Principle, virtue adds that 'the law be of your own will' and not the will in general. In other words, the fundamental principle of virtue allows the supreme principle to be understood as connected to those subjective maxims an individual has that can be made objective; and allows us to think of ourselves as autonomously following the law.

If the formal principle of duty just is that we should act 'that the maxim of your action could become a universal law,' then the term 'formal,' here, would likely refer to the distinction between the matter and form of maxims, as discussed in the *Groundwork*: "...a *form* [...] consists in their universality; [...] a *matter* [is] an end" (Kant *G*, 4:436). While I think this interpretation should be rejected, there is some merit to it. Under this interpretation, we understand the *formal* principle of duty to be distinct from some *material* principle of duty, which Kant perhaps reveals a few lines later: "A rational being, as by his very nature an end and consequently an end in himself, must serve for every maxim as a condition limiting all merely relative and arbitrary ends" (Kant *G*, 4:436). This means that since rational beings are considered ends in themselves, the end of any other maxim we come up with must be limited by ourselves, considered as ends in ourselves. Or, as Kant puts it in other words: "Act on the maxim which can at the same time be made a universal law" (Kant *G*, 4:436-437). Kant's purpose with all this talk of matter and form is to bring out that all maxims are like this. That is to say, they all have

some level of universality, with some being limited and some not being limited. They all *also* have some goal in mind, whether arbitrary or moral; and, since they are the maxims of rational beings, all arbitrary (or relative) ends are limited by the universal or moral ends we have. Kant calls this the complete determination of our maxims (Kant *G*, 4:436-437). However, it seems unlikely that Kant is simply rehashing the same discussion from the *Groundwork*; so, he is probably not merely referring to the distinction between matter and form.

Rather, it seems to me something more interesting and clever is happening wherein Kant is helping the reader to understand the connection he sees between virtue and right. Consider: “Ethics adds only that this principle is to be thought as the law of *your* own will and not of will in general, which could also be the will of others; in the latter case the law would provide a duty of right, which lies outside the sphere of ethics” (Kant *MM*, 6:389). Read this way, Kant means for ‘act that the maxim of your action could become a universal law’ to be one way of understanding the supreme principle of morality itself, because of the reference to ‘this principle.’ Furthermore, read this way, the supreme principle, on its own, seems to lack some element to be counted as an ethical imperative (i.e., the condition that it be about *your* willing, and no one else’s). However, if something further were needed to make this principle *ethical*, then that would mean that this principle does not already contain everything needed to help us to derive the duties of virtue. But this does not seem right. Recall that Kant seems very comfortable telling us of imperatives and then explaining that there are multiple ways to read them. Here, Kant is doing this again, but the general claim elucidates, I think, a more fundamental connection between virtue and right.

Maxims are here regarded as subjective principles which merely *qualify* for a giving a of universal law, and the requirement that they so qualify is only a negative principle (not to come into conflict with a law as such). “Only the concept of an *end* that is also a duty, a concept that belongs exclusively to ethics, establishes a law for maxims of actions by subordinating the subjective end (that everyone has) to the objective end (that everyone ought to make his end)” (Kant *MM*, 6:389). When we look at any [version of a] categorical imperative (say the supreme principle of morality, as it is read most plainly), we get a way of reading it that commands actions, and another way that commands maxims. Or, to put it more technically: we can read each categorical imperative as concerning merely the form of the maxim or as concerning both the form and the matter of the maxim, such that the matter of the maxim and form of the maxim are the same: universalizability. The fundamental principle of virtue is that we can read any of the aforementioned categorical imperatives this way; and thus the implied connection between virtue and right is a fundamental principle that grounds how we are to understand each of these imperatives.¹⁰⁵ In terms of the way I see the formal connection, this applies even (and especially) to the most basic of categorical imperatives that Kant gives us at the beginning of the *Groundwork*: the supreme principle of morality can be understood as *the* CI when we add, according to the fundamental principle of virtue, that the law be ‘of *your* own will and not of the will in general.’

¹⁰⁵ In particular, Kant uses the formula of universal law in this section, but the point is the same here as it would be when applied to the supreme principle itself. Again, I cannot resolve the problem of the one and the many categorical imperatives in this dissertation, but suffice it to say, this is something that would be interesting to resolve in another work.

1c: The Universal Principle of Right

In keeping with this, it seems plain that the UPR is also a way of understanding the supreme principle of morality: i.e., we can understand it as also a command for actions. Kant writes: “Any action is *right* if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law” (Kant *MM*, 6:230). Simply put: I cannot do anything that violates your freedom to do things; but short of that, I am free to do what I want. This has conditions: for example it is ok to stop criminals from committing crimes, and even punish them after the fact (Kant *MM*, 6:231). He further writes: “...it cannot be required that this principle of all maxims be itself in turn my maxim, that is it cannot be required that *I make it the maxim* of my action; for anyone can be free so long as I do not impair his freedom by *external action*” (Kant *MM*, 6:231). Recall that mere conformity to the supreme principle is arguably enough, on one reading; in other words, we can act on any maxim we want, so long as we are acting the way we *would* act if we were acting on the right maxim (i.e., mere conformity). By extension, this UPR concerns only actions. This explanation, however concise, might actually be incomplete. Kant, after all, did not write out anything (here in the ‘Doctrine of Right’) like ‘act as though you were acting on the right maxim, even if you aren’t.’ In addition, the UPR is particularly complex, as categorical imperatives go, as it has two parts: The first part is ‘Any action is *right* if it can coexist with everyone’s freedom in accordance with a universal law...’ While the second part is ‘[Any action is *right*] if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with universal law.’ So, to really understand how the supreme principle

can be understood to be commanding actions, we will have to break down the UPR a bit more: specifically, (1) the UPR's two parts seem to need disambiguation, and (2) Kant's use of the term 'freedom' requires some discussion. Given the amount of treatment this requires, and the importance this discussion has for this way of understanding the supreme principle (and thus my overall claim here that *right* is connected to *ethics* through this principle), this chapter will close out by giving the UPR a full analysis *after* discussing the attempts to express the relationship between ethics and right by Guyer and Baiasu.

Briefly, just to give some prelude, there are several types of freedom that Kant discusses; and going over all of these will lead us finally to the freedom to which Kant alludes when he talks about our innate right to freedom. One might be tempted to find the relevant kind of freedom (referred to in the UPR) in the political and ethical works of Kant. The *Groundwork* tells us about negative freedom, and *MM* follows this with a deeper treatment of not just negative freedom, but also positive freedom (Kant *G*, 4:446; *MM*, 6:221). The latter work also distinguishes between the way in which we consider the will free, but also how we view choice as free (Kant *MM*, 6:213, 226). "But freedom of choice," Kant writes, "cannot be defined – as some have tried to define it – as the ability to make a choice for or against the law..., even though choice as *phenomenon* provides frequent examples of this in experience" (Kant *MM*, 6:226). Without an ability to do otherwise, it is impossible to conceive of there being an action inconsistent with my ability to 'choose' (if I am not really ever choosing then all of my actions are already determined; and nothing you do, as a determined individual yourself, can be inconsistent with what I am determined to do). And without this, even freedom of choice, as

conceived in the moral and political works, cannot be the freedom to which Kant refers in the UPR. Ultimately, we are left with the freedom to which we have an innate right: i.e., the freedom every man has “by virtue of his humanity” (Kant *MM*, 6:237). But this use of the word humanity does not likely refer to the idea that our human rights derive from our original right to freedom, as those writing on human rights have argued.¹⁰⁶

Rather, it seems likely to refer to the use of the term ‘humanity’ in *Religion*.

There, Kant tells us that we have a moral feeling of respect for the moral law, in virtue of our humanity considered intellectually. And it is this desire to act on the right maxim that is the freedom to which we have an innate right (Kant *R*, 6:27-28)! What this means is that the UPR does not merely command that we act in ways that do not prevent others from being able to act as they want to, in some merely external sense. Nor does it mean that the UPR *merely* commands that we can only act in ways that do not prevent others from being able to act ethically. It ultimately also commands that we act such that we do not prevent others from wanting to act on the maxim they can universalize. It is this that is derived from the supreme principle of morality. We are commanded not merely concerning our own maxims, but also in terms of which actions we ought to do; the UPR follows through with what actions we juridically ought to do *in light of* what we ethically ought to do by the ethical interpretation of the supreme principle of morality (and both are derived from this principle). This is fully discussed in Section 3, the final section of this chapter.

¹⁰⁶ I speak here of Katrin Flikshuh’s article to this effect: Flikshuh (2015). For more on this see: Sangiovanni (2015) and Caranti (2017).

1d: The Formula of Humanity

As in the case of the CI and the UPR, the formula of humanity is another way of understanding the supreme principle of morality (it could be said that it is a mere rewording of the CI itself). The formula of humanity¹⁰⁷ is this: “*Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end*” (Kant *G*, 4:429). Recall the similar verbiage of the supreme principle of morality: “I ought never to act except in such a way *that I can also will that my maxim should become a universal law*” (Kant *G*, 4:402). You can readily see that both use the locution ‘in such a way that.’ Given the dual reading we get from this on the supreme principle of morality (i.e., through the use of the fundamental principle of virtue), we can derive two separate meanings of the formula of humanity: one involving actions and another involving maxims. That said, we need to find out how ‘you can also will that your maxim should become a universal law’ is the same as (or can be understood as) ‘you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always also at the same time as an end.’

I would think this to be fairly simple: If we will that a maxim is a universal law, then we essentially make our subjective rule for action an objective rule for action. The ends that people have inform the maxims they have. Since most of these are relative or arbitrary ends, they are given only to hypothetical imperatives (Kant *G*, 4:427).¹⁰⁸

¹⁰⁷ This is a perhaps overly used and mischaracterizing name; Paton calls it ‘The Formula of the End in Itself.’ I will refer to it, nevertheless, as the ‘formula of humanity’ to avoid any confusion.

¹⁰⁸ In line with this, Onora O’Neill argues, for example, that “Beneficence requires that we act on *some* maxims that foster others’ ends, though it is a matter for judgment and discretion which of their ends we

However, when I treat someone as an end, I can be said to take all their *rational* ends as my own and from this some duties follow: duties of beneficence, gratitude, and sympathy (Kant *MM*, 6:452-462). Taking these ends ‘as my own’ means that all my maxims become universalized [to all other rational beings], *and* that I want to fulfill all these ends. It is interesting to note that in *Religion*, in virtue of a person’s *humanity*,¹⁰⁹ they have a *goal (an end)* to act on *universalizable* maxims (Kant *R*, 6:26-28). When we treat a person as an end in virtue of their humanity, we do so towards the ends relevant to maxim universalization (i.e., universal legislation).¹¹⁰ In terms of ethics, we are also never to treat a person (in virtue of their humanity) as a mere means. We can appreciate the superficial sense in which this means simply that we ultimately will use each other to achieve our own ends, but in so doing, we should *also* treat them as an end, as earlier described. The more complex meaning of not treating people as a mere means, is that we actually have other duties that result from the sense in which we respect other people: e.g., respecting boundaries of a person’s ability to self-legislate (etc.) (Kant *MM*, 6:462-469) To understand fully what it means when you *only choose* maxims that can be universalized, one must appreciate that the limits of universalization depend on that which can be considered an end in itself. The only thing that can be an end in itself is the

foster. Some maxims no doubt ought not to be fostered because it would be unjust to do so” (O’Neill 2014, 105). But it is not a matter of *mere* subjective discretion, clearly; the maxim must actually be universalizable.

¹⁰⁹ See sub-section 1c on the UPR, and see Section 3, wherein what is meant by this is fleshed out more.

¹¹⁰ By this I do not mean to limit rational ends to the sole end of universalizing maxims. Rather, any maxim that is universalizable would be something I would promote in myself, even if it were not originally, as it were, *my* maxim. For example, you have an end to care for your wife’s feelings; e.g., the matter of a maxim in fulfillment of the duty of benevolence. The form of the maxim, since it can be universalized (as is evident by its being an extension of the duty of benevolence), is ‘universal.’ So, I must promote this maxim as though it were my own (specifically, the matter of the maxim, as *end*, is what I must promote).

rational being considered as a person (a human being considered intellectually). Thus, from the fact that we ought to act in such a way that our maxims should become a universal law, it follows that we must treat everyone as an end and never merely as a means, when we consider their humanity (considered intellectually).¹¹¹

The above is my understanding of how the formula of humanity comes from the supreme principle of morality (and could also be understood as coming from the CI); Kant's proof is essentially the same. He writes: "...what serves the will as a subjective ground of its self-determination is an *end*; and this, if it is given by reason alone, must be equally valid for all rational beings. What, on the other hand, contains merely the ground of the possibility of an action whose effect is an end is called a *means*" (Kant *G*, 4:427). The distinction between ends and means is this: ends are our goals; they are the things for which an individual strives. Means, by contrast, are what makes fulfillment of those goals possible. While this distinction is fairly simplistic, Kant adds: 'when an end is given by reason alone, it must be equally valid for all rational beings.' This means that whatever goals I have, they are *merely* subjective unless the goal was come to through a rational process of deliberation. He continues: "Ends that a rational being adopts arbitrarily as *effects* of his action (material ends) are in every case only relative; for it is solely their relation to special characteristics in the subject's power of appetite which gives them their value" (Kant *G*, 4:427). The value of a goal adopted arbitrarily (i.e., not through rational deliberation) is entirely dependent on how much value the subject places on the realization of that goal. Kant considers, though: "Suppose...there were something *whose*

¹¹¹ Meaning that humans can of course be thought of as animals and as human animals. But neither of these can give us an incentive to act on universalizable maxims...only the fact that when humans are considered as *rational beings* can we be said to have any incentive to act on those maxims.

existence has *in itself* an absolute value, something which as *an end in itself* could be a ground of determinate laws; then in it, and in it alone, would there be the ground of a possible categorical imperative – that is, of a practical law” (Kant *G*, 4:428). We should be careful not to confuse Kant’s single CI, which is earlier described, with the new one Kant espouses in the Formula of Humanity.

The CI represents an outcropping of the supreme principle of right, as does the UPR and *now* the formula of humanity (at least, this is the way it seems to read).¹¹² Kant continues: “...man, and in general every rational being, *exists* as an end in himself, *not merely as a means* for arbitrary use by this or that will: he must in all his actions, whether they are directed to himself or to other rational beings, always be viewed *at the same time as an end*” (Kant *G*, 4:428). After asking us to suppose that there exists a being like this, he points to rational beings as the thing that give us a more universal value (than the mere subjective value we may give to our arbitrary ends). He continues by telling us that a *person* has objective value and thus, since they are (*by definition*) rational beings, it follows that they all must be treated as ends in themselves. “Rational beings...are called *persons* because their nature already marks them out as ends in themselves...and consequently imposes to that extent a limit on all arbitrary treatment of them” (Kant *G*, 4:428). Out of context, Kant may be accused of talking in circles, but consider the distinction between our ability to consider ourselves as animals, human animals, and human rational beings (persons) (Kant *R*, 6:26-28). If we consider ourselves as persons, then we see that only in that context do we have the incentive to be moral. We have this

¹¹² Again, I cannot cover the topic of the one and the many categorical imperative(s). This is a topic that can only be covered in another work.

in virtue of our *humanity* so to speak (or to be more specific, ‘in virtue of our personality’). And the value we attach to this goal is universal, and it is the only goal we have that has this value (though of course a great many things can fall in line with this goal, and can themselves, as a result, be counted as universally desirable). Thus, Kant’s demonstration of the practical principle (i.e., the formula of humanity) simply depends on understanding that it is *in virtue of that humanity* that we understand maxim universalization to apply to any being that has humanity (a.k.a. personality).¹¹³¹¹⁴

Section 2: Dependence or Independence

Having briefly explained the interdependence of the various categorical imperatives relevant to my project, we should focus now on the relationship between virtue and ethics, because such a relationship seems, *prima facie*, particularly complex, if problematic. Consider again Paul Guyer, in his article ‘Kant’s Deductions of the Principles of Right,’ on this: “Strictly construed, the claim that Kant’s universal principle of right is not derived from the Categorical Imperative, understood as the requirement to act only on maxims that can also serve as universal law, is correct because the principle of right concerns only the compatibility of our actions with the freedom of others, and does not concern our maxims at all, *a fortiori* their universality” (Guyer 2005, 201).

Guyer thinks, though, that there is some broader way in which we can derive the UPR from the CI (and thus show that right depends on ethics); and Sorin Baiasu, in his

¹¹³ In *Religion*, Kant of course distinguishes between humanity and personality, but he calls the latter ‘humanity considered intellectually’ (Kant *R*, 6:27). This is what Kant is talking about (since humanity considered not intellectually cannot give us any propensity to be moral).

¹¹⁴ There is much more to say about the formula of humanity, but I leave that to Chapter 4, since here we are concerned only with the formal connection between virtue and right. The formula of humanity actually grounds the argument that we have a practical connection between the two as well.

article ‘Rights Complex Relation to Ethics in Kant: The Limits of Independentism,’ argues that this kind of simple independence is compatible with a dependence position. Guyer, for his part, is responding to Marcus Willaschek’s¹¹⁵ two fold claim: (1) the UPR is analytic, and thus cannot be derived; and (2) the UPR is a postulate that is “incapable of further proof” (Kant *MM*, 6:231; Wood 2002, 7; Willaschek 1997, 220; Guyer 2005, 200). While Guyer is clearly arguing for dependence (but simply thinks that the argument is not *simple*, as it were), Baiasu argues that we can at most get a limited argument for dependence that focuses on the objective validity of maxims and not on their subjective validity (Baiasu 2016). Baiasu is not clearly an independentist as a result, but rather seems to have a hybrid view where right and ethics can be considered independent from one point of view, but dependent from another. He is responding to Willaschek’s paradox: (1) the UPR has to be either categorical or hypothetical (because it must be an imperative), (2) the UPR, in order to say it *depends* on the CI, must be categorical, however (3) the UPR cannot be categorical since it is externally enforced. Willaschek points out that an unfortunate consequence [for dependence theorists] is that the UPR does not depend on the CI at all: thus either (1) right and ethics are two totally independent domains, or (2) the UPR is nonprescriptive (Willaschek 2002). Although Willaschek himself attempts to reply to this by essentially claiming that ethics and right must be independent, Baiasu argues, through discussing the result of Willaschek’s considerations, that we may actually have a case for a limited sense of dependence nonetheless (Baiasu 2016). I will start by expositing Willaschek’s independentist

¹¹⁵ He also focuses on Allen Wood, but I condense this discussion to his interaction primarily with Willaschek, since any issue he has with Wood he also has with Willaschek (but this does not ultimately hold the other way round).

positions in more detail, and follow that with the responses that Guyer and Baiasu offer (also in more detail). In the end, I hope to show that neither Guyer nor Baiasu seem to see the connection between the UPR and the CI in the ways I argue in this chapter; their mistake, in my view, is primarily in their defining dependence such that it requires a derivation of some kind from the CI to the UPR.¹¹⁶

2a: Willaschek's Relevant Positions

Willaschek argues, in line with Allen Wood, that we must read ethics and right as wholly independent of each other (Willaschek 1997, 2002; Wood 2002).¹¹⁷ The first substantive claim¹¹⁸ he makes against a dependence position is this: “the fundamental laws of the realm of right are expressions of human autonomy akin to, but independent from, the moral domain” (Willaschek 1997, 208). Both Willaschek and Wood begin by portraying Kant as understanding the UPR to be analytic and the CI to be synthetic (Willaschek 1997; Wood 2002; Kant *G*, 4:420; Kant *MM*, 6:231). While it seems non-controversial to call the CI synthetic, anyone calling the UPR analytic must be basing

¹¹⁶ In my own exposition, above, I discuss a different way of connecting them that does not require the CI and the UPR to have any formal connection *directly between each other* (they are both restatements of the Supreme Principle of Morality). In this discussion the following definitions are assumed: 1) Simple dependence means that the UPR can be directly derived from the CI. 2) Simple independence means that the UPR cannot be derived at all from the CI. 3) Relative dependence means that there is some round about way in which we can derive the UPR from the CI, but we may need to invoke transcendental deductions of some kind. And 4) relative independence means that the UPR and the CI are not completely independent in some sense, but lack any formal connection at all. My view is distinct from any of these four because it does *not* concern the formal connection between the CI and the UPR at all. Nevertheless, since my dissertation is arguing for a way in which we can say that right depends on ethics (i.e., ethics is necessary for right, and right is sufficient to become ethical), having some discussion of this debate is I think pertinent.

¹¹⁷ In line with what Guyer and Baiasu are responding to, I focus on two main works of Willaschek's and no particular work of Wood's: Willaschek (1997) and Willaschek (2002).

¹¹⁸ This entire analysis of this ‘first substantive claim’ of Willaschek's is based on Guyer's discussion of the same in Guyer (2005).

their position on the following passage: "...there is connected with right by the principle of contradiction an authorization to coerce someone who infringes upon it" (Kant *MM*, 6:231).¹¹⁹ An analytic claim is true in virtue of the fact that if we assume the claim to be false, we end up with a contradiction. Furthermore, Willaschek points out that Kant claims that the UPR is a postulate incapable of further proof:

...the universal law of right, so act externally that the free use of your choice can coexist with the freedom of everyone in accordance with a universal law, is indeed a law that lays an obligation on me, but it does not at all expect, far less demand, that I *myself should* limit my freedom to those conditions just for the sake of this obligation; instead, reason says only that freedom *is* limited to those conditions in conformity with the idea of it and that it may also be actively limited by others; and it says this as a postulate that is incapable of further proof. (Kant *MM*, 6:231)

The idea that the UPR is (1) analytic, and (2) incapable of further proof is taken to show that the UPR (and all derived laws of right) is independent of the CI (and all derived ethical laws); i.e., that right, far from being derived from ethics, is independent of it. As Guyer points out, such a determination of independence requires first that: "...an analytic proposition, because it is true in virtue of the containment of its predicate in its subject concept and the law of non-contradiction, neither needs nor can receive any sort of justification beyond the analysis of the concepts that comprise it." Furthermore, he explains, this also requires: "that anything Kant calls a postulate cannot have a foundation in any more fundamental principle, such as the supreme principle of morality" (Guyer 2005, 200-201).

¹¹⁹ I am not deeply concerned with responding to Willaschek myself. I will be expositing Guyer's response to this, responding to Guyer's analysis itself as I go.

Willaschek further argues for independence in that the juridical laws and ethical laws are simply the same laws looked at from distinct perspectives: with the juridical perspective being “strategic” (Willaschek 2002, 74).¹²⁰ He does this by considering a paradox: “juridical prescriptions would have to be either categorical or hypothetical imperatives; as it turns out, on Kant’s conception of Right they can be neither” (Willaschek 2002, 66). There are three theses that work in unison to generate the dilemma/paradox to which Willaschek alludes: the prescriptivity thesis; the unconditionality thesis; and the externality thesis. Briefly: the prescriptivity thesis says that “juridical norms¹²¹ must be imperatives” (Willaschek 2002, 67; Baiasu 2016, 10,12). The unconditionality thesis says that juridical norms must “bind unconditionally.” Willaschek even writes: “they do not bind only those who share certain ends, but everyone” (Willaschek 2002, 71; Baiasu 2016, 12).¹²² Finally, the externality thesis says that juridical norms “can only require external behavior, but not motivation” (Willaschek 2002, 71). The reasoning for the dilemma goes something like this: the prescriptivity thesis is incompatible with the other two theses. If juridical norms are

¹²⁰ This exposition of Willaschek’s second argument for independentism comes from Baiasu (2016).

¹²¹ Willaschek employs the term law, rather than imperative. Baiasu determined that the word ‘law’ doesn’t quite work either; he uses the term ‘norm’ (Baiasu 2016, 12). Thus, I may use the word law, prescription, imperative, or norm in keeping with the particular author I am discussing. For the purposes of the Willaschek discussion (and only during this discussion), I will endeavor to use the term ‘norm’ as much as possible.

¹²² In Baiasu’s article itself, he seems to synonymize unconditionality and universality in his discussion of this; I have clarified it in what I write above; but Baiasu, after conflating unconditionality and universality, just calls these imperatives ‘categorical.’ And this may be fine, but I want to quickly distinguish between ‘unconditional’ and ‘universal.’ Unconditionality in a maxim means that, for example, I subjectively hold that maxim as valid no matter what, so long as all the morally relevant conditions obtain. Universality (which is what follows once the maxim passes the CI’s test) refers to the maxim’s being made objective (i.e., being made to hold for any rational being regardless of their particular circumstances, so long as all the morally relevant conditions obtain). Given the structure of Kant’s system, it is probably easy enough to think of Universality as following from Unconditionality, and thus it may be fine for Baiasu to have presented them as the same, but they are not the same.

imperatives, then they must be hypothetical or categorical. But they cannot be hypothetical, since they must hold unconditionally. Furthermore, they cannot be categorical because categorical imperatives are enforced internally, and not externally. Baiasu imagines that Willaschek has in mind that since juridical norms regard external action, and not motivation, it must be that since external actions “can be externally enforced” (and still be in keeping with actions prescribed by the UPR), they cannot be categorical imperatives (Baiasu 2016, 12-13). This connection is affirmed by the following from Willaschek himself:

At first glance, it may perhaps seem possible to obey a categorical imperative not for its own sake, but for some other reason – for instance, out of fear of punishment. But in fact, this is a conceptual impossibility: since *obeying* a categorical imperative means that one would have followed its prescription anyway, even if no threat of punishment were connected with it, complying with it *exclusively* out of fear of punishment precisely means not to *obey* it. (Willaschek 2002, 70)

There are only hypothetical and categorical imperatives; thus, if juridical norms are neither categorical imperatives, nor hypothetical imperatives, then contrary to the prescriptivity thesis, they are not imperatives at all.

It is Willaschek’s solution to this dilemma that leaves us with an argument for independence. Consider: “While the Unconditionality and Prescriptivity Theses express a normative perspective on the law, the Externality Thesis expresses the possibility, and legitimacy, of a purely ‘strategic’ perspective on the law. By distinguishing between these two perspectives, it is possible to combine the three theses in question” (Willaschek 2002, 74). This rests heavily on the distinction between the normative validity of a norm, and the motive to act on the norm. The former refers to the norm’s having passed the test of the CI, presumably; while the latter deals with...well, *motives*. The idea, as I

understand it, is that there is a way to look at juridical norms such that they are normatively valid (i.e., they are followed out of respect for the moral law, and therefore seen from the ethical perspective). Furthermore, there is another way to look at juridical norms such that they are not *categorical* imperatives, since, in order to be a moral *law*, that law must hold unconditionally, and must therefore be normatively valid. When we consider that juridical laws can be followed for any motive at all, and still be *followed*, we can see the same ‘laws’ from the ‘strategic,’ *juridical* perspective, to which Willaschek alludes. There seem to be two different perspectives: the ethical perspective, which presumably deals with both normative validity and therefore motive, and the juridical perspective, which deals, insofar as these are imperatives, only with the action itself. Thus, it is simultaneously the case that juridical norms are imperatives (from the *ethical* perspective: i.e., when the required motive is respect for the moral law), and not categorical imperatives (when considered juridically: i.e., when the motive to act is not at issue). If the paradox holds, and if this answer is correct, it implies independence between the juridical and ethical perspectives, and thus their respective norms (Baiasu 2016, 10-14, 16-17).

After recognizing that the normative validity of juridical norms (the validity that would allow us to consider them as categorical imperatives) rests solely on that ethical perspective, Willaschek points out, further, that juridical norms can be considered *not to be imperatives at all*, when people are in a perfect civil condition (just like a being with a holy will does not view ethical ‘norms’ as imperatives either). “[Under] a legal system in which coercion really equals the hindrance of rightful freedom, the idea of prescriptions or imperatives does not apply; just as...the idea of a moral ‘ought’ is not

applicable to a holy will” (Willaschek 2002, 84). If Kant is saying that only in a [perfect] civil condition can we have these juridical norms, then perhaps Kant never means to describe the duties derived from the UPR to be imperatives at all. This seems to be Willaschek’s thinking anyway, and it would certainly conceptually separate juridical ‘norms’ and ethical ‘norms.’ He remains unsatisfied with this, as it leaves juridical norms shipwrecked, and frankly, the paradox he is originally trying to solve remains unscathed. Consider that juridical norms have been reduced to being categorical imperatives *only* when they are thought of as ethical norms; *juridical* norms are simply not categorical imperatives (Baiasu 2016, 17-19; Willaschek 2002, 75).

So, he takes it one step further and notices that this does not solve the problem for actual juridical systems anyway. Willaschek points that “all actual juridical systems leave much room for juridical deliberation and free choice as to whether one wants to obey the law or not” (Willaschek 2002, 85). Since we can decide whether to obey the law, juridical norms *can be* considered categorical imperatives when we realize that the motive to act does apparently matter to Kant after all, even in juridical contexts (Baiasu 2016, 19). Consider Kant’s example of the right of necessity. The famous¹²³ example involves two people on a sinking boat, neither of whom are responsible for this predicament. If there were only one of them on the boat, there would be enough time to wait for help before the boat sinks. But with both people the boat will sink before help arrives. In this situation, Kant argues first that we do not have a right, *per se*, to push the other person out of the boat: it is contradiction to allow this since we are essentially not talking about self-defense (where someone is committing an act of violence which compels me to

¹²³ Perhaps I should say ‘*infamous*.’

respond). So Kant explains, “the deed of saving one’s life by violence is not to be judged as inculpable... but only unpunishable” (Kant *MM*, 6:235-236). The reason Kant puts forward this paradox of sorts is that we cannot be *coerced* to a greater degree than the result of not breaking the law (we will die if we don’t push the person out, and the greatest punishment ‘on offer’ by society for this crime is death). Thus, we are culpable (i.e., we had no right to do this), but we are also not punishable (Kant *MM*, 6:235-236). So, Baiasu summarizes Willaschek’s position: “Insofar as punishment cannot always exactly match the degree of strength with which persons may be inclined to break the law, persons are actually free to decide whether they want to engage in criminal activities or not. At this point, ethical considerations may come in and may tip the balance in favour of observing the law. At this point as well, prescriptivity becomes present” (Baiasu 2016, 19). All that is being said is that there are many relevant motives, but the sense in which we get prescriptivity still depends on the normative validity offered by the ethical perspective. Thus, ethics and right are independent, and the idea that a juridical norm can ever be prescriptive outside of the ethical perspective is thus rejected (Baiasu 2016, 19-21).

Section 2b: Guyer’s Response to Willaschek

Guyer responds to Willaschek: (1) by showing that determining the truth of analytic propositions is not merely the act of analyzing the concepts, and (2) by showing that Kant’s ‘postulates’ are capable of further proof. Undermining Willaschek’s two relevant assumptions ultimately undermines his first substantive argument for independence, on Guyer’s view. If more were required to show that an analytic proposition were true than mere analysis of the concepts, then the UPR’s being analytic

would not show that it does not depend at all on the CI. Furthermore, if it turned out that postulates could be derived from other more fundamental principles (i.e., if postulates were capable of further proof), then that would mean that the UPR's being a postulate does not show that it does not depend at all on the CI. Guyer's argument for these is quite clever, if long-winded, but his position ultimately is that while Willaschek and Wood are correct to claim that the UPR is not in a relation of simple dependence with the CI, this does not mean that there is no dependence at all (Guyer 2005, 201).

Guyer argues that, for Kant, it is simply not the case that the truth of analytic claims depends *only* upon the principle of non-contradiction (i.e., that truth does not rely only on mere analysis of the concepts) (Guyer 2005, 203-204). The first time Kant discusses analytic judgments seems to imply this is in the *CPR*: these judgments are such that “the predicate *B* belongs to the subject *A*, as something that is (covertly) contained in this concept *A*” ...and “the connection of the predicate... is thought through identity” (Kant *CPR*, A 6-7/B 10-11; Guyer 2005, 203). As Guyer points out: “This is usually interpreted to mean that an... analytic proposition... is one that is *true* in virtue of what is contained in its subject concept and laws of logic alone. But Kant does not saying anything about truth in the passage” (Guyer 2005, 203). That Kant never says “anything about truth,” serves as a jumping off point for Guyer's argument that analytic truths are true in virtue of *more than* mere analysis of the concepts. He continues by quoting Kant (here, Guyer uses his own translation, in collaboration with Allen Wood; for the purposes of accurately portraying the former's argument, I use *his* quoted text):

For since one found that the inferences of the mathematicians all proceed in accordance with the principle of contradiction (which is required by the nature of any apodictic certainty), one was persuaded that the principles could also be cognized from the principle of contradiction, in which, however they erred; for a synthetic proposition can

of course be comprehended in accordance with the principle of contradiction, but only insofar as another synthetic proposition is presupposed from which it can be deduced, never in itself. (Kant *CPR*, A 10/B 14)¹²⁴

Guyer writes: “This says that provability in accordance with the law of contradiction, and, presumably, by any other purely logical principle, such as the law of identity, is not enough by itself to establish analyticity” (Guyer 2005, 204). In other words, synthetic *mathematical* propositions (which seem to be analytic) are not merely true in virtue of non-contradiction: their truth also depends on prior synthetic claims. One might be confused here, since Guyer has switched to discussing synthetic propositions, but what he is arguing is actually quite clever. Guyer, somewhat in keeping with this passage from Kant, splits up finding the truth of a proposition into two parts: comprehending it, and deducing it. Since *mathematical* propositions require only the law of non-contradiction to be comprehended, and since mathematical propositions are synthetic, clearly the fact that a proposition can be comprehended in this way is not enough to claim that it is analytic.¹²⁵ Guyer simply takes the inference one step farther and asserts that if a

¹²⁴ If you look at the Smith translation of this same passage (which I quote below), you will notice three key differences: 1) Guyer and Wood seem to prefer ‘comprehend’ to ‘discern, 2) they seem to prefer ‘deduced’ over ‘apprehended as following from,’ and as you would readily see, 3) Smith *does* mention truth, as against Guyer’s translation. These translation differences, however seemingly minor, actually provide some of the lynch pins of the latter’s position, as we will see.

Here is the Smith translation of the same passage for reference:

For as it was found that all mathematical inferences proceed in accordance with the principle of contradiction (which the nature of all apodeictic certainty requires), it was supposed that the fundamental propositions of science can themselves be known to be true through that principle. This is an erroneous view. For though a synthetic proposition can indeed be discerned in accordance with the principle of contradiction, this can only be if another synthetic proposition is presupposed, and if it can then be apprehended as following from this other proposition, it can never be so discerned in and by itself. (Kant *CPR*, A10/B 14)

¹²⁵ I disagree, and in my discussion of this in sub-section 2b-i, I basically suggest that Guyer should have written ‘not deducible’ instead of ‘analytic.’

proposition were deducible by mere analysis of the subject and predicate concepts, that too would not be enough to call the proposition analytic (Guyer 2005, 204-205).

Guyer supplements the foregoing by arguing for two claims: first of all, analytic propositions are not, in general, exempt from the need for deduction; second of all, in the case of right, in particular, we are required to do a deduction. Guyer writes: “The status of a proposition ultimately depends upon the status of the premises of its proof: if they are synthetic, then the conclusion is synthetic even though reached by purely logical inferences” (Guyer 2005, 204). This Guyer takes as an inference from the passage quoted in the foregoing paragraph: the idea is that Kant must mean for the deduction of any synthetic proposition to require synthetic premises; perhaps this extends to the derivation of analytic propositions.¹²⁶ What this means is that “if Kant says that a principle of right is provable in accordance with the principle of identity or of contradiction, that by itself hardly implies that this principle can be known to be true without appeal to some more fundamental concept or principle” (Guyer 2005, 205). In other words, if we call a principle of right analytic, that does not seem to relieve us of having to deduce it. Furthermore, Guyer points out that the very concept of a deduction is brought up regarding rights (this is from his and Wood’s translation):

Jurists, when they speak of entitlements and claims, distinguish in a legal matter between the question about what is lawful (*quid juris*) and that which concerns the fact (*quid facti*), and since they demand proof of both, they call the first, that which is to establish the entitlement of the legal claim, the **deduction**. We make use of a multitude of empirical concepts without objection from anyone...because we always have experience ready to hand to prove their objective reality. But there are also concepts that have been usurped, such as **fortune** and **fate**...and then there is not a little embarrassment about

¹²⁶ Guyer actually points out that the ultimate conclusion here might be, rather, that there are no knowable analytic propositions at all (since knowing requires both comprehension and deduction) (Guyer 2005, 204-205). But since this adds unnecessary complexity, neither Guyer nor I spend much time discussing this. Obviously, Kant discusses analytic judgments; so, he must think they exist. If they do, then the immediate inference seems to be that analytic propositions require analytic premises.

their deduction because one can adduce no clear legal ground for an entitlement to their use either from experience or from reason. (Kant *CPR*, A 84-85/B 116-117)

From this, it follows that, unlike claims which can be verified by experience, legal claims can only be verified by deduction. If claims of right are understood to be analytic, then it follows from this that Kant never intended to mean that a proposition is in no need of deduction merely by labeling that proposition analytic. In sum then, these claims of right (being analytic) can certainly be comprehended by mere analysis of the concepts, but verifying their truth requires a deduction (Guyer 2005, 203-208). Thus, Willaschek's argument for independentism fails, insofar as his argument depends on the claim that the UPR is analytic (and therefore not deducible from any other proposition; and, more to Guyer's point, Willaschek fails to show that the UPR is *not deducible from the CI*); but we must now turn to the 'postulate' horn of Willaschek's case.

Guyer argues that postulates for Kant are *also* in need of further proof, and not to be taken as axiomatic; he does this by first discussing Kant's own comparison between practical laws and mathematical postulates. Kant argues, in *MM*, that since the CI, and all practical laws derived from it¹²⁷, seem to be evidence that freedom is a property of our choice: "It...seems less strange to find that these laws, like mathematical postulates, are **incapable of being proved** and yet **apodictic**, but at the same time to see a whole field of practical cognition open up before one, where reason in its theoretical use, with the same idea of freedom...must find everything closed tight against it" (Kant *MM*, 6:225). Kant's argument here is that since theoretical reason cannot demonstrate freedom as a property

¹²⁷ Guyer is including, for example, the UPR among 'all practical laws.' I think this is arguably fallacious. This is discussed in sub-section 2b-i.

of the will, but practical reason seems to demand it (i.e., insofar as we perceive ourselves as having choice, we recognize freedom to be a part of our will), it follows that these practical laws are a bit like mathematical postulates in that we can be absolutely sure of their truth, but be unable to prove them (using theoretical reason, in the case of these practical laws). Guyer argues that we can see two simple things from this part of *MM*. The first is the fact that practical laws are ‘like mathematical postulates,’ and yet are derivable from the CI. In other words: “the way in which practical laws are like mathematical postulates does not preclude their being derived from a more fundamental principle of morality” (Guyer 2005, 209). The second is, on Guyer’s reading, that Kant’s position implies that the kind of postulate under analysis actually tells us what kind of proof to look for;¹²⁸ the use of the term ‘postulate’ does not mean that there is no proof at all for it. Taken together, this implies that if laws of right are postulates (or even if only the UPR is a postulate), this would not mean that they admit of no further proof; to the contrary, this would mean that they admit of a practical proof from a more fundamental practical principle (Guyer 2005, 209).

For Guyer’s connection between ethics and right to work, given what he’s written so far, he needs Kant to describe the UPR as a postulate itself (presumably derivable from the CI). Indeed Kant seems to say something like this:

Thus the universal law of right...is indeed a law that lays an obligation on me, it does not...expect, far less demand, that I **myself should** limit my freedom in these conditions just for the sake of this obligation; instead, reason says only that freedom **is** limited to these conditions in conformity with the idea of it and that it may also be actively limited by others: and it says this as a postulate that is incapable of further proof. (Kant *MM*, 6:231)

¹²⁸ Guyer’s position does not perfectly align with the passage. In sub-section 2b-i, I discuss this further.

Guyer reads this passage as simultaneously saying that the UPR is a postulate, and that it is derivable by saying that the UPR expresses “the restriction of the use of freedom to the condition of its consistency with a like use by others” (Guyer 2005, 210).¹²⁹ He reads ‘it says this as a postulate’ to mean that the UPR is a postulate, and he notices that the UPR is meant to be a description of how we will act as a result of the fact that freedom is a property of choice (or ‘the will’ in the Paton translation of the *Groundwork*). This latter observation, for Guyer, seems to support the claim that the CI, since it is an obligation for us (as rational beings in the world of sense), is the fundamental principle from which the UPR is derived (Guyer 2005, 210).¹³⁰

Guyer supplements this by pointing out that Kant has used the term ‘postulate’ to refer to: (1) Kant’s *postulate* of pure practical reason with regard to rights; and (2) Kant’s postulates of the immortal soul and the existence of G-d. In each of these cases, Kant refers to them in some places as postulates and in others as presuppositions or assumptions (Kant *MM*, 6:250; *CPR*, A 798, 811, 826/B 826, 839, 854; *CPrR*, 5:132).¹³¹ Concerning the postulate of pure practical reason with regard to rights, Guyer writes: “[this postulate] is to be *derived* from the universal principle of right by a proof that the acquisition of property is consistent with and indeed required by the general principle that each person’s external use of freedom be consistent with everyone else’s” (Guyer 2005, 210). Guyer’s observation is that, given what was discussed in the foregoing paragraph,

¹²⁹ Neither of these points are obvious, and I think there are equally plausible ways to read this passage, as a I discuss in sub-section 2b-i.

¹³⁰ There is no further supplemental argument for this in Guyer. I have simply done the best I can to represent his position.

¹³¹ It is odd to me that Guyer doesn’t include *freedom* or the KofE as postulates. I discuss this further in sub-section 2b-i.

Kant is quite obviously here saying that, *from the UPR, we can derive* this important postulate (which, itself, ultimately grounds all claims to property in a JS): “It is possible for me to have any external object of choice as mine” (Kant *MM*, 6:250). In addition, Guyer notices that Kant describes that same postulate as a “presupposition of practical reason” (Kant *MM*, 6:250). The idea here is that it is possible to simultaneously think of a postulate as presupposed and being derived, so long as we understand the presupposition to be theoretical and the derivation to be practical. Furthermore, as far as the other postulates mentioned here are concerned (using Guyer’s translation): “...we must assume that moral world to be a consequence of our conduct in the world of sense..., and therefore to be for us a future world. Thus [G-d] and a future life are two postulates, which, according to the principles of pure reason, are inseparable from the obligation which that same reason imposes upon us” (Kant *CPR*, A 811/B 839). To bolster Guyer’s claims here, it is readily observable that Kant uses terms like ‘assume’ and ‘presumption’ when discussing postulates, which he at the same time tells us how to practically derive. Here, Kant has just given us a case where postulates are *practically* derivable (i.e. derivable from more fundamental *moral* obligations), but presumably simultaneously theoretical assumptions.

For Guyer, these observations show that neither the claim that duties of right are analytic, nor the claim that the UPR is a postulate (or for that matter that the postulate of pure practical reason with regard to rights is a postulate), show that right and ethics are independent. Far from showing independence, Kant’s use of the term postulate is meant to convey not “that it needs no proof or deduction; rather, by so doing he means to say something about the kind of proof that it permits” (Guyer 2005, 212). On Guyer’s

account, several important points support this: (1) That a principle is analytic does not mean that determining its truth (or, more to the point, its validity as a knowledge claim) depends entirely on the principle of non-contradiction (i.e., saying a claim is analytic does not mean it does not need to be deduced). (2) In fact, verifying the truth of analytic claims *requires* a deduction. (3) Similarly, calling a principle a postulate does not mean that we do not need a deduction. (4) Actually, calling a principle a postulate simultaneously tells us that we must assume it theoretically, but still deduce it practically. Thus even if all duties of right (and even if the UPR itself) were analytic postulates, it would be a mistake, on Guyer's view, to see ethics and right as formally disconnected, and this is all despite the fact, as he writes earlier: "Strictly construed, the claim that Kant's universal principle of right is not derived from the Categorical Imperative, understood as the requirement to act only on maxims that can also serve as universal law, is correct because the principle of right concerns only the compatibility of our actions with the freedom of others, and does not concern our maxims at all, *a fortiori* their universality" (Guyer 2005, 201).

2b-i: Discussion of Guyer's Defense of *Relative* Dependence

While Guyer's analysis is in the dependence family of theories, my connection is not one of dependence in the sense he defends. His attempt to split apart comprehension and deducibility *fails* to show that whenever Kant claims a statement to be comprehended by mere analysis of the subject and predicate concepts, the statement in question is not analytic. Furthermore, while he *successfully* shows that being a *practical* postulate does not preclude deducibility altogether, his comparison between mathematical and practical postulates *fails* because mathematical postulates are not provable at all (on Kant's

account), and the comparison was made to show that there was a way in which it is still possible to prove practical postulates. In addition, his claim that the UPR is a postulate is not well supported by the text he uses, and he wants to show that, since postulates are still derivable and the UPR is a postulate, the UPR is derivable; however, failing to show that the UPR is a postulate really undermines this claim. Finally, in all of his argument, he never discusses the postulate of freedom (which when discussed at length really drives home the formal connection of the UPR to the supreme principle of morality, and *not* the CI).¹³² Below, I will put forward challenges to the relevant parts of Guyer's position and posit that in each case, he has either ignored the possibility that the UPR could be a way of understanding the Supreme Principle of Morality (and not the CI), or he has perhaps conveniently left out important clues (like the postulate of freedom) that help to show how the Supreme Principle (and *not* the CI) can formally generate the UPR, while still having the CI manifest in it.

Guyer argues that we can split apart comprehension and deducibility, and thus that whenever Kant claims a statement to be comprehended by mere analysis of the subject and predicate concepts, it does not follow that the statement in question is analytic. While I think it is interesting to split apart comprehension and deduction, I do *not* agree that it follows (from what is said about *mathematical* propositions) that comprehension by mere analysis of the concepts involved in a statement does *not* mean a statement is analytic (quite the contrary, that is precisely what Kant means when he first brings up analyticity in the foregoing quoted text from the *CPR*). That said, I do agree

¹³² In the end, I show that the CI is still manifest in the UPR through freedom! But this is not a direct formal connection between the two.

that a statement's being analytic does not preclude its *deducibility*. After all, consider that when we have what Kant would consider an a priori *synthesis*, like the square of the hypotenuse of a right triangle equals the sum of the squares of its sides, anything we say about at least two sides of any right triangle will tell us *analytically* what the other side must be. This is likely the kind of thing Kant had in mind regarding the UPR: i.e., it is an *analytic* proposition in light of the a priori synthesis that grounds the duties of virtue.¹³³ Guyer, himself, actually argues for this by pointing out that the deduction of a new practical synthesis (that seems to be analytic otherwise, similar to the example just given) can work if we already have some a priori synthesis assumed: for his purposes, the CI. However, this might be a minor disagreement, since even though I disagree about from which a priori synthetic claim we can understand the UPR to come (I think it is the supreme principle of morality, and not the CI), the idea of comprehending a statement as analytic *in light of* a presumed a priori synthesis works with my account as well as his.¹³⁴

Guyer's allusion to Kant's comparison of practical laws to mathematical postulates, in an effort to prove that being a postulate does not mean that it cannot be proved, both fails and succeeds: on the one hand, the comparison fails because mathematical *postulates* are not deducible at all, by definition; but on the other hand, the comparison successfully shows that being a *practical* postulate does not preclude deducibility altogether. When Guyer writes that we can derive 'all practical laws' from the CI, Guyer is including, for example, the UPR among 'all practical laws' (Kant *MM*,

¹³³ Note that this means that to claim a proposition is analytic (for Kant) can only be meaningful if we already have a synthesis.

¹³⁴ Although it should be noted that my central claim on this is not one of derivability, but rather one of *restatement*.

6:225; Guyer 2005, 209). I think this is arguably fallacious. Kant is here most obviously talking about maxims which become universal via the test of the CI, which would then be ethical laws like ‘You should never make a lying promise’ (in the relevant passage, Kant is likely not referring the UPR). That said, I think there is sufficient evidence elsewhere, which Guyer actually brings up, that maybe Kant did mean for the UPR to be derivable from the CI (though, of course, I do not ultimately agree that the derivation goes quite like that; again, I think the Supreme Principle of Morality can be understood as both the CI and the UPR, in a manner of speaking, *independently*). Guyer’s position does not perfectly align with the passage. Yes, practical laws are like mathematical postulates, in that they admit of no further proof but are certain, nonetheless. And, as pointed out earlier, if we take for granted Kant’s position that a postulate can be incapable of speculative proof, this would *not* mean that it is incapable of any proof whatsoever. Consider that practical *laws* can then be understood to be *practically* provable; but it would not follow that mathematical postulates can be proved. Kant just said they were not capable of such a proof (even a *mathematical one*). Here all we have is that practical laws are ‘like mathematical postulates,’ and so perhaps they are only similar in that neither can be proved using speculative reason. That said, since Kant probably meant this to be read more strongly such that practical laws *are* postulates (not merely ‘like’ postulates), then Guyer’s position, as it targets practical postulates anyway, works: i.e., saying that practical postulates (on this stronger reading) are like mathematical postulates in one way does not mean that they are alike in *every* way.¹³⁵

¹³⁵ Guyer actually goes on to discuss mathematical postulates themselves in more depth (Guyer 2005, 216-217). But that discussion is not necessary for my project.

Guyer's claim that the UPR is a postulate and is derivable is problematic, but even on his reading, it is not clear that we should be convinced that the CI is that from which the UPR is derived. Guyer reads Kant as simultaneously saying that the UPR is a postulate, and that it is derivable by saying that the UPR expresses "the restriction of the use of freedom to the condition of its consistency with a like use by others" (Guyer 2005, 210). Neither of these points are obvious, and I think it is equally plausible to read this passage like so: The UPR is merely 'saying that this restriction/limitation exists' as a postulate. It is the restriction that is the postulate (not the UPR) on this latter reading. Furthermore, it is not clear that mentioning this limitation means there is a derivation from a more fundamental principle happening. What it more obviously shows is that we can derive the laws of a particular civil condition (i.e. the laws of right) from the UPR. Regardless, Guyer's reading is certainly also a plausible way to read it. But I should point out that even on Guyer's reading: even if the UPR is derivable, and even if it is a postulate nonetheless, it can still be understood to come from the supreme principle, rather than from the CI.

Guyer's focus on the postulate of pure practical reason, G-d, and the immortality of the soul seems odd to me since Kant actually also identifies *freedom* and the Kingdom of Ends as postulates; and freedom in particular is very important to understanding how the UPR comes from the supreme principle. Guyer seems to conveniently ignore the postulate of *freedom*, even though Kant explicitly discusses this postulate in the same places that he discusses the postulates of the soul's immortality and G-d's existence. In my own exposition of this in Chapter 2, I also discuss Kant's postulate of the Kingdom of Ends (the future world), but Guyer leaves this out too. Furthermore, Guyer also (perhaps

conveniently) fails to reference the varied places from which we can find evidence for precisely what he is saying about G-d and immortality; so I added them to the following in-text citation (Kant *MM*, 6:250; Kant *CPR*, A 798, 811, 826/B 826, 839, 854; Kant *CPrR*, 5:132). Based only on Guyer's references, Kant really does not explicitly say these things; my own added references confirm Guyer's claims about G-d and immortality though. The issue with ignoring freedom is that we leave out the *ethical* underpinnings of the UPR (recall that my position is that right does depend on ethics, after all; and this is despite the fact that, as I argue, one cannot *derive* the UPR from the CI, or even show a direct formal connection as such), as I have already discussed briefly in sub-section 1c above and will discuss in more detail in Section 3 below.

While Guyer's position and mine are both one of dependence, his position requires us to think in terms of relative dependence, whereas mine gets around the issues of dependence (and is, perhaps, more like relative *independence*) by focusing on the supreme principle of morality, and not the CI, as that from which the UPR comes.¹³⁶ He argues that the derivation of the UPR from the CI cannot be merely that we add external enforceability; rather it must be one of relative dependence where, in addition, we somehow remove the required ethical motivation. As Willaschek points out (to which Baiasu responds below in sub-section 2c), we cannot have external enforceability, alongside ethical motivation, because ethical motivation is internally enforced. As soon as we say, for example, that juridical norms are externally enforceable (and thus can be followed for heteronomous motivations), we cannot add that juridical norms *require*

¹³⁶ In Chapter 4, I defend a dependence view that is consistent with simple independence, when we understand the former to not require a formal connection at all between the CI and the UPR. Here I am simply making the point that my view 'gets around' some of the issues that Guyer describes for *dependence*.

ethical motivation. This problem only exists if you think that the connection between right and ethics is born from the idea that we must derive the UPR from the CI. If you think, rather, that the supreme principle of morality (which can be read as merely concerning action, or as also concerning motivation) can be understood as both the CI and the UPR, then right (coming from the UPR) can still be said to depend on ethics (coming from the CI). This is *not* because of a formal deduction from the CI, but rather because of what is argued in Chapter 4: that there is a practical connection between ethics and right (*following upon* the argument made in this chapter that freedom is how ethics is manifest in right). Below, I go over Baiasu's response to Willaschek's own attempt to resolve the problem of enforceability and ethical motivation regarding juridical norms.

2c: Baiasu's Response to Willaschek

While Baiasu agrees that a relation of simple independence seems to be the clearest conclusion given the foregoing arguments made by Willaschek (specifically stemming from the paradox he considers), he disagrees with Willaschek that this fully answers the question of whether right depends on ethics (Baiasu 2016, 21-22).¹³⁷ His major project is in fact to make compatible simple independence, simple dependence, relative independence, *and* relative dependence, but in this project I only focus on his attempt to make compatible simple independence and simple dependence.¹³⁸ His argument for this stems from his engaging with the following perceived weaknesses in

¹³⁷ Indeed, Baiasu and I agree that this does not settle the dependence/independence debate, but we do differ, as you will see in my discussion of Baiasu's analysis in sub-section 2c-i.

¹³⁸ "I have said that this argument is a first step towards a more complex case that can be constructed to support the view that the positions of simple dependence, relative in/dependence and simple independence concerning the relation between right and ethics in Kant are compatible and do not reflect some confusion or inconsistency in Kant's thought" (Baiasu 2016, 33).

This is the reason I earlier chose to group Baiasu as neither independentist nor dependentist.

Willaschek's case: The latter's claim that juridical norms cannot be juridical categorical *imperatives* ignores that to obey such an imperative *can* include obeying it for non-ethical motives.¹³⁹ Since Baiasu is committed to that, and in conjunction with Willaschek's claim that all that is required for imperatives (whether hypothetical or categorical) to be obeyed is that they 'necessitate' the will in some sense, it follows that juridical norms were meant to be prescriptive (they were meant to be imperatives). Furthermore, even though Kant is committed to the view that laws of right need to be externally enforceable (and thus that they concern actions and not motivations), we can still consider juridical norms as categorical imperatives because they *can* be followed from the motive of duty even when non-ethical motives (fear of punishment) are not present. Thus, rather than the paradox remaining unscathed after Willaschek's considerations, it turns out that juridical norms can be considered categorical imperatives and can do this without dropping any of the three important parts of being a juridical norm: externality, unconditionality, and prescriptivity. This I take to be Baiasu's defense of the *simple dependence* view. As a result of my disagreement with Baiasu's refutation of Willaschek's argument for the integrity of his paradox, and my disagreement again with Baiasu's same starting point (as both Guyer and Willaschek) of discussing the derivation of the UPR from the CI, I am forced to consider whether starting from the Supreme Principle of Morality would be a better way to argue for a *dependence* position.

His claim that juridical norms can be considered juridical categorical *imperatives* even when followed for non-ethical motives is based on considering Willaschek's dismissal of the following attempt to dissolve the paradox he considers: the idea that

¹³⁹ I take great issue with this in sub-section 2c-i.

juridical norms can be considered as imperatives insofar as there is room for free choice made by the fact that punishments do not always convince people to not commit crimes. In this considered solution, Willaschek simply recognizes that this view leads to our considering juridical norms from an ethical perspective, and thus ultimately this amounts to simply being able to view juridical norms as ethical imperatives (and this won't work as a solution to the paradox) (Willaschek 2002, 85).¹⁴⁰ Baiasu points out, however, that Willaschek's move is based on the false claim of a conceptual impossibility that you can 'obey' a juridical norm (in an appropriate way as a categorical *imperative*) for non-ethical reasons. Baiasu explains: "to obey an imperative is to follow it even when no other motive, apart from the motive of duty, is present" (Baiasu 2016, 23). His intuition here is that 'the motive of duty' can be that generated by the juridical norm itself. A juridical norm can supply its own motivation (it can be obeyed for the sake of obeying it, and thus supply a motive of duty), but it can also be followed from motivation from an external source (i.e., threat of punishment). So long as the motive of duty is there as an option, it is consistent to say that one has obeyed the juridical norm and done it for non-ethical reasons (i.e., externally sourced punishments). If to *obey* the juridical norm, we must follow it even when we lack non-ethical motives, this does not exclude the possibility of obeying it when we have non-ethical motives. Thus, it is not conceptually impossible to think of a juridical norm as a juridical categorical *imperative*, because we can still obey it even when we lack non-ethical motives (Baiasu 2016, 23).

Due to this and Willaschek's claim that to be an imperative (whether hypothetical or categorical), a norm must necessitate the will, Baiasu argues that not only is it not

¹⁴⁰ This is was exposted in sub-section 2a above.

conceptually impossible for juridical norms to be imperatives, but Kant probably *meant* for juridical norms to be thought of as categorical *imperatives*. Willaschek writes “By insisting that imperatives are meant to ‘necessitate’ the will of those who may possibly be tempted to violate the laws, Kant makes it clear that the whole *point* of imperatives, as opposed to their corresponding practical laws, is to be *obeyed*” (Willaschek 2002, 70). Baiasu points out that Willaschek’s own understanding of Kant, coupled with the idea that it is not impossible to conceive of juridical *imperatives*, shows that Kant meant for juridical norms to be categorical *imperatives*. We can follow juridical norms for their own sake (but not the UPR itself, which is what is meant by ‘as opposed to their corresponding practical laws’), and they therefore *are meant to* necessitate the will (and thus are meant to be understood as *categorical imperatives*, despite the fact that we can follow them for *non-ethical* motives as well).

Together with my conclusion above, namely that juridical norms can be obeyed even when one acts on them out of some non-ethical motives, it follows that juridical norms can necessitate the will of those who may be possibly tempted to engage in criminal activity and, hence, it follows that they are prescriptive. Moreover, the further implication is that juridical imperatives can be expressed as categorical imperatives. (Baiasu 2016, 24)

Baiasu’s claim here is that in the case of juridical norms, because of the room left for free choice by external punishments that might not motivate one to do otherwise, the available option to obey the law for the sake of following that law, coupled with the idea that juridical laws are meant to necessitate the will, we can think of them as prescriptive. Therefore, we can think of them as categorical imperatives *without relying on* the ethical perspective.

Baiasu explains that the reason for the foregoing is that the focus should be on *motives* as well as *actions* (not actions alone). He admits that Kant is committed to the view that laws of right need to be enforceable: “I take it that the differences between ethical and juridical norms stem from the requirement that the latter be enforceable” (Baiasu 2016, 24). As a result, external enforceability seems limited to action and *not motivation*.¹⁴¹ But juridical norms can be followed for the sake of the norm itself (it can necessitate the will, as has been discussed): “I take as an essential part of juridical norms the fact they can be acted upon *either* for the sake of their rightness *or* out of empirical incentives (for example, fear of punishment)” (Baiasu 2016, 26). He is using this, in conjunction with his claim that juridical norms were meant to be thought of as categorical imperatives, to help prove that juridical norms *are* imperatives; after all, if they can be obeyed ‘for the sake of their rightness,’ then even though juridical norms *can* be externally enforced, this does *not* take away from their status as categorical imperatives.

He continues:

Hence, when I am acting on a juridical norm from the motive of duty, this does not transform my normgiving into an ethical one; I can still say that I successfully acted on the norm of my juridical normgiving. By contrast, if my policy of action is given by a norm of an ethical normgiving, then, if one of my future actions has only legality, it may mean that I did not act on the norm of ethical normgiving, for to act on such a norm means to act from the motive of duty. (Baiasu 2016, 27)

¹⁴¹ The intuition I think comes from Kant’s discussion of the kind of lies that can be *externally* (i.e., legally) enforced against and those that cannot. “In the doctrine of right an intentional untruth is called a lie only if it violates another’s right; but in ethics, where no authorization is derived from harmlessness,” such an untruth still violates a duty of virtue (Kant *MM*, 6:429). If there are enforceable statutory penalties for actions, then the [juridical] law concerns actions and not motives; for if motive were at issue, then Kant would have to say that all lies were *illegal*. Or as Kant writes on the subject: “The mere conformity or nonconformity of an action with law, irrespective of the incentive to it, is called its *legality* (lawfulness)” (Kant *MM*, 6:219).

What Baiasu is saying is that, contrary to Willaschek's commitment to a simple independentist account, juridical norms are *juridical* categorical imperatives, and not juridical norms considered from an *ethical* perspective. This is because juridical norms can be followed for either the motive of duty or the motives given by external enforcement (Baiasu 2016, 24-27).¹⁴²

The interesting result, Baiasu argues, is that Willaschek's initial paradox (between externality, unconditionality, and prescriptivity) seems to dissolve regarding juridical norms. Recall that throughout Willaschek's attempts to solve his paradox, he keeps having to retreat into the ethical *perspective* in order to discuss juridical norms, *or* he had to leave off one of the three theses of his paradox in order to make sense of juridical norms having any of these three aspects. Juridical norms could be prescriptive, but then they could not be unconditional and externally enforceable simultaneously. They could be prescriptive and unconditional, but then would have to lack enforceability, and so on. But the result that Baiasu is arguing for is that we *can*, in fact, regard juridical norms as having all three: prescriptivity, unconditionality, and enforceability (Baiasu 2016, 28-33). His central claim to this effect is this:

If we focus on the objective validity of the norms, then the objective necessity of juridical norms does not lose its unconditionality even when the norm is followed with a non-ethical motivation. Moreover, if the norm is observed with an ethical motivation, the normgiving does not simply become ethical – the fact that the norm happens to be followed with an ethical motivation leaves untouched the fact that is part of juridical normgiving, since the legality of the juridical normgiving remains the same, whether we act on an ethical or on a non-ethical motivation. (Baiasu 2016, 33)

¹⁴² In order to be concise, I have left off Baiasu's very interesting, but not super pertinent, discussion of the distinction between maxims of action and maxims of motives. It does not seem to me that such a taxonomical distinction is really something Kant intended, but the discussion of what maxims are and whether we can make such a distinction is beyond the scope of this dissertation.

If we take the prime case of trying to keep juridical norms as prescriptive and external (namely that they are enforceable imperatives), in spite of the paradox presented by Willaschek, it just turns out, on Baiasu's account, that the juridical norms do not lose their unconditionality (they remain categorical). In keeping with everything that's been said so far by Baiasu, juridical norms are able to maintain prescriptivity, externality, and unconditionality without considering juridical norms from the ethical perspective (*precisely because* to consider them from the ethical perspective would be to deny their external enforceability) (Baiasu 2016:28-33).

2c-i: Discussion of Baiasu's Defense of *Simple* Dependence

In the foregoing, Baiasu has argued that juridical norms can be thought of as *categorical* imperatives, because of the way he understands what it means to obey a categorical imperative. On his reading, to obey a categorical imperative means to act from the motive of duty even when non-ethical motives are *not* present. This way of reading Kant's idea of *obeying a categorical imperative* allows Baiasu some room to claim that juridical norms, even when followed for non-ethical reasons, are still categorical imperatives because they can still be followed from the motive of duty *even when* non-ethical motives are not present. It seems to me that Baiasu misreads Kant's notion of obeying a categorical imperative, and it is this that undermines his central position that juridical norms are categorical imperatives. Ultimately, I challenge the view that juridical norms are categorical imperatives, effectively defending Willaschek's position that a juridical norm *can* be considered a categorical imperative *only when* it is viewed from the ethical perspective. Baiasu's position, recall, was that juridical norms are categorical imperatives *from the juridical perspective*. While this may seem a nuance,

my overall position, in this chapter, is consistent with a simple independence view in a way that Baiasu's position is not. Willaschek's simple independence, coupled with the idea that juridical norms can be thought of as categorical imperatives *only* when considered from the ethical (and not juridical) perspective, is very encouraging for my overall position that the connection between virtue and right *just is* that freedom is how ethics is manifest in right.¹⁴³

Baiasu's initial claim that juridical norms *can* be thought of as categorical imperatives is problematic from the start because it depends on a perhaps erroneous definition of what it means to obey a categorical imperative. His definition, recall, was that you are said to obey a categorical imperative when it can be followed *even* in the absence of all motives, save the motive of duty. Phrased this way, as can be seen in the foregoing, Baiasu is able to argue that juridical norms can be considered categorical imperatives because they allow the motive of duty, and can be said to be obeyed, therefore, even when followed for non-ethical reasons. But this is fallacious because it misrepresents Kant's position on what it means to obey an imperative. The question that is of importance is whether we can obey an imperative categorically or hypothetically; to limit the term 'obey' only to categoricity is, I think, exegetically incorrect. Consider Kant's words: "All *imperatives* command either *hypothetically* or *categorically*. Hypothetical imperatives declare a possible action to be practically necessary as a means to the attainment of something else that one wills... A categorical imperative would be one which represented an action as objectively necessary in itself apart from its relation

¹⁴³ It seems a nebulous proposition, otherwise, to consider juridical norms from the ethical perspective. By offering that freedom is how ethics is manifest in right, we can say that: 'to consider juridical norms from the ethical perspective' just is 'to consider juridical norms from the perspective that *we are [internally] free.*'

to a further end” (Kant *G*, 4:414). Here Kant already allows, for example, that there are hypothetical *imperatives*. But, of course, Baiasu means for his definition of obeying, in the context of the discussion so far, to refer to obeying a *categorical* imperative.

Concerning categorical imperatives, Kant writes: “...what is essentially good in the action consists in the mental disposition, let the consequences be what they may...; and commands are laws which must be obeyed – that is, must be followed even against inclination” (Kant *G*, 4:416). Here, Kant is very clear that when he uses the term ‘obey’ (*gehört*), he means to refer to how a *law* is followed (as opposed to a hypothetical imperative, like an imperative of skill or prudence, is followed).

Notice that Kant does not say, or imply, that we can obey this imperative *even* when there are no motives besides the motive of duty. On the contrary, his definition implies that to obey an imperative is to follow it *for a specific motive*: i.e., the motive of duty. To say that we must follow it ‘even against inclination’ implies that we follow it even when we *have* non-ethical motives, which is contrary to Baiasu’s reading of the same (i.e., he reads it as ‘even when we *do not have* non-ethical motives’). In other words, whether we have non-ethical motives (to use Baiasu’s terminology) or not, we must follow it anyway. Kant continues: “[The categorical imperative] is concerned...with [the form of the action] and with the principle from which it follows... a categorical imperative is limited by no condition and can quite precisely be called a command, as being absolutely, although practically, necessary” (Kant *G*,4: 416). This idea that it commands concerning the form (the universality)¹⁴⁴ and that it is cognized as practically

¹⁴⁴ See sub-section 1b-i above.

necessary, means that Kant is going for only a single motive: duty, which is defined as *respect* for the moral law (Kant *G*, 4:400).

In addition, Baiasu fails to distinguish between what it means to be able to obey a juridical norm and what it means to call a norm an imperative. In the foregoing paragraph, it is clear that Kant means to call even juridical norms (*even when they are considered conditional*) imperatives. Now, again, Baiasu is really ultimately trying to argue that juridical norms are *categorical* imperatives (not hypothetical ones). Thus, we really need an argument for why we should think of juridical norms as being obeyed in the same way as categorical imperatives: this will show both how juridical norms are ‘obeyed’ and what it means to call a juridical norm a categorical imperative. Let’s start with Kant’s description of what it means to obey a juridical norm: “The mere conformity or nonconformity of an action with law, irrespective of the incentive to it, is called its *legality* (lawfulness)” (Kant *MM*, 6:219). In keeping with Kant’s distinction in the *Groundwork*, he seems to avoid the use of the term ‘obey’ here. But considering the fact that Kant is perfectly comfortable referring to *laws* of right, it would *seem* semantically ok to refer to conforming to a juridical law as obeying it. I think, though, that we should not use Kant’s *gehört* in this way. Consider this:

It can be seen...that all duties, just because they are duties belong to ethics; but it does not follow that the *lawgiving* for them is always contained in ethics: for many of them it is outside ethics. ...All that ethics teaches is that if the incentive which juridical lawgiving connects with that duty, namely external constraint, were absent, the idea of duty by itself would be sufficient as an incentive. (Kant *MM*, 6:219-220)

It seems to me that Kant here is, first of all, probably challenging the simple dependence view: writing that while all duties belong to ethics, ‘it does not follow that the *lawgiving* for them is always contained in ethics...’ But the important part here is that if the idea of

duty is sufficient as an incentive, then the lawgiving is *ethical*, and *not juridical*. So, contrary to Baiasu's position, the fact that we *can* follow the law *even* when we have non-ethical motives is just not relevant to the kind of imperative a norm is. A *juridical* imperative is followed from an external constraint, whereas an *ethical* imperative is followed from an internal constraint (i.e., the motive of duty).¹⁴⁵

The above considerations undermine Baiasu's initial idea that juridical imperatives can be thought of as categorical imperatives (without simply considering the juridical imperatives from the ethical perspective, obviously), but they also point us to an interesting way in which Willaschek is correct to consider that juridical norms are only *categorical* imperatives when considered from the ethical perspective. Three ideas are important here: 1) obeying a categorical imperative requires a specific motive, 2) the determination as to which imperative we are dealing with depends entirely on which motive we are concerned with, and 3) Kant only ever uses the term *categorical* imperatives to refer to laws that necessitate the will (not because of external constraint, but) because of internal constraint (i.e., only ethics has categorical imperatives). From these it would be really difficult to argue that juridical imperatives are categorical imperatives, *unless* we mean to think of them from the *ethical* perspective. So, not only does Baiasu's inference depend on a misrepresentation of Kant's position (and thus is perhaps specious), we actually have evidence to the contrary.

One might argue, here, that the UPR itself is referred to as a categorical imperative and is paradigmatically seemingly *not* a law of ethics; and thus that it is

¹⁴⁵ Kant even writes: "The doctrine of right and the doctrine of virtue are therefore distinguished not so much by their different duties as by the difference in their lawgiving, which connects one incentive or the other with the law" (Kant *MM*, 6:220).

erroneous to say that a juridical norm could be considered a *categorical imperative only* from the *ethical* perspective. Consider, however, this excerpt concerning the UPR:

...the universal law of right, so act externally that the free use of your choice can coexist with the freedom of everyone in accordance with a universal law, is...a law that lays an obligation on me, but it does not at all expect, far less demand, that I *myself should* limit my freedom to those conditions just for the sake of this obligation... (Kant *MM*, 6:231)

The claim that the UPR is a universal law¹⁴⁶ already is to call it a categorical imperative.

In the *Groundwork*, Kant has already explained that the distinction between a hypothetical and a categorical imperative lies in whether it is concerned with a conditional motive or the motive of duty (i.e., whether following the imperative is concerned with the matter or the form of the maxim respectively). By calling an imperative *universal*, Kant means to call it categorical; and this is further supported when he says it ‘lays an obligation on me’ (presumably, *unconditionally*). But this cannot be the entirety of the answer since in *this* case, Kant tells us that we are *not* required to make the UPR the maxim of your action (i.e., we are not to follow the UPR with concern for the form of the maxim; only the matter of the maxim matters). But consider what Kant also writes concerning the UPR:

...it cannot be required that this principle of all maxims be itself in turn my maxim, that is, it cannot be required that *I make it the maxim* of my action; for anyone can be free so long as I do not impair his freedom by my *external action*, even though I am quite indifferent to his freedom or would like in my heart to infringe upon it. That I make it my maxim to act rightly is a demand that ethics makes on me...

... – When one’s aim is not to teach virtue but only to set forth what is *right*, one may not and should not represent that law of right as itself the incentive to action. (Kant *MM*, 6:231)

¹⁴⁶ I recognize the possibility that Kant means to distinguish between the UPR and the ‘universal law of right,’ but it seems to me reading them as synonymous makes the most sense in the context in which the ‘universal law of right’ is brought up.

One way to reconcile this, then, is to recognize that the UPR can be understood as a law concerning only the matter of maxims, but it *can* also be understood to be demanding, since it is *universal*, that I make the UPR the maxim of my action. Kant simply allows that it is the *ethical* perspective that requires us to make the UPR a maxim of our actions; and then doubles down by pointing out that he is just trying, in this presentation of the UPR in the doctrine of *right (Recht)*, to teach ‘what is *right*’ (and proceeds to explain that when doing this, we should not think of the UPR as an incentive itself to action).¹⁴⁷ Thus, it is perfectly consistent to think of juridical norms as categorical imperatives *only when they are thought from an ethical perspective*.

This discussion of Baiasu’s attempt to refute Willaschek, and defend dependence, has seemingly solidified the position for simple independence; but the central issue remains: Kant seems to have meant for there to be a connection between right and ethics, even if that connection cannot be found in a simple formal derivation of the UPR from the CI. The argument I earlier presented concerning the Supreme Principle of Morality suggests one solution. But more than that, and really this brings Guyer back as well: none of these three philosophers (Guyer, Baiasu, or Willaschek) have taken seriously Kant’s discussion of freedom in the context of his mentioning it in the UPR. When we consider the freedom we have in virtue of our humanity, we recognize that the UPR concerns both the ethical and juridical perspectives, *and* that the UPR is even more fundamentally about our moral disposition. The fundamental principle of virtue, recall, allows us to add that the law be from your own will and not the will of others; thus applying it to the UPR

¹⁴⁷ This alludes to my earlier distinction between the two ways to read the Supreme Principle of Morality. The UPR is still able to be read from an *ethical* perspective, and when it is read this way, we are simply concerned with internal enforceability instead of external, and are thinking instead of the CI.

gives us the backdrop we needed to see that it refers to actions, in one sense, and *maxims* in another. We can act in ways that do not prevent the rightful use of freedom in a civil condition, but still be undermining the desire people have to be ethical (i.e., the desire they might have to act from duty, as opposed to merely in accord with this or that law). Below, I discuss freedom at length, in an attempt to help the reader appreciate the complexity of the UPR and what it really stands for with respect to the connection between virtue and right.

Section 3: Right from Ethics through *Freedom*

3a: Freedom in the Universal Principle of Right

The first thing of note is that the UPR has two parts, and they both require some disambiguation. An action, he says, is ‘right if it can coexist with everyone’s freedom in accordance with universal law.’ Very simply this seems to mean something like ‘an action is right if it can coexist with everyone [else’s] ability to act as they want, with the only limit on the latter being that they too only act in ways that can co-exist with everyone else’s ability to do the same.’ On this reading, the first part of Kant’s UPR says that the condition of how we ought to *act* is limited by the freedom others have. Perhaps this is what Kant means when he says: when determining what is right, we care only about will in general, and not your own will. That is, we care *only* that our willing be consistent with (or not at odds with, so to speak) the willing of others. In this way, we care about universality, but we do not, as we would in ethics, regard the willing itself as simultaneously making our subjective maxim objective (i.e., legislating universal moral laws for everyone else). The latter is evident when Kant writes that this imperative does *not* demand that we make it, itself, the maxim of our action (but only that we limit our

actions such that they do not infringe on other's 'freedom'). In the second half of the UPR, Kant seems, however, to discuss the condition placed on the action with reference to the maxim itself: '[An action is right] if on its maxim the freedom of choice of each can coexist with everyone's freedom in accordance with a universal law.' One way to read this is as an addition to the first part of the UPR; on this way of reading it, the UPR commands actions as well as maxims, but, as Kant points out only a few lines later, this imperative is specifically not a command concerning *one's own maxims*. So, Kant could not have meant this way of reading it. Rather, I think Kant 'adds' this to avoid the criticism that the UPR might concern the consequences of doing actions that infringe on the freedom of others. It is not about the consequences so much as the illogical-ness of not acting in accord with the UPR. Furthermore, our actions might have universalizable maxims and they might not; when they are universalizable, the actions will be in accord with the UPR, and when they are not, they still need to 'co-exist' (or be consistent with) the actions of others.

3a-i: Negative Freedom in the Universal Principle of Right?

I focus here on Kant's use of freedom in the context of the UPR; he writes about freedom in a few notable places between the *Groundwork* and *MM*. For example, he distinguishes between "laws of ...*nature* [and laws of] *freedom*" (Kant *G*, 4:387). This pertains to the distinction between theoretical and practical reason generally, and sets the stage for the metaphysical work he wishes to do in the *Groundwork*. Along with this, consider his [negative] definition of freedom in Chapter 3 of the same work: "Will is a kind of causality belonging to living beings so far as they are rational. *Freedom* would then be the property this causality has of being able to work independently of

determination by alien causes; just as natural necessity is a property characterizing the causality of all non-rational beings – the property of being determined to activity by alien causes” (Kant *G*, 4:446). This seems to be merely an expansion on the initial more general distinction; and is Kant’s fleshing out of the distinction he perceives that makes rational beings different from non-rational beings.¹⁴⁸ Under this conception of freedom, the UPR is telling us that we are obligated to act such that our actions, to paraphrase, can co-exist with the property of our will that allows us to work (maybe *act* or *think*, etc) independently of determination by alien causes. This is logically impossible to violate, and thus seems silly, understood as an *imperative*. Consider cause and effect (or natural necessity): it is impossible for anything to behave (a star, perhaps) such that cause and effect is violated or denied to exist elsewhere in the universe. If what is meant by ‘co-exist with some law’ is that we do things not inconsistent with that law, then it is impossible if the laws we are talking about are descriptive.

Kant’s claim in the *Groundwork* and *MM*, after all, is not that humans ought to be free, but that they simply *are* free. Consider:

Laws proceed from the will, *maxims* from choice. In man the latter is a free choice; the will, which is directed to nothing beyond the law itself, cannot be called either free or unfree, since it is not directed to actions but immediately to giving laws for the maxims of actions (and is, therefore, practical reason itself). Hence the will directs with absolute

¹⁴⁸ In the first critique, Kant discusses this (and the converse) at length, but most notably he talks about this in the third antinomy (Kant *CPR*, A 444-451/B 472-479). I mean for this formal connection of each of Kant’s categorical imperatives to be brief. But just to quickly expound on the complexities of this passage from the *Groundwork*: Most simply, Kant is alluding to the distinction between the law of cause and effect and the law of freedom; with the former’s being the ground of theoretical reason, and with the latter’s being the ground of practical reason. That is to say, when we think of any object (even other humans from a certain point of view), they are affected by alien causes (e.g., they may get pushed out of the way by a boulder or be made to melt by proximity to heat). Insofar as these objects are non-rational (or can be viewed as non-rational, in the case of humans), we use [the law of] cause and effect (or *natural necessity*) to understand these effects. Insofar, however, as we are rational beings, we can understand our ability to act against alien causes (or minimally not in accord with how they would affect us given cause and effect) to be [the law of] freedom.

necessity and is itself *subject to* no necessitation. Only *choice* can therefore be called *free*. (Kant *MM*, 6:226)

The will's work is, thus, wholly independent of alien causes (not necessitated; not affected, so to speak, by cause and effect) when doing its *work* (which is to find universalizable maxims, essentially), but wholly inactive with regard to actions themselves. Thus, knowing what the right maxims are is not a matter of choice at all, and is thus descriptively already 'known,' so to speak, by our will (i.e., our practical reason). From this knowledge, one can determine imperatives about which maxim is chosen by the rational being in question. Kant calls the conception of this property of the will, understood as 'being able to work independently of alien causes,' a negative conception of freedom (Kant *G*, 4:446).

Before we write this negative conception off, perhaps there is more to say about it. In both the *Groundwork* and *MM*, Kant distinguishes between positive and negative freedom. In the foregoing paragraph, we saw Kant define freedom as the property the will has 'of being able to work independently of alien causes.' Kant writes the following immediately afterwards: "The above definition of freedom is *negative* and consequently unfruitful at grasping its essence" (Kant *G*, 4:446). So then, he seems to mean that we need a positive conception as well: "...there springs from [the negative conception of freedom] a positive concept, which, as positive, is richer and more fruitful" (Kant *G*, 4:446). Consider some of Kant's further analysis of the negative conception: "Natural necessity...is heteronomy of efficient causes; for every effect is possible only in conformity with the law that something else determines the efficient cause to causal action. What else then can freedom of will be but autonomy – that is, the property which

will has of being a law to itself?” (Kant *G*, 4:446-447). In other words, the law of freedom and the law of cause and effect describe analogous causes in practical and theoretical reason respectively. The law of freedom tells us about how everything that we *will* is the result of the efficient cause of the will itself (namely, the will is not ‘caused,’ so to speak, by other heteronomous factors); while the law of cause and effect tells us how everything is caused by some alien and antecedent cause (forming a completely non-autonomous causal chain¹⁴⁹). Thus, Kant concludes, concerning negative freedom: “...a free will and a will under moral laws are one and the same” (Kant *G*, 4:447). This means that when we consider whether a person is free, we must first consider the negative conception of freedom, which is simply that the will is *neither free nor unfree*. This is reiterated in *MM*:

Insofar as [the faculty of desire] is joined with one’s consciousness of the ability to bring about its object by one’s action it is called *choice*... The faculty of desire whose inner determining ground, hence even what pleases it, lies within the subject’s reason is called the *will*. The will is therefore the faculty of desire considered not so much in relation to action (as choice is) but rather in relation to the ground determining choice to action. The will itself, strictly speaking, has no determining ground; insofar as it can determine choice, it is instead practical reason itself. (Kant *MM*, 6:213)¹⁵⁰

This is a very confusing quotation, but it shows at the very least that Kant distinguished between ‘will’ and ‘choice.’ In conjunction with the claim that the will is not free (or unfree), it seems to me that the will should be understood to be itself not determined

¹⁴⁹ The issue of whether Kant’s theoretical position was completely deterministic is one of contention. It is not my intent to settle that issue here, nor will I discuss how a heteronomous series of efficient set of causes can have a first cause.

¹⁵⁰ Herein, it is interesting to note Gregor’s decision to refer to ‘will’ when the German word ‘*Wille*’ is used, and her related decision to refer to ‘choice’ when the German word ‘*Willkür*’ is used. These choices are appropriate; though, interestingly, *Willkür* can also mean ‘despotism’ or ‘capriciousness.’ *Willkür* can mean ‘option’ or ‘choice,’ and Kant probably had this meaning in mind. It is just interesting to me, since in the doctrine of right, Kant has much to say about despotism itself.

(clearly), but it nevertheless gives us the ability to choose (i.e., for simplicity's sake, the property the will has of being a causality in the world *just is* freedom). Alas, then, negative freedom is not the freedom of the UPR, because we cannot ever act inconsistent with the property the will has of being determined, so to speak, to be free.

Section 3a-ii: Positive Freedom in the Universal Principle of Right?

Kant's conception of positive freedom is far more fruitful, as we shall see; but nevertheless, the answer is fairly complex. Consider Kant's introduction to this idea in the *Groundwork*:

...a free will and a will under moral laws are one and the same.

Consequently if freedom of the will is presupposed, morality, together with its principle, follows by mere analysis of the concept of freedom. Nevertheless the principle of morality is still a synthetic proposition, namely: 'An absolutely good will is one whose maxim can always have as its content itself considered as a universal law;' for we cannot discover this characteristic of its maxim by analyzing the concept of an absolutely good will. Such synthetic propositions are possible only because two cognitions are bound to one another by their connexion with a third term in which both of them are to be found. The *positive* concept of freedom furnishes this third term which cannot, as in the case of physical causes, be the nature of the sensible world (in the concept of which there come together the concept of something as cause and of *something else* as effect in their relation to one another). (Kant *G*, 4:447)

Unpacking this a bit: Because of our understanding of negative freedom above, freedom of the will follows by mere analysis of the [negative] concept of freedom (he has only at this point talked at any length about the negative conception). Kant presumably means by this that if we 'presuppose' that our will is not determined by alien causes (the negative conception of freedom), it follows that morality must exist (as well as the supreme principle earlier described, but understood as the CI; i.e. *ethically*). It seems to me that this means that once we conceive that we are all free in that way, it becomes a matter of mere analysis to deduce that we ought to choose maxims that can be universalized to

other wills. Kant notes, though, that even though from the presupposition of freedom we can derive the supreme principle (understood as the CI, in this case) analytically, the principle itself is still synthetic (yet, *a priori*). By connecting the initial characterization of the good will with the CI itself, he brings out what precisely it is about the CI that is synthetic: namely that a good will may be good in itself, but we must also add that its being good is connected to the universalizability of its maxims (in other words, a synthesis is required). He mentions a third term, and he probably has some categorical¹⁵¹ reasoning in mind: perhaps the famous Barbara¹⁵² syllogism. If so, then his terms are ‘good will,’ ‘wills whose maxims are universalizable’, and some third term which would fit into the following scheme: ‘All ‘good wills’ are X’; and ‘All X are ‘wills whose maxims are universalizable’.’ The conclusion is of course that ‘All good wills are those whose maxims are universalizable.’ Whatever this third term is, it cannot be anything in ‘the nature of the sensible world.’ Kant follows this up by explaining that he simply does not have the foundation necessary to elucidate this third term in the *Groundwork*.

While he tries to discuss this more in the *Groundwork*, it seems to me that he more successfully develops positive freedom in *MM* itself; but this actually generates more questions than it answers (at first anyway). Kant’s language concerning the conception changes considerably, but I will connect it all back together further on.

¹⁵¹ By ‘categorical,’ I mean here to refer to Aristotelian logic (and Boole much later): i.e., the logic of relating two categories. This might be confusing to the reader, since ‘*categorical*’ refers to something very different for Kant: namely, *without exception*.

¹⁵² I am referring to the argument of the form: AAA-1. Simply put, what this means is that the two premises of the argument are of the form ‘All *p* are *q*’, where *p* and *q* are categories; and the conclusion is of the same form. So we are looking for an argument with a major premise ‘All *M* are *P*’ and a minor premise ‘All *S* are *M*’ (so that we can reach the conclusion ‘All *S* are *P*’).

Now, the Barbara syllogism is actually far more historically and logically complex; for more on this, refer to Smith (2018).

The concept of *freedom* is a pure rational concept, which for this very reason is transcendent for theoretical philosophy, that is, it is a concept such that no instance corresponding to it can be given in any possible experience, and of an object of which we cannot obtain any theoretical cognition: the concept of freedom cannot hold as constitutive but solely as a regulative and, indeed, merely negative principle of speculative reason. But in reason's practical use the concept of freedom proves its reality by practical principles, which are laws of a causality of pure reason for determining choice independently of any empirical conditions (of sensibility generally) and prove a pure will in us, in which moral concepts and laws have their source. (Kant *MM*, 6:221)

Basically, this asserts two things: (1) the negative conception of freedom is 'negative' in that it transcends that which we can experience with our senses, and thus that freedom really is just a way of understanding how the will is regulated, from the perspective of speculative/theoretical reason (i.e., not practical reason). This is probably why we got no headway with the negative conception of freedom in relation to the UPR. Furthermore, (2) practical reason proves the reality of freedom through principles, such as the supreme principle and its derivatives. In the text that follows he says something quite confusing: "on this concept of freedom, which is positive (from a practical point of view), are based unconditional practical laws, which are called *moral*" (Kant *MM*, 6:221). What is odd here is that it was from the practical principles that we were to prove 'the reality of freedom,' and yet it is on the basis of freedom that we can show that we have these principles at all.

Avoiding the vicious circle here is, I think, as simple as appealing to what I discussed in Chapter 2. Freedom is something we are authorized to believe (as a postulate of pure practical reason), and in that way (and only that way) can we show 'the reality of freedom.' Kant uses this terminology in the second critique: "...the postulate of the possibly of the highest derived good (the best world) is likewise the postulate of the reality of a highest original good, namely the existence of [G-d]" (Kant *CPrR*, 5:125).

Recall, in my earlier discussion of this, that it was established that, similar to freedom, we are authorized to believe in G-d and the possibility of the KofE. So, it is not at all clear that in *MM* we are supposed to think that Kant meant something more than being authorized to believe a postulate (when he says that the reality of freedom is ‘proven’). The idea then is not that we derive freedom from the supreme principle, and the supreme principle from freedom. Rather, we are aware of freedom in the form of the supreme principle and its derivatives, but can only presuppose it (and in fact we *can* ‘deduce’ it through transcendental deduction as I did in Chapter 2); and it is freedom, as expressed, through the supreme principle that allows us to derive things like the UPR, the CI, and other categorical principles (the formula of humanity, universal law of nature, *lex talionis*, etc etc). There are more problems, as we shall see below.

Now these principles are that from which we get obligation, duty, and the like, and with obligation is required a positive conception of freedom (i.e., one in which it is possible to act *inconsistently* with the freedom of others); however, there are complexities that make this not such a simple choice for the freedom of the UPR. Consider:

But freedom of choice cannot be defined... as the ability to make a choice for or against the law..., even though choice as a *phenomenon* provides frequent examples of this in experience. For we know freedom (as it first becomes manifest to us through the moral law) only as a *negative* property in us, namely that of not being necessitated to act through any sensible determining grounds. But we cannot present *theoretically* freedom as a *noumenon*, that is, freedom regarded as the ability of man merely as an intelligence, and show how it can *exercise constraint* upon his sensible choice; we cannot therefore present freedom as a positive property. (Kant *MM*, 6:226)

Breaking down this quote: Freedom is negative precisely because it shows where cause and effect seems to have no hold (from necessary efficient causes). But from the perspective of theoretical reason, we are unable to understand anything noumenal, let

alone freedom. Furthermore, since we cannot conceive of this noumenal property, neither can we conceive of ‘how it can exercise constraint upon my choice.’ This is bad news, since we will require a positive conception (not just that there might be positive conception).

However, Kant gives us some hope for finding this conception: “Only freedom in relation to the internal lawgiving reason is really an ability” (Kant *MM*, 6:227). So, recall earlier that the *will* is ‘neither free nor unfree.’ Our practical reason allows us to choose the right maxims for universal legislation, but it cannot but make this choice. So, we are simultaneously possessed with a *will*, which is neither free nor unfree, and thus we have ‘freedom of choice.’ Consider now:

A (morally practical) *law* is a proposition that contains a categorical imperative (a command). One who commands...through a law is the lawgiver (*legislator*). He is the author...of the obligation in accordance with the law, but always the author of the law. In the latter case the law would be a positive (contingent) and chosen law. A law that binds us *a priori* and unconditionally by our own reason can also be expressed as proceeding from the will of a supreme lawgiver, that is, one who has only rights and no duties (hence from the divine will); but this signifies only the idea of a moral being whose will is a law for everyone, without his being thought of as the author of the law. (Kant *MM*, 6:227)

The CI binds our will *a priori* to choose [and act] on maxims that qualify for universal law giving. Kant’s purpose here is to do two things: First, he wants to make clearer what is meant by the ability to legislate internally about which subjective maxims can be made objective. Second, he is explaining that following the law means simultaneously that we act as though the law were authored by G-d, and even though we determine which maxims are universalizable, it does not mean that we are therefore to be thought of as the author of the law. The latter consideration should be taken by, even the most secular person, to put forth two propositions itself: (1) our moral considerations, when done

properly, are to be thought of as unconditional; and (2) the law is ‘discovered’ by reason in the way that mathematical laws are so discovered (as an analogy with mathematics, for example, Pythagoras did not create the relationship of the hypotenuse to the sides of a right triangle; he merely discovered it). Insofar as this quote makes clearer the ability we have to legislate internally: Kant understands ‘obligation’ to be “the necessity of free action under a categorical imperative of reason,” but he also views duty as “that action to which someone is bound... [and is] the matter¹⁵³ of obligation” (Kant *MM*, 6:222). Furthermore, in the *Groundwork*, duty is defined as the “necessity to act out of reverence for the law” (Kant *G*, 4:400). This suggests that there is a point at which we can understand ourselves to have a choice (we could choose the wrong maxim or choose not to act for the right reason, as separate abilities, but with both being considered under the ‘ability’ to which Kant refers). But *Recht* deals only with actual actions; we will need a concept of freedom that can be violated by another’s action, regardless of their maxim.

3a-iii: The Universal Principle of Right concerns itself with freedom, considered as the only innate right

Unfortunately, this kind of ‘freedom of choice’ is just not enough for the UPR, which commands us concerning the actual actions we take (i.e., that they are not in conflict); this I think leads us to that which Kant must be referring in the UPR: that freedom to which we have an innate right. Kant writes: “*Freedom* (independence from being constrained by another’s choice), insofar as it can coexist with the freedom of

¹⁵³ Again, referring to the distinction between matter and form of maxims. The form, recall, of maxims is their universality. Obviously, if we have an obligation, then the form of the maxim is being actually universal (or actually ‘universalizable,’ as we might put it to ourselves) in our rational determinations of these things. Saying that duty is the ‘matter’ of obligation means that duty is the goal of obligation.

every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity” (Kant *MM*, 6:237). At first glance this looks like an inference directly from the UPR. After all, if we are to act such that our actions can co-exist with the freedom of others, then that seems to imply that we have an innate right to at least the ability to act ‘unconstrained by another’s choice’ (to paraphrase). But this is not what Kant means; note that if it were, Kant would again be guilty of a circle, because it would mean that the freedom that we need to explain the UPR is generated and first discussed in the UPR itself (and thus the freedom we are discussing would both be derived from the UPR, and the UPR would be understood in terms of that freedom).

I am unsatisfied with this, as it seems more likely that Kant would want to show that there is some freedom that is not derived from the UPR, but is already present in us and is merely captured by the UPR (some freedom that is perhaps already discussed in another work). To understand the nuance here, we must focus on his use of the concept ‘humanity.’ This is something about which he writes at some length in *Religion* (Kant *R*, 6:26-29, 32-37, 45, 47, 60-62, 66, 69-70, 74, 81). Basically, Kant points out that we have animality, humanity, and personality; and this distinction will be instrumental below to understanding the connection between our *humanity* and our freedom. In what follows, I hope to bring out what Kant means when he says that our only innate right is freedom; and in so doing, we will have to discuss Kant’s conceptions of both ‘original right’ and ‘freedom’ (in *this* context, as distinct from the above contexts of negative and positive freedom). For the purposes of the dissertation’s main argument concerning the connection between the JS and the KofE, what should become clearer is that the formal connection between the supreme principle, the UPR, and the CI (through the fundamental

principle of virtue) is grounded in this: Freedom in the UPR is how ethics is manifest in it. In agreement with Willaschek, it is when we consider the UPR (and its derived duties) from the ethical perspective that we see the beginning of how right depends on ethics.

The concept of original right would have to be distinct from acquired right; herein I hope to disambiguate these. “What is innately mine or yours can also be called what is *internally* mine or yours...; for what is externally mine or yours must always be acquired” (Kant *MM*, 6:237). So, calling our right to freedom ‘innate’ means that we do not need to acquire it externally. We are all free already, as it were (and this much has been discussed already at length in the foregoing sections); thus, in that context, we are clearly not in need of acquiring freedom. In the doctrine of right, Kant deduces the postulate of acquired right from the UPR¹⁵⁴: “It is...an *a priori* presupposition of practical reason to regard and treat any object of my choice as something which could objectively be mine or yours” (Kant *MM*, 6:246). In virtue of my seeming ability to at minimum *empirically* possess objects, my actions in that regard presuppose that I am able to take the object without contradiction with someone else’s ownership of that object. In other words, if we are in the realm of mere empirical possession (no civil condition which can enforce intelligible possession), then our attempt to take objects presupposes that we are able to get what might be regarded as *objective* empirical possession of the object (I am currently empirically possessing my laptop). Furthermore, in the realm of intelligible possession, when I take objects that are lying around, and in no person’s empirical possession, I presuppose that it is possible for me to objectively and *intelligibly* own that object. I might get resistance in either instance from other potential empirical or actual

¹⁵⁴ Going through this deduction is too much for this dissertation and is not required to make the point.

intelligible possessors of objects. But then, my right to these things is presupposed as a result of my perceiving myself as being able to act this way. But freedom is different, because it is not acquired like external objects; and this is not surprising since the postulate of acquired right seems obviously to depend on some antecedent claim that we are free in some noumenal sense (which was covered earlier).¹⁵⁵ But this connection between the innate or original right we have to freedom and the ability we have to acquire things is precisely the key needed to find the freedom discussed in the UPR.

Kant tells us that humans have animality, humanity, and personality; and from this, I argue, he declares that we can understand ourselves to have an original or innate right to freedom. Kant presents us with this three level ontology of a person in regards to what Kant calls the original propensity to good found in *human* nature. Humans have the predisposition to their animality, which has three aspects: “self preservation[...], propagation of the species, through sexual drive, and for the preservation of the offspring thereby gotten through breeding[... and] community with other human beings, i.e. the social drive” (Kant *R*, 6:26). All three of these things can give us inclinations that happen to be contrary to the moral law, but of more concern to Kant is the potential to develop vice: “a propensity to [lawless action]” (Kant *R*, 6:37). “They can be named the vices of savagery of nature, and, at their greatest deviation from the natural ends, are called the *bestial vices of gluttony, lust and wild lawlessness* (in relation to other human beings)” (Kant *R*, 6:26-27).¹⁵⁶ Our *animality* essentially predisposes us toward inclinations

¹⁵⁵ The distinction to which I allude here, between empirical and intelligible possession, is covered in more detail in the Doctrine of Right (Kant *MM*, 6:249-257).

¹⁵⁶ I do not mean, and neither does Kant mean, to say that vices themselves come from our animality *alone*. It is not of great import here to discuss in detail Kant’s conception of vice. But very briefly, Kant distinguishes between a *predisposition* and a *propensity*. We can have inclinations contrary to our rational

contrary to the moral law, and, in conjunction with Kant's conception of 'original sin,' can certainly lead to certain vices.

The predispositions to humanity can be brought under the general title of self-love which is physical and yet *involves comparison* (for which reason is required); that is, only in comparison with others does one judge oneself happy or unhappy. Out of this self-love originates the inclination *to gain worth in the opinion of others*, originally, of course, merely *equal worth*: not allowing anyone superiority over oneself, bound up with the constant anxiety that others might be striving for ascendancy; but from this arises gradually an unjust desire to acquire superiority for oneself over others. (Kant *R*, 6:27)

The predisposition to humanity starts with being able to compare oneself to others. I cannot tell how happy I am until I know how happy you are. This form of self-love requires reason for precisely this comparative exercise. From there it just follows that you will want to be equally happy, and from this you will develop an unjust desire to be better than others in this respect. Here the vices of "jealousy and rivalry" are relevant (Kant *R*, 6:27). Unfortunately, this does not readily yield any freedom we may have in virtue of our humanity; we might be able to reason about other people regarding ourselves, but 'humanity,' as Kant *here* characterizes it, does *not* concern itself with anything like *universal* legislation.

For this, personality has the greatest prospect: the "idea of the moral law alone, together with the respect that is inseparable from it, cannot be properly called a *predisposition to personality*; it is personality itself (the idea of humanity considered

analysis of universal legislation. We can also have predispositions toward various inclinations (an alcoholic, Kant would say, has a predisposition to drink to excess). But we cannot even get predispositions without an underlying propensity. Kant puts forth what he conceives of as a 'reasonable' version of *original sin*: without getting into too much nuance, the propensity called 'original sin' is what makes us have predispositions toward inclinations that run contrary to universal legislation. Since propensity is a kind of meta predisposition, making sense of what is quoted there concerning vice, anytime we develop a predisposition toward some inclination contrary to universal legislation, we can be said to have a vice concerning that inclination. The listed vices would fit this ontology (Kant *R*, 6:19-20, 26-27, 29, 32-33, 37).

wholly intellectually)” (Kant *R*, 6:28). I think it fair to presume that this is that to which Kant refers when he talks of ‘humanity’ in *MM* (this might be chronologically evident as a matter of Kant’s development of his thoughts: given that Kant’s publication of *MM* was 4 years after the publication of *Religion*; the former was published in 1797). “The predisposition to personality is the susceptibility to respect for the moral law *as of itself a sufficient incentive to the power of choice*” (Kant *R*, 6:27). In other words, as distinct from the aforementioned predispositions, our predisposition regarding our humanity, ‘considered intellectually,’ is that we already have an incentive (through respect for the moral law) to act according to the moral law through the power of our choice.¹⁵⁷ Herein, Kant actually makes the case that our ‘power of choice’ gives us the ability to ‘acquire’ good character:

This susceptibility to simple respect for the moral law within us would thus be the moral feeling, which of itself does not yet constitute an end of the natural predisposition but only insofar as it is an incentive of the power of choice. ... But now this is possible only because the free power of choice incorporates moral feeling into its maxim: so a power of choice so constituted is a good character, and this character, as in general every character of the free power of choice, is something that can only be acquired; yet, for its possibility there must be present in our nature a predisposition onto which nothing evil can be grafted. (Kant *R*, 6:27-28)

¹⁵⁷ Recall from discussion in Chapter 2: In ‘On the Incentives of Pure Practical Reason,’ in Kant’s *CPrR*, Kant asserts that the moral law is presented as a prescriptive (rather than descriptive) law, precisely because we are finite, rational beings affected by inclination (as we are part of the sensible world) (Kant *CPrR*, 5:76). We must presuppose a rational being to have inclination and impulses (and thus their “finitude”) in order to claim that the moral law imposes respect (Kant *CPrR*, 5:76). That is to say (from the Dialectic) “the moral attitude is linked necessarily with a consciousness of the will’s being determined *directly by the law*” (Kant *CPrR*, 5:116). Reason has a moral interest in that it has respect for the moral law. We are aware that there is a moral law and, as finite rational beings with wills affected by inclination, we are made to submit to this moral law by our reason. This submission causes humiliation in us which leads to feeling humbled by the moral law (Kant *CPrR*, 5:74-75). Once humbled we recognize that we have a practical feeling of respect for the moral law (Kant *CPrR*, 5:73-74, 76, 78-79). This respect is the only subjective rationale for being moral that is allowed in order to consider any lawful action moral (Kant *CPrR*, 5:72-73, 77-78).

The practical feeling of respect is what he is calling ‘moral feeling.’ Unlike the prior two predispositions (i.e., animality, and humanity), the feeling relevant to *personality* does not concern natural ends at all; rather the moral feeling is practical.¹⁵⁸ In the context of Kant’s discussion of the propensity toward good, personality is the only one that fits the bill. But this dissertation is about the freedom in the UPR.

The freedom we have in virtue of our personality (our humanity ‘considered intellectually’: i.e., not in terms of sensibility) is the incentive we have to act from duty; and it is this freedom that we have, (as Kant says in *MM*) ‘in virtue of our humanity,’ that is important for the UPR. Let us revisit the UPR: “Any action is *right* if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law” (Kant *MM*, 6:230). On the assumption that the freedom afforded to us by our humanity (considered intellectually) involves a desire to act on maxims that can be universalized, we are able to conceive of how it is possible to employ our ‘freedom’ to act on maxims that we want to act on in virtue of our humanity (considered sensibly) or our animality. Since we consider ourselves not just as able to act free from inclination, but also as *wanting* to act in this way, we conceive of ourselves as in a phenomenological state of ‘choice.’ If we act in a way, where other people are unable to act the way they want to (i.e., in virtue of their humanity, considered intellectually), then we act in a way that cannot co-exist with the freedom of others in that civil condition. This is why, it

¹⁵⁸ The inference here is that this moral feeling is *only* practical, and Kant explicitly makes this inference in the second critique when he distinguishes between practical feelings and pathological feelings. A practical feeling is a feeling grounded in reason, and is opposed to a pathological feeling, which is a feeling grounded in sensation (Kant *CPrR*, 5:75).

seems to me, Kant says ‘freedom in accordance with universal law’ in both the first and second parts of the UPR.

Again, we can understand the UPR, in the supreme principle of morality, when we conceive of the supreme principle as commanding both which maxims we choose *and* which actions we take. According to the fundamental principle of virtue, as discussed earlier, ethics adds that we make the goal of our maxim that the maxim be universalizable. Thus, the supreme principle of morality can be understood both as commanding that we act on the correct maxims (and not merely as though we were acting on them; i.e., ethically) *and* that we have a minimal imperative to act *as though* we were acting on the right maxim (i.e., rightly). But if we carry through the latter, there is a limit. If I act in a way where others are unable to act rightly, then I violate the supreme principle of morality in even the limited sense of *Recht*. Furthermore, and this speaks to the second part of the UPR, I should not even act in a way that would make you unable to *actually* act on the correct maxims (i.e., I ought not act in a way that would render you unable to be ethical). Thus, the UPR governs not merely the consistency of our actions with that of others, but also that we act in a way that does not conflict with the maxims others have regarding ‘freedom in accordance with universal law.’ Since *respect* (or *reverence*, as Paton would put it) for the moral law is an incentive to act ethically in the first place, the UPR is a command that tells us that our actions must not merely be consistent with the actions of others, nor is it merely that we should act so that people are merely *capable* of acting ethically; but further we cannot act in a way that would undermine people’s *desire* (for lack of a better synonym for ‘incentive’) to be ethical. An anecdote from the *CPrR* is helpful here:

...ask him whether, if his prince demanded, on pain of...immediate execution, that he give false testimony against an honorable man whom the prince would like to destroy under a plausible pretext, he would consider it possible to overcome his love of life, however great it may be. He would perhaps not venture to assert whether he would do it or not, but he must admit without hesitation that it would be possible for him. He judges, therefore, that he can do something because he is aware that he ought to do it and cognizes the freedom within him, which without the moral law, would have remained unknown to him. (Kant *CPrR*, 5:30)

Herein, we see that it is the moral law itself (the CI) that brings out the kind of innate freedom I have hoped to exposit in the foregoing. Thus, while the UPR is not derived from the CI, it is certainly *not independent* of it.

In the next and final chapter of this project, I hope to show exactly how Kant means for right to *depend* on ethics; or, more to the point, how the JS and the KofE stand in a relation of dependence. This will require the following: Kant's deeper discussion of the formula of humanity in the Doctrine of Virtue, his discussion of the duties of right and how they stand in relation to the cosmopolitan duties we have, and finally his discussion of what exactly is entailed in changing one's heart to become more moral.

Chapter 4

Kant's Political Change of Heart: How the Love of Cosmopolitanism and the
Respect of Patriotism brings us closer to the Kingdom of Ends

Introduction

In the foregoing, I have laid out the important definitions and context of the position I am going to take. The JS and the KofE are both *practical* ideals and Kant seems to nowhere address the connection between them. Pauline Kleingeld, however, has suggested some sort of connection in her book *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship*. But, as I suggested in Chapter 1, she fails to account for the distinction Kant sees between his teleological and his practical work. In Chapter 3, I drew the connection as I see it between the duties of right and those of ethics. This discussion, while fruitful, in that it brings out important ways in which the UPR *can* be thought of as a categorical imperative, still does not quite give us what is needed to claim, as I do, that right depends on ethics. My purpose here is, after all, to show that attempting to achieve Kant's ideal system of right (the JS) is sufficient for us to eventually think of ourselves as in Kant's ideal moral system (the KofE). I exclude here the converse, and I therefore maintain that ethics *does not* depend on right. In addition, Willaschek's position has so far seemed unassailable: namely, it seems to be the case that since the UPR is not derived from the CI that this means that the two domains are totally independent. The purpose in this chapter is to show that while the UPR is not derived from the CI, they are related in a practical way such that the attempt to do what is required by the UPR (at both the global and local levels of the JS) is enough to eventually get a person to think of themselves as able to follow the laws from respect for the CI and derived ethical imperatives (i.e., those laws we follow for the reasons we follow them in the KofE). In other words, despite the apparent fact that you cannot derive the juridical from the ethical, you can understand the former to depend on the latter, such that the

former is *practically* sufficient for the latter. In order to accomplish this, I will examine Kant's understanding of respect for the moral law, the role of the supreme principle of morality in duty making, the tension he sees between the duties of love and respect, and the tension he sees between cosmopolitan duties and patriotic duties. In the end, these all come together to tell a story of how, in a Kantian *practical* sense, when we genuinely attempt to balance the cosmopolitan against the patriotic in the JS, we practice the use of our practical reason toward thinking of ourselves as self-legislating members of the KofE by practicing *not only* living under the law of another, *but also* by practicing balancing the analogous tension between love and respect.

After making these points, I will focus on the way I see the connection between the two ideals, as systems. Essentially, there are predispositions a person has that can only be changed by attempting to change their heart (change their propensities from being toward this or that inclination, which would otherwise make them act either contrary to what the moral law prescribes, or merely in accord with the moral law). There are also the six articles of perpetual peace, which seem to be analogous in that a state cannot really be said to be *just* until it too experiences an analogous change of heart. Everything I say about balancing the patriotic duties (civil duties) against the cosmopolitan duties only shows what it takes for a people to move from merely attempting to achieve the JS to thinking of themselves as self-legislating members of the KofE. The connection between the dispositions we ought to have and the dispositions states ought to have relates specifically to *international* right. The argument I make in this dissertation is meant to focus almost entirely on the people within a state, and not on the state itself; nevertheless, I discuss the latter connection as both (1) a way to top off the

argument for the connection by having discussed all three relevant types of right as discussed in ‘Toward Perpetual Peace’ (TPP), and (2) as a spring board for further research. After all, the argument I am trying to make is not primarily about the disposition of states, but rather about the disposition of *the individual people* within those states.

That ‘Right Depends on Ethics’ has two Important and Connected Meanings

While my contention, that the freedom of the UPR is how ethics is manifest within it, certainly suggests that ethics is required to fully understand right (and Kant’s purpose in discussing *Recht* at all), there are two important ways that we can understand this dependence relation that will be dealt with here in this chapter. The first important way is illustrated in this claim: in order for right to even exist, we require an ethical backdrop. This was covered in my claims about freedom in the UPR, in Chapter 3. In that chapter, I simply showed that Kant’s freedom in the UPR probably referred to the freedom we have in virtue of our humanity. In the following section, I discuss why this shows only that right depends on ethics (and *not* the converse). The second important way that we understand this dependence is in terms of sufficiency. Namely, to say that right depends on ethics means that right is sufficient for ethics. It seems to me that this means that when we fulfill our duties of right in the service of trying to approximate the JS, we practice the duties we have when we consider ourselves as self-legislating members of the KofE. Or, more to the point, our attempt to fulfill our duties of right is *sufficient* to bring us to the kind of disposition needed to act *from* the law, and not merely in accord with it. After showing that ethics is necessary for right, I go over Kant’s idea of respect, as I understand it, as a prelude to the overall argument of Chapter 4, which is that

we can read *Recht* as providing this practice to us. What follows, in this chapter as a whole, is meant to be the primary text-based argument for my claim that ‘right depends on ethics.’

Section 1: A Case against Ethics depending on Right

So far, based on the way I discuss freedom in Chapter 3, I have supposed only that right depends on ethics, while *rejecting* the standard dependence views, but it might be a good idea to entertain whether the dependence goes the other direction. On the one hand, we might have good reason to think that to be ethical, one must create a JS and live under juridical laws. In fact, Kant’s inclusion of the JS in *MM* might be evidence that Kant wanted us to understand it as *necessary*, in a practical sense. But, while it is the case that the JS is a necessary consequence of the adoption of the UPR (as a rule for action),¹⁵⁹ it does not follow that it is necessary for bringing about the KofE. Thus, before I can elaborate more on the way that right depends on ethics, there should be some discussion of the converse. While the case against ethics depending on right could really get its own chapter, I will here give what I think are some good reasons to reject this dependence direction *pro tanto*. My argument here will start with a *reductio ad absurdum*; thus, I will start by assuming that ethics does depend on right.

¹⁵⁹ This dissertation does not deal with how, from the UPR, the JS is a practical necessity. That is an exegetical claim that requires too much digression to discuss here. For brevity’s sake I will just briefly remind the reader that, in Chapter 1, I discuss the JS in some detail, while purposely excluding discussion of the UPR. This may seem odd, since the UPR’s connection to the JS would help explain how right’s depending on ethics *implies* that attempting to achieve the JS is a form of practice toward thinking of ourselves as self-legislating members of the KofE. And unfortunately, the discussion of the UPR in Chapter 3 was meant only to show that ethics manifests itself in it (through freedom). However, I think it fair to limit my discussion to connecting the duties in the JS to the duties in the KofE, while assuming that the UPR grounds all of the duties of right (and the CI, all the duties of virtue).

My argument, after all, hinges on both connections (i.e., that connecting right and ethics in Chapter 3, and the duties connecting the JS and the KofE in this chapter), and I simply cannot cover every pertinent topic in a single dissertation.

If ethics depends on right, then we would need a rightful condition in order to become ethical; it turns out that the consequent is probably false. Consider the following passage:

From private right in the state of nature there proceeds the postulate of public right: when you cannot avoid living side by side with all others, you ought to leave the state of nature and proceed with them into a rightful condition, that is, a condition of distributive justice – The ground of this postulate can be explicated analytically from the concept of *right* in external relations, in contrast with *violence*...

Given the intention to be and to remain in this state of externally lawless freedom, human beings do *one another* no wrong at all when they feud among themselves; for what holds for one holds also in turn for the other, as if by mutual consent... But in general they do wrong in the highest degree by willing to be and to remain in a condition that is not rightful, that is, in which no one is assured of what is his against violence. (Kant *MM*, 6:307-308)

One thing to note here is that prior to the rightful condition, we have some prescription to leave ‘the state of nature’ and enter into a ‘rightful condition.’ So, *prima facie*, it looks like we can have ethical prescriptions without a rightful condition at all. However, in this passage, Kant uses terminology that suggest that this prescription already follows from, say, private right, arguing that the postulate of public right is explained *analytically* from ‘the concept of *right* in external relations, in contrast with *violence*.’ But there is an issue with this: It mentions private right, but *in the state of nature*. Thus, it seems like the passage shows that we do not need a rightful condition (in other words, at face value it looks like ethics cannot depend on right). However, humoring the assumption on which our *reductio* started, if it is the case that private right is derived from the UPR, and if it is the case that the UPR grounds all the duties of right, then public right’s proceeding from private right might already presume the existence of a civil condition of sorts prior to the formation of some perhaps ‘more’ *rightful* condition. Admittedly, this possible interpretation makes a distinction where probably none exists within the JS. Nevertheless,

since my case here starts with the assumption that ethics does depend on right, we must explore briefly what Kant means by ‘private right in a state of nature.’ Through doing this we will see that the sort of thing that is existing just prior to the *rightful* condition is not at all the ideal of the JS around which the dissertation has so far centered.

Private right *in a state of nature* does not concern itself with the omnilateral will¹⁶⁰, and therefore does not guarantee ownership of anything external; however, while we can understand the postulate of private right to be understood from the UPR superficially, private right in a state of nature does not, without invoking the *freedom* of the UPR (i.e., looking at the UPR from the ethical perspective), *analytically* imply the postulate of public right. Kant defines the postulate of private right thusly: “It is possible for me to have any external object of my choice as mine, that is, a maxim by which, if it were to become a law, an object of choice would *in itself* (objectively) have to *belong to no one* (*res nullius*) is contrary to rights” (Kant *MM*, 6:246). In other words, it is contrary to right to suppose that some object external to us could not be owned. All otherwise unclaimed objects are claimable according to this postulate, but this cannot make sense until we understand Kant’s meaning behind ‘to have any external object of choice as mine.’ Kant makes two important distinctions that clarify this: First of all, Kant distinguishes between empirical and intelligible possession; and secondly, he distinguishes between conclusive and provisional ownership (Kant *MM*, 6:246, 257, 307-308).¹⁶¹ Recall from the discussion of these two distinctions in Chapter 1, that you need a civil condition stemming from an omnilateral will in order to even have intelligible

¹⁶⁰ This is discussed in Chapter 1, sub-section 1-b.

¹⁶¹ This was discussed in Chapter 1, sub-section 1a.

possession and in order to guarantee possession of any sort. In other words, you need a *rightful* condition to have both intelligible and conclusive ownership. The postulate of *private* right deals only with empirical possession outside of the rightful condition, and there it only deals with it *provisionally*. We cannot get from the *right* to simply grab this or that object to the claim that we ought to unite our wills to guarantee such ownership, *unless* we wish to avoid violence. As I describe at the tail end of Chapter 3 (sub-section 3a-iii), the freedom of the UPR must refer to the freedom not to be driven to act contrary to *ethical* duties. In other words, from the UPR, one can certainly understand that private right follows, even in a limited sense. But from private right, in order to be in compliance with the condition that we not violate other people's freedom (that they have in virtue of their humanity), it follows analytically (i.e., from the concept of freedom in the UPR) that we should leave the state of nature and enter into a rightful condition, where one *is* 'assured of what is his against violence.' So, we *are* in a state of nature until we recognize this necessary implication of private right (once understood to be grounded in the UPR; and once we are in such close proximity that one cannot be sure that they will be able to keep what is theirs without giving in to violence).

Given the discussion of this in Chapter 1 (sub-section 1a), it seems that we have run into a contradiction, and this will show that in fact ethics *cannot* depend on right. On the assumption that ethics *does* depend on right, we needed to be able to show that we are in some kind of *rightful* condition prior to actually entering one that has ethical elements (such as that found in *freedom* in the UPR). It turns out though that we could not show this, partially because the distinction was specious to begin with, but also because we can see how the postulate of private right could be appreciated for a time by humans, prior to

being in close proximity to one another. After all, if I am not forced to be in close proximity to others, I don't need a civil condition to guarantee my ownership of my cave since I am not worried that someone will take my cave (referring here to conclusive ownership); similarly, neither do I need to worry that someone will take my cave when I am not there (referring here to intelligible possession). My freedom to not be driven to these unethical acts is only violated when I am in fear of losing that which I 'own,' so to speak. Thus, the reason that we require the move from *mere private right to public right* is grounded in an *ethical* perspective. Kant is very clear that if one is rational, then one is capable of being ethical. We can be ethical without a rightful condition, and it is ethics that tells us to form such a condition. Therefore, it seems to me that this discussion gives some good reasons to think that, *pro tanto*, ethics *cannot* depend on right. Furthermore, and of utmost importance to this chapter, we have extra evidence now that, in fact, ethics *is needed* for *Recht* to even exist to begin with (i.e., *right depends on ethics*). Having shown that ethics is necessary for right to exist (the first meaning of 'right depends on ethics'), in the next section, I bring back the discussion about 'the change of heart'¹⁶² that is so important to understanding how right is sufficient for ethics: this requires me to first cover what counts as acting 'from respect for the law.'

¹⁶² This is first introduced at the end of Chapter 3.

Section 2: Respect: Failed Attempts count as *Successful*¹⁶³

The most commonly accepted meaning for acting from respect for the law seems to be that we act completely in abstraction from any inclination *except the incentive of respect for the law*, but this definition seems undercut by at least two alternatives: (1) even if we act somewhat on inclination, so long as our primary motivation is respect for the law, we have acted from respect for the law; and (2) so long as we try to act entirely, or mostly, from respect for the law, we are counted as having acted from respect *even if we fail*. As a matter of clarity on my own sense of Kantian respect, to act from respect for the moral law means to act not merely in accord with what duty requires; in other words, it means to act so that your goal is actually to universalize the maxim of your action (i.e., you do duty for duty's sake). That said, the question remains about how stringent Kant requires respect to be, in order to fit his concept; thus, what follows is an attempt to resolve his 'definition' of the concept, in that regard. A cursory reading of the *Groundwork* will yield the most commonly accepted meaning, and a deeper reading of the same work will yield the first alternative. However, a closer look at Kant's concept of respect in *Religion* yields the second alternative, ultimately. Though it may seem a digression, we require a discussion of respect to understand the primary argument made in this chapter, concerning how the change in one's following of the duties of right leads one to *gehört* (obey) the duties of ethics (i.e., acting from respect). It is the second alternative that will help us to make sense of my position.

¹⁶³ I cannot do a complete treatment of Kant's notion of respect for the moral law, but this short exploration into the subject is meant to bring out the meaning I see as most fitting and relevant to my project. But this discussion should, by no means, be taken to be exhaustive.

Respect is discussed in the *Groundwork* and the most commonly accepted meaning above is supported by some of its text, but since this work is meant to be introductory to his other practical works, including *Religion* and *MM*, it stands to reason that looking in these latter texts can help to clarify exactly what Kant means. Regarding the most commonly accepted meaning of respect, consider the following: "...an action done from duty has to set aside altogether the influence of inclination, and along with inclination every object of the will; so there is nothing left able to determine the will except objectively the *law* and subjectively *pure reverence* for this practical law, and therefore the maxim of obeying this law even to the detriment of all my inclinations" (Kant *G*, 4:400-401).¹⁶⁴ This seems at first to support this common meaning. After all, quite clearly, Kant has told us that to act from respect for the law is to 'obey the law even to the detriment of all my inclinations,' or more plainly 'an action done from duty has to set aside altogether the influence of inclination.' Keep in mind that Kant's discussion of respect in the *Groundwork* is meant to be introductory though. So, we will need more than just this passage. After all, he may only be describing an ideal, the concept of which is not foreign to Kant in either his practical or his theoretical philosophy.

As clear as this quote may make respect seem, it is muddied by Kant's engagement with popular moral philosophy; herein we get the seed of our first alternative definition. On the one hand, Kant dismisses the worries of so called 'popular' philosophers that since all actions are in some sense self-directed, the concept of duty

¹⁶⁴ As I mention in Chapter 2, I use the Paton translation, which employs 'reverence' in place of respect. This is, I think, quite astute, considering that Kant has another concept of respect, when he tells us of the formula of humanity (i.e., to not merely treat others as a means is said by Kant to mean to act out of respect for others). Nevertheless, I try to use the term 'respect' in either case, and simply give context so that the reader knows to which concept I am referring in each case.

demands too much; while on the other, he readily admits that one cannot know their own motives. Consider first: "...at all times there have been philosophers who have absolutely denied the presence of [the] spirit in human actions and have ascribed everything to a more or less refined self-love. Yet they have not cast doubt on the rightness of the concept of morality" (Kant *G*, 4:406). Here Kant is pointing out that the concept of respect (that we can act from respect for the law by abstracting *completely* from inclination) is normally pointed out to be removed from actual experience. Those who make this point, Kant argues, fail to address the concept of morality itself, which in this case most obviously refers to his discussion of respect for the law (since he consistently refers to 'duty' which *is* the necessity to act from respect for the law). In fact, Kant writes that "[if]...we have drawn our concept of duty from the ordinary use of our practical reason, it must by no means be inferred that we have treated it as a concept of experience" (Kant *G*, 4:406). So, if the concept of duty does not come from experience (but rather from practical reason itself), one wonders if duty is something that is even attainable (i.e., can we act from respect for the law at all). In fact, he seems to allow the objection to go through on the grounds that since we cannot know even our own motives, we are unable to know if we are acting from respect at all.

It is indeed at times the case that after the keenest self-examination we find nothing that without the moral motive of duty could have been strong enough to move us to this or that good action and to so great a sacrifice; but we cannot infer from this with certainty that it is not some secret impulse of self-love which as actually, under the mere show of the Idea of duty, been the cause genuinely determining our will. We are pleased to flatter ourselves with the false claim to a nobler motive, but in fact we can never, even by the most strenuous self-examination, get to the bottom of our secret impulses; for when moral value is in question, we are concerned, not with the actions which we see, but with their inner principles, which we cannot see. (Kant *G*, 4:407)

Note that he writes ‘we find nothing that without the moral motive of duty could have been strong enough to move us to this or that good action.’ We might understand this to mean that Kant allows that one could be ‘moved’ by *an inclination and* the motive of duty (to be ‘moved’ to do something, after all, sounds most clearly like a motivation). As we will see, this is most likely not the correct interpretation.

Nevertheless, this interpretation leads to the first alternative definition, and seems espoused by Christine Korsgaard in her book *Self-Constitution*, where she writes: “A good action is one that constitutes its agent as the autonomous and efficacious cause of their own movements. These properties correspond, respectively, to Kant’s two imperatives of practical reason. Conformity to the categorical imperative renders us autonomous, and conformity to the hypothetical imperative renders us efficacious” (Korsgaard 2009, xii). The first alternative definition was that we are required to act mostly (or primarily) from respect even if we also act from inclination. When we act from the CI, we act toward the end of universalizing the maxim of our action (i.e., the form of our maxim is universal, and we act so that the maxim will become universal; i.e., the matter of the maxim is to become universal).¹⁶⁵ This is not the case with hypothetical imperatives, wherein the form of the maxim is not meant to be universal (not formally anyway), and the matter of the maxim is *whatever you are trying to accomplish*. If you are trying to accomplish something other than universalizing the maxim of your action, then you are acting from some other motive, which I would venture to say *counts* as a having acted from inclination. So, if it turns out that *all* good action employs both

¹⁶⁵ I discuss, in more detail, this distinction between matter and form of maxims in Chapter 3 in sub-section 1b-i.

imperatives simultaneously, then Korsgaard seems to have allowed that we can have (apparently, we *will always* have) some other inclination alongside respect for the law. She is not the only one to have an interpretation amenable to the first alternative above: Baiasu (recall from our Chapter 3 discussion) seems comfortable saying that we can follow a categorical imperative for non-ethical motives.¹⁶⁶

I have discussed Baiasu's claim already, but just to say, Korsgaard's understanding, while it coheres with the first alternative, is itself a bit extreme. Kant discusses, recall, the popular philosopher who *challenges* his theory by pointing out that everyone will be acting from some self-directed motive, and respect is therefore at best an accompaniment, and not something attainable on its own. But Korsgaard's claim is consistent with the popular philosopher claim, while *not* challenging Kantian respect. Thus, either (1) Kant is wrong about his own theory (which is always possible) and Korsgaard's suggestion is meant to be a response to this very discussion in which Kant engages in the second part of the *Groundwork*, or (2) Korsgaard seems to have misread Kant. Giving her the benefit of the doubt, let's assume that it is the former. If so, her answer seems to me to go too far. Consider:

Someone who is deliberating about what to do is deliberating about *how* to exercise his own causality, what the law of his own causality is to be. The hypothetical imperative directs him insofar *what* he is exercising is causality, and the categorical imperative directs him insofar as it is to be his *own*.

Of course an agent may not attend with much care to the standards set by the Kantian imperatives, just as a shoddy builder may not attend with much care to the standards set by the very idea of a house. ... The kind of practical deliberation that issues in bad action is not a different activity from the kind of practical deliberation that issues in good action. *It is the same activity, badly done.* (Korsgaard 2009, 131-132)

¹⁶⁶ This is from Chapter 3, sub-section 2c.

As is pointed out here, her view is that all moral action (good or bad) requires the use of the categorical and hypothetical imperatives. But, if this were true, two things would become impossible: (1) people would not be able to reason merely hypothetically, *and*, more germane to my own discussion, (2) people would always be taking some account of the universality of their maxim (i.e., they would always be asking if it is universalizable). The point of this small foray into Korsgaard's position (and the recall of the rejection of the position Baiasu takes) is simply to point out that Kant, likely, did not hold that *our primary motive* should be respect for the law, let alone that we could act from inclination as well as respect for the law (and even less so that we *always act from both*).¹⁶⁷

In *Religion*, Kant implies the second alternative definition, which I will repeat here for clarity: so long as we try to act entirely, or mostly, from respect for the law, we are counted as having acted from respect *even if we fail*. As we fill out the rest of this discussion, please keep in mind the final comment of the foregoing chapter regarding changing one's heart to become moral. Humans, recall from sub-section 3a-iii of Chapter 3, have inclinations, predispositions, and propensities. On Kant's view, we are said to have propensities toward good or evil, and this can ground propensities toward

¹⁶⁷ In addition to Korsgaard and Baiasu, Anne Margaret Baxley defends the view that Kant meant for there to be antecedent inclinations to moral respect, such as moral feeling and conscience. In her book, *Kant's Theory of Virtue: The Value of Autocracy*, she writes, for example: "If a person were lacking these natural predispositions, she would have no obligation to acquire them, for it is in virtue of moral feeling, conscience, love, and respect that a person feels subject to moral concerns in the first place" (Baxley 2010, 145-146). In other words, similar to Korsgaard, Baxley seems to argue for a required accompanying inclination view of Kant's system. Later in this chapter, when I discuss the balancing of love and respect, I will revisit Baxley's position briefly. But for now, I think it fairly plain that the first alternative definition of respect for the moral law is somewhat prevalent in the secondary literature.

I recognize that this is not a full discussion of respect for the moral law (or even the first alternative definition under analysis here), nor is it a full treatment of Korsgaard's position. Nevertheless, I hope to have shown that Kant, for his part, probably did not hold Korsgaard's position (nor Baiasu's) on this topic. In the rest of the section, I exposit what I believe to be Kant's ultimate verdict on the topic, at any rate.

inclinations or against them. He tells us that when we have an inclination, aside from our motive of respect, these inclinations are not themselves evil: “Hence the ground of evil cannot lie in any object *determining* the power of choice through inclination, not in any natural impulses, but only in a rule that the power of choice itself produces for the exercise of its freedom, i.e., in a maxim” (Kant *R*, 6:20). It is our propensity toward an inclination, rather than respect for the law, that counts as evil or not.

By *propensity* (*propensio*) I understand the subjective ground of the possibility of an inclination (habitual desire, *concupiscentia*), insofar as this possibility is contingent for humanity in general. It is distinguished from a predisposition in that a propensity can indeed be innate yet *may* be represented as not being such: it can rather be thought of (if it is good) as *acquired*, or (if it is evil) as *brought* by the human being *upon* himself. (Kant *R*, 6:29)

Propensities are distinct from predispositions, in that the former are grounds for the latter’s relationship with our inclinations. The three predispositions ground passions¹⁶⁸ we might have for this or that inclination (all of which are discussed in the same section of Chapter 3). So, if we lean more toward evil, then our predisposition in virtue of, say, our animality will give us a passion toward whatever the relevant inclination is (as opposed to the motive of duty: respect) (Kant *R*, 6:29-42).¹⁶⁹

¹⁶⁸ I will tend to use the term ‘passion’ when discussing particular inclination tokens, and use ‘propensity’ to refer to inclination types. For example, I can have a propensity to drink (inclination type); my passions make me want *this* drink (inclination token). I am not necessarily consistent with this distinction. Nevertheless, in Kant’s ontological description of human motivation, passions and propensities are essentially synonymous (and he does not seem consistent, himself, in drawing any meaningful distinction between the two). At any rate, I will endeavor to give a clear conception of the distinctions as they come up.

¹⁶⁹ While it would be relatively trivial to input all the quotes relevant to this claim, such an elongated discussion would be too much a digression from the topic under discussion. Suffice it to say, there is much more that would need to be discussed in order to accept this interpretation of Kant’s motivational ontology. For example, Kant, in the quote I do cite, tells us that propensities are innate and that they are acquired; fully answering this paradox would require a section unto itself (perhaps even a chapter).

A short answer to this paradox might be that Kant is essentially reminding us of the limits of a person’s ‘self-knowledge.’ Perhaps you have a propensity toward, say, drinking, and we can think of your

It is from this discussion that Kant tells us of how respect applies to humans, as he imagines them (with propensities, predispositions, passions, and inclinations):

We cannot start out in the ethical training of our connatural moral predisposition to the good with an innocence which is of our power of choice in adopting maxims contrary to the original ethical predisposition; and, since the propensity to this [depravity] is inextirpable, with unremitting counteraction against it. Since this only leads to progression from bad to better extending to infinity, it follows that the transformation of the disposition of an evil human being into the disposition of the good human being is to be posited in the change of the supreme inner ground of the adoption of all the human being's maxims in accordance with the ethical law, so far as this new ground (the new heart) is itself now unchangeable. Assurance of this cannot of course be attained by the human being naturally, neither via immediate consciousness nor via the evidence of the life he has hitherto led, for the depths of his own heart (the subjective ground of his maxims) are to him inscrutable. Yet he must be able to *hope* that, by the exertion of *his own* power, he will attain to the road that leads in that direction, as indicated to him by a fundamentally improved disposition. For he ought to become a good human being yet cannot be judged *morally* good except on the basis of what can be imputed to him as done by him. (Kant *R*, 6:51)

Kant here summarizes his idea of respect as it applies to human beings by first telling us what he does not mean by becoming more ethical. He explains that if we adopt maxims *contrary* to a moral propensity (i.e. a tendency toward following laws out of respect for them) in order to act more in accord with the moral law, then we are still acting with some 'depravity,' even if we become, so to speak, "*legally* good" (Kant *R*, 6:47, 51).

Thus, our progression toward becoming *morally* good is essentially an infinite process;

predisposition toward, say, your animality, as the driving force behind that propensity. It is 'represented as' (meaning it 'appears to you' a certain way) acquired as a result of the predisposition. Yet, it acts as though it were innate: meaning it feels like you have no control over whether you have the propensity (you have no direct control over the propensity). The propensity, however, 'can indeed be innate,' in that insofar as we have any control over our propensities, we must directly change our predispositions to have any effect on our propensities; and it is only the latter over which we have any control. Propensities, passions, and inclinations are only indirectly under our control. Since propensities are the ground of passions (I understand them to be the reason we would want to satisfy an inclination instead of the motive duty, when passions are 'evil' so to speak, or the reason our inclination is respect itself, when the passion is 'good'), we tend to think of passions as something innate. Yet, because we can control our propensities, they *can* appear to us that they are not innate at all.

And this is to say nothing of the issue of how to distinguish what is 'acquired' from what is 'brought by the human being upon himself.' It is simply not possible to cover every nuance of every topic needed to make my argument clear. Suffice it to say, I think the problem of propensity acquisition is a good idea for further research.

hence his claim of a ‘progression from bad to better extending to infinity.’ We can only effect such a change through a “*revolution* in the disposition of the human being” (Kant *MM*, 6:47). But we cannot know if such a revolution has taken place; in other words, we cannot know if we are really acting from respect for the law (our motives are ‘inscrutable’). As a result, so long as we make a genuine effort, I would argue, we are said to be able to impute to ourselves that we have acted from respect for the law. This is what is meant by ‘he...cannot be judged *morally* good except on the basis of what can be imputed to him as done by him.’ For since we cannot know our own motivations, and may well be actually acting from an inclination other than respect for the law, if we perceive ourselves, in any action, to be acting from respect for the law, then that is enough to be counted as having acted from respect for the law. When he writes ‘...he must be able to *hope* that...he will attain to the road that leads in [the] direction [of the changing of his heart toward the disposition of the good human being],’ we can see the seed of how, by attempting to follow even the duties of *Recht*, in virtue of the freedom protected in the UPR, we must hope that we are (or can be) in the KofE. This is not meant to be a full treatment of Kantian ‘respect for the law,’ but it should suffice to give the reader my own sense of what Kant means by it. The concept, to which Kant refers in the *Groundwork*, is distinct from the experience of it. But this does not mean that he holds us to the unreasonably high standard of divine beings. Far from it: Kant expects his theory to apply to any human, insofar as they perceive themselves as moral.

Section 3: Supreme Principle of Morality and How to Decide What to Do

3a: On how to choose the virtuous duty

In the *Groundwork*, as discussed in Chapter 3, Kant introduces the Supreme Principle of Morality and tells us that from the CI we are able to determine our ethical duties; similarly, in *MM*'s 'Doctrine of Right,' Kant tells us that from the UPR we are able to determine our duties of right (*Recht*).¹⁷⁰ It is interesting that he does not discuss how to determine what to do when we have competing duties. In fact, he makes the odd suggestion that duties can never conflict in *MM* in the 'Introduction to the Metaphysics of Morals': "...since duty and obligation are concepts that express the objective practical *necessity* of certain actions and two rules opposed to each other cannot be necessary at the same time, if it is a duty to act in accordance with one rule, to act in accordance with the opposite rule is not a duty but even contrary to duty; so a *collision of duties* and obligations is inconceivable" (Kant *MM*, 6:224). The way he defines the 'collision of duties' suggests that duties cannot ever conflict, because each duty is necessary (i.e., it follows with necessity from some principle, like the CI or UPR). He continues after the quote to explain that whichever duty has the stronger ground of obligation is the one that "prevails" (Kant *MM*, 6:224). But this amounts to pushing back the important question of how to determine what to do when duties seem to conflict (after all, it would seem at best paradoxical to hold that there is a stronger ground of obligation between two duties, while also holding that both duties are necessary; i.e., *equally* necessary). This is an especially odd lacuna in the Kantian system, since contemporaries of his often had in

¹⁷⁰ In Chapter 3, I made the claim that the CI and the UPR are both different ways of reading the supreme principle.

mind a distinction between the duty making principle (or principles) and how to determine what to do in a given situation. An example of such a contemporary is John Stuart Mill in his book, *Utilitarianism*. After telling us of his principle of utility, Mill discusses the possible objection from a religious person that it would be unreasonable to expect someone to employ the principle in every case of moral choice. His response is that the religious person does not consult the bible for every moral choice, but rather relies on past experience regarding similar moral choices (Mill 1998). This suggests that Mill is an example of a moral philosopher who took seriously the distinction I have in mind here: in particular with his theory, you would choose based on past experience. It is my assessment that Kant has not left this out at all, despite appearances to the contrary in the *Groundwork* and the ‘Doctrine of Right’; rather, the beginning of an answer lies within the discussion of duties to others found in the ‘Doctrine of Virtue.’

3b: A brief historical *interpretive* context

Before I continue, I want to bring in Mary Gregor’s discussion¹⁷¹ of the historical context of her translation of *MM*, in order to help justify my thinking it appropriate to claim that Kant would have left such an important discussion to the end of one of his most mature political and moral works. After all, it is odd that there is not much on this topic in the secondary literature. The English-speaking world currently dominates most of philosophical discourse, at least when it comes to Kant. Papers on Kant, for example, written in Slovakia or in Norway, or even in Germany, are written in English, for the most part. While Kant certainly responded to his share of German contemporaries (like

¹⁷¹ This occurs in one of the prefatory sections of her translation of *MM* (the section is called ‘Further Reading’ and spans xxix-xxx) (Kant *MM*).

Samuel von Pufendorf), and of course was influenced by the French philosopher Jean-Jacques Rousseau, certainly since then, it has become the case that Kant scholarship around the world is done predominately in English. Thus, the timeliness, or lack thereof, of certain translations may have affected Kant interpretation in a way that Kant had not intended. The *Groundwork* itself had been translated into English and taken seriously in the English speaking world as early as 1895 (and had been critiqued earlier by Arthur Schopenhauer in 1840 and Frederick Nietzsche in the same century); I'm thinking here of the Thomas Kingsmill Abbott translation. I would venture to say that the many translations of the *Groundwork* that followed Abbot's (e.g., Paton, Beck, etc) further show the continued interest in the work throughout the 20th century. *MM*, on the other hand, while first translated in 1799 into English by John Richardson, was not taken very seriously at the time (according to Gregor). The 'Doctrine of Right' was translated on its own only twice afterwards in 1887 and 1965. The 'Doctrine of Virtue' was published in its entirety in 1836 and again by Gregor in herself in 1964. But the two works were not translated together (as they had with the Richardson translation) again until 1991 by Gregor. Thus, I would argue that holistic interpretations of *MM* did not really have a chance to show up until after 1991 (at least in the predominately English literature on the topic). Furthermore, it makes sense that there is not much written on particular topics that would connect the two parts of *MM*, and thus that there is not much written on how to determine what to do when duties *seem* to conflict.

3c: The virtue of Kant's necessary tension

At the start of the 'Doctrine of Virtue,' Kant argues that our duties of virtue are in an important tension with each other, in that the duties of love and respect often seem to

be in conflict, and that the resolution of the tension between these duties is what can properly be called ‘moral,’ in a certain sense. Recall from Chapter 3, sub-section 1b, regarding the relationship of the formula of humanity (i.e., the formula of the end in itself) and the duties of love and respect: “The duty of love for one’s neighbor can, accordingly, also be expressed as the duty to make others’ *ends* my own (provided only that these are not immoral). The duty of respect for my neighbor is contained in the maxim not to degrade any other to a mere means to my ends (not to demand that another throw himself away in order to slave for my end)” (Kant *MM*, 6:450). In this passage, Kant is discussing our duties to others, having characterized them as falling into only two categories: duties of love and duties of respect. The language he uses is clearly pulled from the formula of humanity: “*Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end*” (Kant *G*, 4:429). So then this formula of the CI commands us in the following two ways: insofar as we are to treat people never merely as a means, we are to treat people with respect; and insofar as we are to treat people as an end, we are to treat people with [practical] love. As promised in Chapter 3, I will here go over the importance of this distinction: The duties of love and respect are to be followed *simultaneously*, even though each duty is necessary and it is often that case that they are in a conflict with each other.¹⁷²

¹⁷² I’ll admit to the careful examiner that I here discuss Kant’s section (‘Doctrine of the Elements Part II’ of the ‘Doctrine of Virtue’) on duties to *others* (and not, say, duties to oneself). Such a close reader might challenge my work and say that I need more discussion of the duties to oneself. I disagree, on the basis that Kant’s connection between the formula of humanity and this discussion of love and respect actually leaves out the important element that shows this same formula (along with splitting apart duties of love and respect) applies to the duties to oneself. Note the beginning of the formula in question: ‘Act in such a way that you always treat humanity, whether in your own person or in the person of any other...’ In other words, Kant may have meant to be more explicit in his presentation and, had he lived longer, perhaps he

Kant's duties of love and respect are split apart along the lines of whether we are speaking of treating someone *not* simply as a means (i.e., respect) or we are speaking of treating someone *at the same time* as an end (i.e., love). The duties of love are "duties[... through] the performance of which you also put others under obligation." Performing these duties is meritorious, as they are done out of love. The duties of respect are "duties[...], the observance of which does not result in obligation on the part of others." Performing these duties is doing a duty that is owed, since they are done out of respect (Kant *MM*, 6:448). "The principle of mutual love admonishes them constantly to come closer to one another..." The principle "of respect they owe to one another, to keep themselves at a distance from one another" (Kant *MM*, 6:449). So, we see that Kant is setting up a tension between distancing from, and coming closer to, one another. Before we discuss that tension, there seems to be an implicit claim that duties of love are not required, because he writes that the duties of love are meritorious, while the duties of respect are *owed*. If unaddressed, then we get the simple answer that whenever duties conflict, we ought to follow the relevant duty of respect; because this *might seem to be* what Kant means in the 'Doctrine of Right' when he writes that the 'stronger ground of obligation prevails.' Furthermore, we would still not know how to reconcile that with the fact that duties of love are surely *as necessary* as duties of respect.

Along these lines, consider what Kant writes concerning what it means to be meritorious, earlier in the 'Doctrine of Virtue': "To establish and quicken [the] disposition in oneself[, toward acting from duty,] is... *meritorious*, since it goes beyond

would have been clearer in this. But the text of the formula clearly shows that whatever he says here about duties to others also applies to duties to oneself.

the law of duty for actions and makes the law itself also the incentive” (Kant *MM*, 6:391). Thus, to call a duty ‘meritorious’ (as opposed to ‘owed’) does not mean that it is not required; rather, the duties of love are, in the following of them, already meritorious, while the duties of respect are ‘owed,’ because we follow them without any worry of whether we put others under obligation. The reason, it seems, that the duties of love are meritorious is because following them means we care about whether we are putting others under obligation. Here is Kant’s example of how this might work: “So we shall acknowledge that we are under obligation to help someone poor; but since the favor we do implies that his well-being depends on our generosity, and this humbles him, [it] is [also] our duty to behave as if our help is either merely what is due him or but a slight service of love, and to spare him humiliation and maintain his respect for himself” (Kant *MM*, 6:448-449). As Kant is often precise without being careful, I read this thusly: we have a duty of respect to not do anything that would infringe on a particular poor person. Furthermore, we have a duty of love to give him money or otherwise help this person. Thus, as we follow each type of duty in this case, we must not allow any attempt to help them also humiliate them, such that they lose respect for themselves. Hence the tension: we must treat them as an end and not merely as a means. But this is not fully satisfactory to me; I think the discussion of ‘meritoriousness’ has only revealed that saying that a duty is meritorious, does not for Kant mean that the duty is not required.

The issue has to do with the claim that being meritorious means that you put others under obligation: on the one hand Kant includes duties of respect in the duties of virtue, and in order to follow a duty of virtue, you must attempt to universalize the maxim, which would put another under obligation *necessarily*. On the other, Kant tells us

that only duties of love put others under obligation. This is a paradox within Kant, but I do have suggestion. This whole discussion suggests that there are in fact a separate set of duties called the ‘duties of respect’ and another set called the ‘duties of love.’ This is both true and false. We can discuss different aspects of what duty requires in *any particular duty* by splitting up the duty of respect from the duty of love relevant in the particular case. However, consider part of Kant’s opening paragraph for the ‘Doctrine of the Elements Part II’:

They can be considered separately (each by itself) and can also exist separately (one can *love* one’s neighbor though he might deserve but little *respect*, and can show him the respect necessary for every human being regardless of the fact that he would hardly be judged worthy of love). But they are basically always united by the law into one duty, only in such a way that now one duty and now the other is the subject’s principle, with the other joined to it as accessory. (Kant *MM*, 6:448)

For example, if I give the homeless person money, *and* give them my undivided attention for a few minutes to let them discuss their issues (treating them with respect essentially), I universalize the following maxim to be a law for everyone: whenever I give a homeless person money, I will also give them my undivided attention.¹⁷³ This is a law for everyone and thus puts others, including the homeless person himself, under obligation. It is my view that the paradox’s solution lies merely in noticing that the duties of love are the duties we have to do something for someone else. Thus, while of course every duty involves the combination of love and respect (according to Kant here), when we put

¹⁷³ It should be noted that I do not mean that giving the homeless person your ear for a while shows him respect because he feels good about himself. Rather, it is that I do not use him as a mere means. It may be that I have a duty to help that homeless person in some minimal respect (and it may be in some cases that I ought to give the person money), but if I satisfy the fulfillment of that duty of love without also realizing that giving the person money is very humbling, then I have used the homeless person as mere means for the satisfaction of that duty of love. The issue is further compounded when we have an accompanying inclination (aside from respect for the law) that makes us feel good about giving the person money.

others under obligation, we do something *for* them.¹⁷⁴ In that sense, every truly good moral action is meritorious in virtue of the love contained within it.

Implicit then is that the tension not only exists; it is also *important* to how his moral system functions. After all, every duty contains elements of respect and love and thus the duties of love and respect are going to be in a tension. Kant writes with great passion: "...should one of these great moral forces fail, 'then nothingness (immorality), with gaping throat, would drink up the whole kingdom of (moral) beings like a drop of water'" (Kant *MM*, 6:449). While discussing the duties of love, Kant explains how we can think of them such that they can exist in a tension with other duties and still be followed:

Now the benevolence present in love for all human beings is indeed the greatest in its *extent*, but the smallest in its degree; ...

Yet one human being is closer to me than another, and in benevolence I am closest to myself. ...If one is closer to me than another (in the duty of benevolence) and I am therefore under obligation to greater benevolence to one than to the other but am admittedly closer to myself (even in accordance with duty) than to any other, then it would seem that I cannot, without contradicting myself, say that I ought to love every human being as myself, since the measure of self-love would allow for no difference in degree. ...what is meant is...active, practical benevolence (beneficence), making the well-being and happiness of others my *end*. For in wishing I can be *equally* benevolent to everyone, whereas in acting I can, without violating the universality of the maxim, vary the degree greatly in accordance with the different objects of my love (one of whom concerns me more closely than another). (Kant *MM*, 6:452)

Contrary to the simplistic idea of a universal imperative where all duties apply the same in all relevant situations, Kant actually holds a much more human view. This is in

¹⁷⁴ It might seem odd to say that putting someone under obligation is 'for' them. But consider that the goal for Kant is that every agent have the opportunity to become moral (to achieve a *good* will). To do this, one must be aware of the obligations under which the moral law places them. Thus, when I do a morally good action, I obligate them to do the same (when the same case obtains for them), and thus *reveal* to them more about what it is *good* to do (and which obligations they should therefore act on *from respect* for the moral law).

keeping with Kantian respect, wherein what counts is simply the knowledge that you genuinely tried to abstract from all inclination. Here, Kant's view of fulfilling moral duty extends not merely to what the duties are, but to how we balance the *necessary* tension that exists between duties.

Here, we see that Kant accounts for closeness between people when taking into account how to fulfill duties of benevolence; and he actually implies that it is only with experience with this tension that we can know what to do in moral situations. That duties are in a tension does not mean that following one will mean you don't follow the other. In that sense, Kant's claim in the 'Doctrine of Right' is correct: they never conflict. However, their being in a tension tells us how to fulfill a given duty. Think here of being asked by your wife if her dress makes her look fat. Let's say that it does in fact make her look fat. As a matter of respect you have a duty to not lie (note: you do not have a duty to tell the truth)¹⁷⁵, but as a matter of love you have a duty to make your wife feel good about herself. Whatever the correct thing to say is, it will be a balance between respect and love. To see how this represents exactly what Kant is talking about in the quote, simply change the person asking from 'your wife' to 'your friend,' or even 'some person you just met.' Note that the answer will change depending on how much of the benevolence you are allowed to withhold. In fact, Kant needs this in order to explain the following claim:

...if the law can prescribe only the maxim of actions, not actions themselves, this is a sign that it leaves a playroom (*latitudo*) for free choice in following (complying with) the law, that is that the law cannot specify precisely in what way one is to act and how much one is to do by the action for an end that is also a duty. – But a wide duty is not to be taken

¹⁷⁵ Kant is very explicit about this in *MM*, the *Groundwork*, and in 'On the Supposed Right to Lie from Philanthropy,' which runs contrary to MacIntyre, for example (Kant *MM*, 6:429-431; Kant *G*, 4:402-403; Kant *RtL*; MacIntyre 2007, 45).

as permission to make exceptions to the maxims of actions but only as permission to limit one maxim of duty by another..., by which in fact the field for the practice of virtue is widened. (Kant *MM*, 6:390)

If duties were meant to hold universally in their extent *and degree*, then this quote would seem to be contradictory with the *Groundwork*. The mention of ‘playroom for free choice’ already suggests that fulfillment of duties is not understood merely in the context of the single duty (of love or respect) itself. He also writes ‘that the law cannot specify precisely in what way one is to act and how much one is to do by the action.’ This is exactly what I am trying to point out: Kant understood very well the necessity for a distinction between the duty-making principle and knowing what to do in a given situation. Furthermore, he even writes that we can limit one maxim of duty ‘by another’ and thereby the *practice* of virtue is widened. Since we are dealing here with practical reason, I call this practice: *practical* practice.

Some philosophers have already noticed this issue and seem to take a cynical view of Kant’s position; though I find their views somewhat narrow. For example, in his book, *After Virtue*, Alisdair MacIntyre critiques Kant’s idea that we can know with mathematical certainty what to do morally *by rationality alone*, arguing that this is a *Kantian deception*:

Central to Kant's moral philosophy are two deceptively simple theses: if the rules of morality are rational, they must be the same for all rational beings, in just the way that the rules of arithmetic are; and if the rules of morality are binding on all rational beings, then the contingent ability of such beings to carry them out must be unimportant – what is important is their will to carry them out. (MacIntyre 2007, 43-44)

MacIntyre points out that, in fact, Kant may have had some conservative maxims in mind that he simply thought he attained through rationality, but which he actually attained

through his Lutheran upbringing. “Kant then possesses on the one hand a stock of maxims and on the other a conception of what a rational test for a maxim must be” (MacIntyre 2007, 44). To really drive the point home, MacIntyre suggests that many seemingly non-moral maxims become universalizable; for example “Always eat mussels on Mondays in March” (MacIntyre 2007, 46). In a similar, skeptical turn, as I discussed in an earlier footnote, Baxley defends the view that Kant’s system seems to require antecedent moral feeling to explain how we achieve what duty requires: respect (Baxley 2010, 145-146). Her view, in other words, disregards Kant’s attempt to deny pathological feeling any role at all in our moral motivation.

I would like to take this opportunity to respond to both criticisms briefly. Both MacIntyre’s and Baxley’s views are trying to reconcile emotivism and Kant’s system, in an attempt to make sense of Kant’s system as a *human* system. MacIntyre is right to notice the apparently deceptive universality initially presented in the *Groundwork*, but his other claims are somewhat myopic. He is correct that we cannot derive what to do with apodictic certainty. But this does not mean that the maxims that he has in mind work within the Kantian framework. First of all, a maxim is a rule of action (not an act): i.e., we must be doing something for the satisfaction of some end. When we add the end, we then have limits on whether the maxim can be universalized. Further limitations are placed on whether the maxim can be followed based on how it rubs up against other maxims (as I pointed out earlier). MacIntyre, therefore, implies that Kant’s system is essentially grounded in his upbringing and not in reason. Analogously, Baxley’s view is simply that Kant’s system depends on antecedent non-moral motivations; specifically, emotions. Again, her intuition here is partly motivated by the same issues MacIntyre

notices; thus my foregoing response to MacIntyre should suffice to respond to Baxley. A minor follow up contra Baxley: given the discussion of respect earlier, we know that Kant allows for inclinations to seep in, so long as the rational actor genuinely believes himself to be *trying to* act solely from respect for the moral law. So, maybe moral feeling really does lie at the base of all actual moral reasoning; but this would be irrelevant to Kant's system, since practical philosophy deals primarily with the perception of the actor of herself (e.g., the Kantian claim that I 'know' *I'm* free because I perceive myself to be able to make choices).

3d: On how to choose the Right duty

In drawing an analogy between the tensions of right and ethics, I want to show that the ethical duties of love *are connected to* the cosmopolitan duties we have, and that the ethical duties of respect *are connected to* the patriotic duties we have. In Chapter 1, I made the distinction between patriotic and cosmopolitan duties, corresponding to two of the three relevant realms of right, as described in TPP: civil right, cosmopolitan right, and international right (Kant TPP, 349 footnote). The third kind of right will be discussed in a later section, but for now the focus really should be only on civil and cosmopolitan right because international right is really about the rights states have against each other. In connecting the JS and the KofE, I am much more interested in the dispositional states of the people involved, and less interested in trying to find some grander connection between these two ideals. That said, when I get to the section on international right, I will make a suggestion to the effect that there is an analogy to be made between the dispositional states we see in ourselves and those that we infer about states based on how close they come to emulating the articles of peace. For now, the focus will be on showing

that the foregoing tension, that we found between love and respect, is analogous and connected to an implied tension between civil and cosmopolitan right. Kant tells us that the duties of respect are analogous to the duties of civil right (our patriotic duties). Given the nature of the discussion so far, I argue that this analogy implies a further analogy with duties of love and cosmopolitan duties, and finally that the tension (within virtue) itself has an analogue in the tension between the cosmopolitan and patriotic duties.

The first thing to notice is that the duties of respect are analogous to our civil duties. Consider what Kant writes about the duties of respect when he first introduces them in *MM*: "...a duty of free respect toward others is, strictly speaking, only a negative one (of not exalting oneself above others) and is thus analogous to the duty of right not to encroach upon what belongs to anyone" (Kant *MM*, 6:449). Kant tells us of several kinds of right: private right, public right, cosmopolitan right, and international right. Here he seems to refer only to one singular duty of right, but this is, I think, a bit too narrow a way to read the passage. Kant's purpose in discussing this is to contrast the duties of love from duties of respect (note, he is not merely referring to some particular duty called the 'duty of free respect toward others,' as though that is some example of a duty Kant is here invoking; his description of the duty is meant to cover all the civil duties). His claim is that, while duties of respect, being duties of virtue, are wide, they are still narrow when compared with duties of love. The duties of respect keep us further from each other by doing something analogous to preventing us from 'encroaching upon what belongs to anyone.' This is reinforced when Kant writes that the duties of respect keep us at a distance from each other (Kant *MM*, 6:449). Of great importance to my discussion here is with which set of duties of right Kant is making the analogy. The movement from private

right to public right already seems to entail that the formation of that civil union would prevent the possibility of violence; or, in other words, it would prevent the encroachment of any person in the union on what belongs to each in that union. Public right, recall from Chapter 1, does not include either cosmopolitan or international right. In TPP, Kant calls this ‘civil right,’ and specifically distinguishes it from the latter two types of right (Kant TPP, 349 footnote). Thus, Kant has explicitly told us that the duties of respect are analogous to the civil (or ‘patriotic’) duties described in the ‘Doctrine of Right.’

I would argue that there is therefore an implied analogy between the duties of love and those of cosmopolitanism. Kant tells us, recall, that our duties of love bring us closer together (as against duties of respect), and that unlike duties of respect, duties of love put an obligation *on others* to reciprocate: “By carrying out a duty of love to someone I put another under obligation; I make myself deserving from him” (Kant *MM*, 6:451). In the sense that cosmopolitan duties require us to reach out, beyond our borders, to non-citizens of our state (for the sake of trade, or for the sake of saving them from some imminent demise), duties of love are like cosmopolitan duties. Consider what Kant says of these latter duties:

...since the earth is a globe, [people] cannot scatter themselves infinitely, but must, finally, tolerate living in close proximity...

Because a (narrower or wider) community widely prevails among the Earth’s peoples, a transgression of rights in *one* place in the world is felt *everywhere*; consequently, the idea of cosmopolitan right is not fantastic and exaggerated, but rather an amendment to the unwritten code of national and international rights, necessary to the public rights of men in general. Only such an amendment allows us to flatter ourselves with the thought that we are making continual progress towards perpetual peace. (Kant TPP, 8:358-360)

While it is certainly the case that, within *civil* right, you and I will both have obligations to each other to not infringe on each other's ownership (of property or time), these obligations do not, once fulfilled by one of us, obligate the other. It is the state itself that forms the basis of that obligation: both in its legislative ability, and in its capacity as enforcer of the law. However, cosmopolitan right does force us to reach out in a way that *seems* to put an obligation on others. After all, even if states are in a union, if the union is just, that union will be *voluntary*, and therefore cosmopolitan laws will not have external enforcement. If I allow someone to propose trade to my country, then the citizens of that person's state are simultaneously seemingly encouraged (if not 'obligated') to do the same. The same holds for harboring a ship that would get destroyed in a storm if it did not get that harbor. Keep in mind that the UPR exists even prior to the formation of the civil union (the UPR was necessary to understand the postulate of private right *prior to the civil condition*, after all). Thus, the obligations it places on us do not merely apply to the people within our state, but to anyone outside of that state. Kant calls cosmopolitan right an amendment, because it allows for the creation of a peaceful condition between the *people* of states (whereas international right only deals with states, and civil right only deals with the relations of people within a state). Since we have cosmopolitan obligations *in order* to make complete sense of how peace is approximated (approached), it seems to me that we are bringing others closer to ourselves and, simultaneously, encouraging them (if not obligating them) to bring us closer to them.

Freedom, in the UPR, connects love and respect to cosmopolitanism and patriotism, respectively. Consider that freedom is how the CI is manifest in the UPR (or more to the point: it is how ethics is manifest in right). If it is, as I have argued elsewhere,

then the fact that we have duties of love to each other would have to have some corresponding set of duties of right. If we are not to infringe on other people's desire to act out of respect for the law, then certainly acting in such a way that obligates them to act in accord with the law is a good first step. An example might be that while we have duties of beneficence to other people, from the perspective of virtue, our cosmopolitan duties merely describe what we ought to do externally with respect to those people. So, for example, in the case of the ship requiring safe harbor, I act in *mere* accord with that law, and thus do not make the UPR the maxim of my action. As I describe in the foregoing paragraph, helping the ship encourages the people on that ship to act the same (and perhaps even influences their compatriots in their home countries). But it is not necessary, insofar as right is concerned, that I act from benevolence. That is only necessary from the perspective of virtue; and in that perspective we *do* take the UPR as the maxim of our action. For, in taking it to be the maxim of our action, we act from respect for the law, through the fact that freedom in the UPR must be connected with virtue. Similarly, our duties of respect have corresponding duties of right. Again, on my understanding of freedom, if we are not to infringe on it *in others*, then we surely should act in a way that would not encourage violence. Recall that Kant thinks it follows *by the principle of non-contradiction* from the UPR that we have the right to use coercion in order stop coercion. "[If] a certain use of freedom is itself a hindrance to freedom in accordance with universal laws..., coercion that is opposed to this...is consistent with freedom in accordance with universal laws, that is, it is right" (Kant *MM*, 6:231). So, when someone violates a duty of right, encroaching on the freedom of another person, that person then may desire to fight back, as it were. And, in fact, Kant explains that,

within the context of right, we do have this right to use coercion to stop the encroachment. Thus, while we can fulfill our duties of right, regardless of what our maxims are, once we incorporate freedom as I have discussed it in the UPR, it becomes clearer that the ethical duties behind our patriotic duties are our duties of respect.

Given the fact that the duties of respect and the duties of love seem to ground their analogues in some sense, it seems to me that there would have to be an analogous tension in *Recht* that is grounded by the tension Kant thinks is so important between duties of love and respect, themselves. Without even looking at Kant's text, it seems somewhat obvious that there is a tension between cosmopolitanism and patriotism. This is actually very popular today, and the tension between extreme versions of these two (globalism and nationalism) perhaps reveals a tension between the moderate versions as I describe them. So, for example, immigration is a big issue today, and the reason for this has to do with a tension between helping others outside the state and making sure to not encroach on the freedom of citizens of one's state. Finding ways to satisfy both requirements is certainly one way to 'resolve' the tension. Obviously, historically, other alternatives have been used and have failed, though the empirical natures of each of those failures is not relevant at all to this discussion. I only mention these failures to make the point that it seems, empirically, that not attempting to balance these two forces of *Recht* generally fails. The question is whether this tension is fundamental to what it means to try to create the JS. Nothing about this history proves that the tension is fundamental to right, but it is interesting to think about in the context of this discussion, since it makes the Kantian project extremely relevant, not just to humanity but, to specific problems we face today. Nonetheless, if the tension between cosmopolitanism and patriotism did not have

an ethical foundation (as Wood and Willaschek would likely argue), then this tension would seem to not be itself necessary, because all we have so far discovered is that ethical duties are necessary (by definition), and Kant has implied a kind of duty to always balance love and respect, within the realm of virtue.

It turns out that his system does require this tension. Recall that he has just told us in TPP that cosmopolitanism had to be added as a distinction within *Recht*, in order to make that continual progress toward peace at all. Since we know that patriotic duties are necessary for a JS, and we know, from Kant's including it here as an amendment, that cosmopolitan duties are equally necessary, any tension between them would seem to be necessary as well. To find the tension we need look no further than the relevant passages in TPP: "[In] this context *hospitality*...means the right of an alien not to be treated as an enemy upon his arrival in another's country. If it can be done without destroying him, he can be turned away; but as long as he behaves peaceably, he cannot be treated as an enemy" (Kant TPP, 358). Implied in Kant's comment here about aliens (whether immigrants or visitors) is that we can certainly turn away people, as long as doing so does not 'destroy them.' Thus, there is a tension here between the duty of right that we have to bring them into the country and the right that we have to prevent new people from coming in (by which I imagine Kant to have some sense that letting them in could in some way hurt a person's compatriots: perhaps by taking jobs, to use a present-day common headline¹⁷⁶). We cannot simply choose one over the other; there is a tension to

¹⁷⁶ This is not meant to be taken as my position on Kant's patriotism. I just bring it up to underscore how relevant this discussion is to 20th and 21st century political controversies of the same kind. In fact, I agree with Kleingeld's position that what must be preserved is the fact that the state is structured and supported in the ways described in Chapter 1. In other words, we might not want let just any alien in, because they might undermine representative democracy in some way.

resolve first. Since there is a tension between cosmopolitan and patriotic duties here, I surmise that this tension is as necessary as (since its existence necessarily follows from) the cosmopolitan and patriotic duties themselves. Thus, I put forward that this tension *is grounded* in the tension between love and respect (i.e., the juridical, necessary tension only exists, *because* the ethical, necessary tension does).

3d-i: Kleingeld's discussion of Cosmopolitanism and Patriotism

The issue of whether patriotism and cosmopolitanism are even compatible, let alone in a tension with each other (and thus, *at least*, potentially compatible), is one with which Kant himself contended; herein I will analyze Kleingeld's portrayal of this debate, as I think her views here to be almost exactly on point with my own reading of exactly how to view this tension.¹⁷⁷ In her book, *Kant and Cosmopolitanism: The Philosophical Ideal of World Citizenship*, Kleingeld exposts Kant's debate with a contemporary of his named Christoph Martin Wieland (1733-1813) (Kleingeld 2012, 13-39). In this debate, Wieland and Kant are said to disagree about what it means to be cosmopolitan, and therefore seem to disagree on how to reconcile cosmopolitanism and patriotism. After this, she defends, contra John Simmons,¹⁷⁸ a certain interpretation of Kant's *patriotism* that allows for patriotism to exist and be in a kind of tension with cosmopolitanism, *without* there being a conflict. From a historical perspective, it is not surprising that Kant would be concerned with cosmopolitanism and its interaction with patriotism. He lived in

¹⁷⁷ I write 'almost exactly,' because she seems to want to whitewash that there can be any 'true' tension. As will be shown in this section, she bases her claim on the idea that patriotism is a subspecies of cosmopolitanism, and therefore that any perceived tension is mere misunderstanding.

¹⁷⁸ I do not discuss her engagement with Simmons. I include the reference to that part of her argument only to give the reader a sense of the grander scope of this discussion.

Prussia before the unification of Germany, where much of what will be considered here was at issue for him. Cosmopolitanism would have been a question of being able to think of himself not merely as a citizen of Prussia, but also as a cosmopolitan citizen with respect to the rest of the Holy Roman Empire. That said, given that Kant refers to cosmopolitanism as a sort of membership in a community with all the ‘Earth’s peoples,’ he surely wanted to expand his own sense of cosmopolitanism that far¹⁷⁹.

We agree in many ways, but part of the purpose of including her here is to *contrast* my own views against hers. Kleingeld and I agree that patriotism is the fulfillment of special duties to the citizens within a state, and to the state itself *due to its being a JS*. Furthermore, while we agree that cosmopolitanism is something anyone is capable of, and that it deals with thinking of oneself as in a community with all others in the world, we disagree in that she reduces patriotism to a form of cosmopolitanism; thus treating cosmopolitanism as not at all separate from patriotism. Her view, while not completely dissimilar from my own, is that any perceived tension between cosmopolitanism and patriotism is merely a misunderstanding of cosmopolitanism generally; in this we disagree, since, as I have argued, there is a *practically necessary* tension. Connected with this disagreement, she sees freedom as fundamentally connected with the definition of patriotism, while apparently leaving out freedom when discussing cosmopolitanism; again, this results from reducing patriotism to a subspecies of cosmopolitanism. In what follows, I will exposit a little bit of her comparison between Wieland and Kant, in order to clarify her conceptions of Kant’s patriotism and

¹⁷⁹ In fact, given that after around 1740, Austria and Prussia served as rivals, Kant’s entire political discussion, including the right to go to war, were likely very much at the heart of what he has to say about those subjects, covered in Chapter 1.

cosmopolitanism; after this, I will discuss how she views the Kantian resolution between cosmopolitanism and patriotism.

Kant's cosmopolitanism is distinct, on her reading, in that it is neither elitist nor is it describing some stateless vagabondism. There are three distinct ways of understanding what it means to be cosmopolitan, within the context of Kleingeld's discussion. First of all, we have Diogenes of Sinope, who claimed to be a "citizen of the world" (Diogenes Laertius *LEP*, 6:63). On Kleingeld's reading of this, "Diogenes seems to have meant that he did not recognize any special ties to a particular city or state. Denying local affiliations and obligations (more than affirming obligations to the larger whole of humanity), Diogenes endorses a *negative* conception of world citizenship" (Kleingeld 2012, 2). Essentially, this is an extreme form of individualism probably completely incompatible with patriotism of any kind, as Diogenes had no 'special ties' to any city or state. The second kind of cosmopolitanism, and the one that Wieland endorses, seems at first very similar to Kantian cosmopolitanism (and certainly is more compatible with Kant's patriotism than Diogenes's version):

The cosmopolitans carry the designation *citizens of the world* in the most authentic and eminent sense. They regard *all peoples* on earth as just so many *branches* of a *single family*, and the *universe* as a *state*, in which [the cosmopolitans] are *citizens*, together with innumerable other rational beings, in order to promote the perfection of the *whole*, under general natural laws, while every [rational being] is active, in its own specific way, on behalf of its own well-being. (Wieland *GKO*, 15:212-13)¹⁸⁰

This is Kleingeld's quote from Wieland's work, and it requires some disambiguation.

First, it is not that the world is a state, so much as it is the case that cosmopolitans *view* the world this way. Second, the idea of well-being there is not about hedonistic pleasure,

¹⁸⁰ I am using Kleingeld's reference here.

but more about the claim that the well-being of Wieland's 'sages' is found in their moral perfection: this perfection benefits "the entire cosmos" (Kleingeld 2012, 16).

Furthermore, Wieland's discussion of 'rational beings' does not imply that all of these beings are cosmopolitans. Kleingeld, in paraphrasing Wieland, writes "[there] are *world citizens* and there are mere *world inhabitants*" (Wieland *GKO*, 15:207). Only Wieland's sages qualify as world citizens (Kleingeld 2012, 16). So, this second type of cosmopolitanism, while probably compatible with patriotism in some sense, is quite elitist, and seems to imply that not everyone is (or is capable) of being a world citizen. In this way, we can distinguish both of these first two from Kant's cosmopolitanism. As Kleingeld writes on this: "This means not only that all moral persons are the potential *object* of cosmopolitan activity, but also that they are equally cosmopolitan subjects, which is to say that all are fellow citizens and ought to treat each other as such" (Kleingeld 2012, 17-18). In other words, on this third view of cosmopolitanism, all people should be capable of being cosmopolitans, and not merely some elite few.

Patriotism is also in a kind of historical semantic flux, but its meaning will also matter for determining its compatibility with cosmopolitanism: specifically, in partial agreement¹⁸¹ with my own claims, Kantian patriotism is unique, in that it treats our special duties to the state as resulting from the fact that the just state protects the freedom to which we have an innate right. Patriotism, understood from a nationalist perspective, is dedication to one's country purely based on common heritage, or as Kleingeld puts it "unconditional loyalty to one's own state regardless of its qualities, or as involving a

¹⁸¹ We agree on what it means to move from private right to public right, but we disagree on whether such a move implies the connection I see between *virtue* and right.

‘thick’ cultural or national community” (Kleingeld 2012, 21). She reads Wieland and Kant, against the former conception, as having in common the kind of patriotism that confers special duties to the state as a result of its just political system (and not the cultural character of the state) (Kleingeld 2012, 20). Wieland’s patriotism is characterized by the love of the state as a result of its being a just state, where “wealth is distributed more equally..., the people enjoy certain rights and liberties, and they recognize and value the security provided by the just state” (Kleingeld 2012, 24).

Kant’s patriotism differs from this in that, while we certainly have special duties to our state in virtue of its just political system, for Kant, this not about the effects of the system (Kleingeld 2012, 29). Recall, from my own discussion, that the formation of the political system (the movement from private right to public right) does not come about because people are in fear of violence being done to them personally, nor does it come about because there is some perceived mutual financial benefit. Kant’s view is rather, as Kleingeld eloquently puts it, “that every human being has a fundamental (‘innate’) right to freedom, and that this right requires the coercive power of a state which justly enforces the laws that lay down how far that freedom extends” (Kleingeld 2012, 29). The idea, which my own dissertation is trying to drive home, is that determining ‘how far that freedom extends’ means securing us against wanting to act contrary to the moral law, or toward inclinations distinct from the motive of respect for the law (that is to say, our freedom *in virtue of our humanity considered intellectually* is protected). Kant’s patriotism, therefore, cares about the state insofar as it protects this freedom. More than that, Kleingeld puts forward the idea that patriotic duties are not merely between the citizens of the state, but also are among the duties a state has to its citizens. In support of

this, she brings up Kant's idea that 'paternal' states are 'despotic,' and are distinguished from patriotic states (in that patriotic states are *not* despotic) (Kleingeld 2012, 28; Kant TT, 8:291). The state's patriotic duties result from its having to preserve that freedom; and the citizens patriotism comes from their participation in approximating a just state through electing representatives. Kleingeld calls this civic patriotism in order to distinguish it from the other forms (Kleingeld 2012, 31).

Her position on the compatibility between Kant's patriotism and cosmopolitanism relies on the claim that patriotism reduces to a kind of cosmopolitanism. Given her argument, there certainly seem to be ways to imagine there being compatibility between these two. She gives the example of the special allegiance to one's state being perfectly satisfied by promoting good relationships with other states (Kleingeld 2012, 33). I give her the benefit of the doubt, in that she must have meant the promotion of good relationships with the citizens of other states; after all, the relationship between states is one of international right and not cosmopolitan right, *per se*.¹⁸² She even claims that Kant's position on cosmopolitanism and patriotism rules out that they could ever be *even in a tension*. "Kant holds that opposing the patriotic good to the cosmopolitan good involves a misunderstanding of the former and is self-destructive in the long run" (Kleingeld 2012, 33). She argues this, because she understands his patriotism as a cosmopolitan duty (Kleingeld 2012, 19, 34-39). She takes this further when she writes: "Because the final aim of morality is defined in terms of a cosmopolitan community, the moral community is both ends and means" (Kleingeld 2012, 171). The consistent claim

¹⁸² In any case, the decision to use this example works from the perspective that international right really has to do with maintaining a peace between states, and not specifically with commerce between states. The latter is a cosmopolitan matter.

that cosmopolitanism is both the ground of patriotism and the ultimate moral goal both ignores the duties of respect, and seems to conflate cosmopolitanism (a concept within *Recht*) with the conception of oneself as a self-legislating member of the KofE. While her view is interesting, in addition to the problems I find with it, it loses sight of the foundation of cosmopolitanism in the special character of the duties of love, and the analogous foundation of patriotism in the special character of the duties of respect, for which I argue above.

This explains why her discussion of Kantian freedom only shows up when she discusses patriotism, and not while she is discussing cosmopolitanism. Freedom has to be in the conversation in order for Kleingeld to refer to her idea of Kantian cosmopolitanism as “moral cosmopolitanism” (Kleingeld 2012, 15). And if her goal is give a full account of both patriotism and cosmopolitanism, but she views patriotism as essentially a sub-species of cosmopolitanism, then she only needs to discuss freedom once. For the sake of argument, let’s assume she is correct that cosmopolitanism grounds (or encompasses) patriotism. If so, then perhaps she reads the connection in this way: cosmopolitanism’s being the goal grounds patriotism, which expresses the freedom which we are commanded to respect in the UPR, and thus all ethics is grounded in the cosmopolitan ideal. On this reading, she would seem to have to claim that ethics depends on right. Thus, her position and mine stand in fundamental contra-distinction, and since I believe I have shown that the dependence *cannot possibly* go this direction, she is probably incorrect to claim that patriotism is already contained in ‘true’ cosmopolitanism.

Having discussed the relevant aspects of her position, I hope to have reinforced my own argument that: (1) cosmopolitanism and patriotism are distinct sets of juridical

duties, grounded in distinct sets of ethical duties, and (2) that the ethical tension between love and respect is the ground for the political tension between cosmopolitanism and patriotism. Before I move on, I wish to mention her position on the distinction between the duty making principle and how to decide what to do in any given moral situation. Kleingeld points out an element of my own argument: namely that deciding what to do in particular situations is distinct from knowing what our duties are. Consider: “People have many different duties, and it is a matter of *moral judgment* to decide, given the many duties one acknowledges, the circumstances, and one’s abilities, what one is to do in a particular situation” (Kleingeld 2012, 32). It is interesting, because she is noticing that there are tensions within Kant’s moral philosophy; the idea that it would be a matter of judgment as to what to decide to do suggests that there are things to decide after you know what the duties are. To me, this means she must notice a tension, and perhaps even a tension between cosmopolitan and patriotic duties, given that this quote is from the chapter wherein she has discussed how to ‘reconcile’ Kant’s cosmopolitanism and his patriotism. It is her dismissal of that tension as important that grounds my disagreement. Having already argued that these tensions exist and *are* important to Kant’s moral system, I would like, in the following section, to show, through examples, how the important tension between cosmopolitan and patriotic duties, once dealt with, brings a person’s heart closer to the predisposition toward the good.

Section 4: Right is sufficient for Ethics

As I promised at the start of the chapter, I will now deal with how practicing one’s use of practical reason (‘practical practice’), from a juridical standpoint, can help us to successfully balance the *ethical* duties of love and respect. I will show this by going

over one of the three predispositions we possess: our animality, our humanity, and our personality.¹⁸³¹⁸⁴ Arbitrarily picking from among these three, I will use an example stemming from our animality, which, as with either of the other two predispositions (given what I have argued so far), requires a *juridical* balancing act in order to obtain the correct ethical balance. Since I have already shown *that* there is a necessary tension (both juridically and ethically), showing *how* dealing with juridical tension helps to resolve some ethical tension only really requires going over a single example. In this section there will be brief interaction with Hans Saner's book, *Kant's Political Thought: Its Origins and Development*. Saner thinks that morality involves a struggle, similar to the natural order described in UH. That struggle is not just necessary *in order to* get the goal; it is necessary as a goal itself (Saner 1973, 56-57). What that struggle is, given my argument for the necessary tension, again, can be best shown by going over examples of a person changing their disposition from a non-moral (or even immoral) one to a moral one: recall that Kant calls this the changing of the heart. Since Kant's use of the terms predisposition, propensity, passion, and inclination are somewhat confusing, I will be attempting their use as consistently as I can, so as not to muddy the waters, so to speak, with the Kantian jargon.

From what has been argued, I hope to have shown *that* the tension between love and respect is the ground for the tension between cosmopolitanism and patriotism. While I have implied an answer by preceding the discussion of tension with a discourse on

¹⁸³ In Chapter 3, we covered these in service of showing which kind of freedom was in the UPR. Here, I revisit that discussion, elaborating on the parts relevant to the idea that practicing juridical tension can help one balance ethical tension.

¹⁸⁴ I can only go over one example, because the chapter will be exceedingly long if I don't limit myself in this way.

Kant's view of respect for the moral law, I have not yet driven the point home. Since the tension between love and respect is so important to Kant's 'moral world' (which I take to be the KofE), and since this tension *is necessary* as a result of the necessity of both love and respect in any particular moral maxim, it follows that whatever it means to *gehört* the duties of love and respect also applies to *balancing* that tension. The tension's 'necessity' is not merely that we must deal with mutually opposing moral forces; it is, rather, to be understood that we must struggle through the tension in order to truly be obeying the moral law.

The idea that struggling is a necessary part of Kant's philosophy generally is championed by Saner in his book. In general, he compares the teleological story in Kant's UH (i.e., some specified course of nature toward the chiliastic vision) with the "infinite series of free acts" toward that same vision of the future (Saner 1973, 7-49). He explains that these are unified in something he calls 'the One,' which is itself neither of nature nor of freedom. In connecting politics to the One, he writes:

Politics is the use of legality to extend the law that founds community; it takes prudence, cunning, force, an insight into the real historic situations, and the positive right which is always wrong at the same time. But none of these is the last hinge of political action. For our reason, the positive law that is given is not yet the law that binds. This law lies in the idea alone, in the source from which morality derives the lawmaking power that gradually brings right into the world. It is in the idea that prudence, cunning, and force must find their limits. ...

...The call to freedom in politics is a challenge to proceed toward world order so that the way will rest upon this One, not just in the goal, but everywhere en route. (Saner 1973, 56-57)

The context of this passage is that Saner is trying to explain how the *just* political system already goes toward some chiliastic vision. Saner is making an argument distinct from my own, wherein the connection he is trying to draw is between nature and freedom,

rather than between virtue and right. However, the idea that politics requires practice toward ‘the One’ is not dissimilar from my own idea that politics requires practice in order to achieve the JS. Since I see a connection between virtue and right, through freedom, I view the attempt to achieve the JS (i.e., the juridical chiasm) as integral to thinking of ourselves as in the KofE (i.e., the ethical chiasm). Thus, if Saner’s view is taken seriously, then the idea that we can practice our ethical duties by practicing our juridical ones should not seem to be mere speculation. Perhaps he agrees, since he writes that “morality derives the lawmaking power that gradually brings right into the world.” He even calls politics a “moral challenge,” and points out that politics cannot be “true politics,” unless it “pays homage to morality” (Saner 1973, 56). If I am correct that the challenge lies in resolving tension, then it seems that *struggling through* the tension is, itself, part of that practical practice, if one agrees with Saner’s position anyway.¹⁸⁵

Whether toward self-preservation, procreative sex (and preservation of offspring, as a result), or being social with other humans, our predisposition toward animality exists. In agreement with Kant’s implication, it seems to me that at least one of these three things is going to be true of a human at some point in their lives. These drives are not inherently *moral* or *immoral*, as the only thing this tells us about a human is that they will have these drives; not *what they will do* to satisfy resulting inclinations, and even less so what they should intend while satisfying these inclinations. It is true that Kant writes about vices that ‘can be grafted’ on to these three drives, but he does not say or imply that

¹⁸⁵ For my part, I tend to agree that there are challenges throughout Kant’s philosophy. There are many examples of Kant using a kind of ‘tension’ to make a point. The most obvious examples come from the antinomies, whether in the theoretical or the practical philosophy, wherein Kant’s dialectic plays a large role. There, Kant employs a system of ‘thesis,’ ‘antithesis,’ and then ‘synthesis.’ Thus, I think Saner’s major claims to this effect are fairly non-controversial.

the fact that we have this predisposition *necessarily entails* these vices (Kant *R*, 6:26-27). The importance in pointing out the vices is just to say that, if we have the wrong propensity (say, toward not acting from respect for the law), then we will act on these drives in non-moral or, worse, immoral ways. Since Kant tells us here of the possible vices of “gluttony, lust and wild lawlessness” (Kant *R*, 6:27), let’s simply give an example of a case where we have two competing duties of right (one cosmopolitan and one patriotic) and two corresponding duties of ethics (one of love and one of respect). I want to show how one releases the vice and changes their propensity toward the good, satisfying all the conditions of respect for the moral law, generally (i.e., ‘changing one’s heart’). Thus, I hope to show how, in the case of animality, attempting to resolve the tension between our cosmopolitanism and our patriotism helps us to resolve the tension between love and respect. Since, in order to have duties of right, one must be in a rightful condition to begin with, I will start with the assumption that we are in a civil condition already. I will use the particular predisposition (of animality) toward self-preservation to make the point as clearly as I can.

We need a context in which to consider the predisposition toward self-preservation: let’s say that I am in a position to get married to the woman I love, but given some financial situation in which I find myself, I am unable to ignore that she could take half of my assets if we get divorced. Perhaps I am fairly well off, and it would be ‘ok’ for me to lose that money; still, due to my predisposition toward my own self-preservation, I cannot help but be somewhat concerned about this potential loss. Considered without the backdrop of Kantian system, the choice seems to be one of two things (assuming I want to get married): (1) I can ‘get past’ my worry and simply marry

her, or (2) I can give her a choice between signing a pre-nuptial agreement or not getting married. Let's assume here that she, so far, has given me no specific reason to distrust her motives, nor has she given me any reason to believe she is flaky. The problem with the choices considered, as such, is that both choices fail to resolve the tension between love and respect; and the fact that I perceive only these two choices is actually further evidence that I do not consider the tension as an important moral factor itself (worthy of resolution). One tension seems to be between my duty of love (practically) to the woman I love (pathologically) and my duty of respect to her. While there are certainly other tensions, I wish to focus on the issue using this tension in particular. As far as love is concerned, I have a duty to take on my girlfriend's ends as my own. She wishes to be married to me and wishes to be trusted by me. From respect, I have a duty to her to be honest with her, such that I am not using her as a mere means. If I simply 'get past' my worry, then I allow love, as moral force, to win, and thereby fail to treat her with respect: I have used her as a means to satisfy the duty of love, so to speak. If I simply give her a choice, then I clearly satisfy the duty of respect to be honest with her, but I obviously fail to satisfy the duty of love I have to *trust* her. The moral force of respect wins, and the moral world is swallowed up like a drop of water in the ocean. Once considered from this angle, other options make themselves apparent. For example, perhaps I can 'get past' my issue by telling her that I have concerns and would like a pre-nuptial agreement; depending on how she reacts to that trust, I could marry her without getting any pre-nuptial agreement at all. If I do that, then I satisfy both my duty to trust her (my duty of love) and my duty to be honest with her (my duty of respect). But so far, I have not mentioned the political order.

If we live in a civil condition, then we will have other similar, but juridical, tensions surrounding our dealings with the our compatriots (other citizens) and our dealings with non-citizens; and I endeavor here to bring up a germane example of this tension. When my government opens up trade negotiations with another country, certain problems arise where I will cast my vote for legislators based on how they deal with these problems. I consider whether that trade negotiation will help my country in the short and long run. This could be said to be a concern for civil (i.e., patriotic) duty, if what I meant was whether the negotiation's consequences will help or hinder representative government or any other aspect of *just* governance. I also have a cosmopolitan duty to not isolate from the rest of the world. If I reason that we should just not trade and become completely independent (financially, energy, etc), I fail to fulfill my cosmopolitan duty, at least at first, in favor of my patriotic duty to preserve the JS.

We have had an example of this recently, where trade with China has placed us in a precarious juridical position. There was a report in 2014 of China harvesting the organs of Falun Gong practitioners, Muslims, and incarcerated criminals, while they were alive; it has since been confirmed (Smith 2019). China threatened to not trade with any country at the UN that made a big deal about the 2014 report (CNBC 2019). I understand that it is very hard to confirm these things remotely, but let's assume that these claims are true, for the sake of my argument here. I might consider the problem simplistically and consider only two options: (1) get past my moral disgust, and trade with China, or (2) trade with them on the condition that they stop the practice. But we can resolve this if we frame the question a bit differently concerning trade with China, or any country. The issue is whether we should open trade negotiations with China (fulfilling our cosmopolitanism),

or if we should threaten to not trade with them, keeping our JS intact (fulfilling our patriotism). There is a problem with *simply* going along with the trade, as it seems to condone the actions they are taking on their own citizens. It seems to me that allowing commerce with a place like China might encourage our own citizens to think that these atrocities are ok. If anything undermines a JS, it is injustice: and taking people's organs against their will, while they are alive is at least unjust, if not completely immoral. Taking an action that would force a citizenry to accept such actions is against patriotism. Thus, simply trading with China satisfies our cosmopolitanism while utterly failing our patriotism. However, ignoring the contingent fact that China has much more trading power than we do globally, *refusing to even negotiate* trade with them fails to minimally satisfy the cosmopolitan duty. But it certainly satisfies our patriotic duty to the citizens of this country. Nonetheless, unlike with the marriage earlier considered, we cannot simply tell China how we feel and then trade with them. On balance, we can choose to not trade with them, in this case. If we open up trade negotiations but do not actually end up trading, then we minimally satisfy our cosmopolitanism. Thus, we can negotiate trade with China, but ultimately choose to not trade with the country.

The idea is that when I vote for legislators (or a president) and think about these juridical issues, in the context of there being a necessary tension, I practice for situations like getting married. If I have a propensity that is immoral, I am more likely to make choices that serve my interest without consideration for the respect or love that is owed someone. I might choose to marry her anyway because this guarantees me sex, or children, for example. If I make the choice in this way, then, as you can see, I have not considered any moral tension whatsoever. It is the awareness that there is a tension, and

that the tension must be worked through, that results in moral action. Recall from the *Groundwork* that any action is moral if it is done from duty (Kant *G*, 4:400-401). Otherwise, the action is not moral.¹⁸⁶ To do an action from duty means to act from respect for the law. Now, given my earlier discussion of this, it seems that respect for the law refers to attempting set aside all inclination, in favor of just the motive of respect, even if one fails. The attempt must be genuine, recall. This applies here, because while we can certainly see how this definition of respect for the law (or what counts as good enough, in Kant's eyes anyway) applies to individual duties and the motives that we have, this definition also applies to the attempt to reason through these tensions.

Clearly, acting from a particular motive and recognizing a tension are not co-referent. Nevertheless, I would argue that it still applies spiritually (for it again points to Kant's involvement of struggle in his philosophy generally), and I do have a motivational story that could work. (1) If the motive behind considering the tension between our patriotic and cosmopolitan duties is so that we can better balance love and respect, (2) if we wish to balance love and respect because we recognize the necessity of both love and respect, separately, and (3) *since* we know that obeying the duties of love and respect requires us to act from respect for the law, it follows that (4) considering this tension does fall under the guidance of the definition I discovered of respect. In the story with China, I considered issues in ways that respect a tension, and even if my resolution fails, I succeeded at genuinely trying to address and resolve the tension. Since, we've already

¹⁸⁶ 'Not moral' does not necessarily mean 'immoral.' One can reason hypothetically toward doing what they would have done, had they reasoned categorically. One could also, contrary to a Korsgaardian view, reason toward a non-moral hypothetical objective, like making a sandwich. To be *immoral*, one has to act contrary to the moral law, in the service of otherwise non-moral motives; this is the only way to minimally satisfy the conditions of vice.

established that the tension in right is only there because of the tension in ethics, it follows that we practice balancing the tension between love and respect that was relevant to getting married *by attempting to balance that tension in Recht*. Finally, because of all this, we are said to have tried to act from respect for the law when we try to fulfill our duties of love and respect, *indirectly*, by trying to balance our cosmopolitan and patriotic duties. It is ok if I fail, so long as I was genuinely trying; empirical experience tells us that the more people do a thing, the better they get at that thing. And this is practical practice, because it is the way in which we practice for considering ourselves *ethical*; or in other words, as in the KofE. As Hans Saner eloquently puts it: “Freedom is the guarantee of both this struggle and the possibility that it will lead to unity, which is the true task of freedom” (Saner 1973, 261).

Section 5: Final Connection, and the place of International Right in bringing out the Kingdom of Ends

5a: From Juridical Duties to Ethical Duties

So far, the focus of this chapter has only been on the dispositions of the people within states, but this only covers civil and cosmopolitan right. Furthermore, since I have not included international right in my main argument for conceiving of the JS as sufficient for the KofE, one could say that I have not fully connected the JS and the KofE. At this point, by focusing only on the tension between cosmopolitan and civil right, there is a problem in connecting the tension between love and respect to *international right*. After all, this latter form of right seems at first to contain no tension at all with either of the other two types of right. Even if it did form such a tension, that tension would not be analogous to the tension between love and respect, because love and respect are connected to cosmopolitanism and patriotism, respectively. In what follows, I

will exposit where Kant seems to take a stand on the connection between the juridical and ethical commonwealth in *Religion*, and then I will connect this with the articles of perpetual peace found in TPP. The purpose will be to show that Kant did see a connection between the JS and the KofE, and that he saw the articles of perpetual peace as an outward expression of what states must overcome in order for all the people within those states to be thinking of themselves as in the KofE.¹⁸⁷

Kant connects the JS and the KofE by pointing out that they are analogous and that a person has a duty to enter into the ethico-civil community, which is to say they

¹⁸⁷ There is a parallel between my own discussion of character building (by balancing love and respect) and a teleological tension that Kant discusses in the *Critique of the Power of Judgment*: He explains that humans seem to have natural ends that are in conflict with other natural ends, ultimately pointing to the necessity of the attempt to achieve the JS. “The first end of nature would be the **happiness**, the second the **culture** of the human being” (Kant *CPJ*, 5:430). If humans are understood as entirely separate from nature, then empirically they would seem not to be able to attain happiness, because humans are constantly trying to destroy each other (Kant *CPJ*, 5:430). “The human being is thus always only a link in the chain of natural ends” (Kant *CPJ*, 5:430-431). There is no need to reconcile this conclusion with his moral philosophy here, since it has already been established, in Chapter 1, that Kant’s teleology views humans as merely part of a determined causal chain.

Humans also have cultural ends (the second type of natural ends), and telling the story of how these ends are in a conflict *shows* how we come to achieve these ends. To satisfy cultural ends empirically requires conflict and inequality among people; ...with progress of this culture (the height of which, when the tendency to what is indispensable, is called luxury) calamities grow equally great on both sides, on the one side because of violence imposed from without, on the other because of dissatisfaction from within; yet this splendid misery is bound up with the development of the natural predispositions of the human race, and the end of nature itself, even if is not our end, is hereby attained. (Kant *CPJ*, 5:432)

In other words, the ends nature has for humans (insofar as we are merely part of the determined causal chain) are satisfied through our attempt to satisfy our naturally cultural ends. He finishes by writing, in parallel with my argument: “The formal condition under which alone nature can attain this its final aim is that constitution in the relations of human beings with one another in which the abuse of reciprocally conflicting freedom is opposed by lawful power in a whole, which is called **civil society**; for only in this can the greatest development of the natural predispositions occur” (Kant *CPJ*, 5:433).

However, of utmost importance to this section of Chapter 4, Kant continues: “For this, however, even if humans were clever enough to discover it and wise enough to subject themselves willingly to its coercion, a **cosmopolitan** whole, i.e., a system of all states that are at risk of detrimentally affecting each other, is required” (Kant *CPJ*, 5:432-433). Without such a state, “war...is inevitable” (Kant *CPJ*, 5:433). In other words, not only is there a moral argument for character connected with trying to achieve the JS, the attempt is also part of our teleological destiny (and, in the context of international right, this attempt prevents war from being *inevitable*).

must ‘leave’ the (merely) *just* state and enter into the KofE (an ethical commonwealth).

As a refresher from my discussion of the same in Chapter 2, he writes in *Religion*:

Inasmuch as we can see...the dominion of the good principle is not otherwise attainable, so far as human beings can work toward it, than through the setting up and the diffusion of a society in accordance with, and for the sake of, the laws of virtue – a society which reason makes it a task and a duty of the entire human race to establish in its full scope. – For only in this way can we hope for a victory of the good principle over the evil one. ...

An association of human beings merely under the laws of virtue, ruled by this idea, can be called an *ethical* and, so far as these laws are public, an *ethico-civil* (in contrast to a *juridico-civil*) society, or an *ethical community*. It can exist in the midst of a political community and even be made up of all the members of the latter (indeed, without the foundation of a political community, it could never be brought into existence by human beings). It has however a special unifying principle of its own (virtue) and hence a form and constitution essentially distinct from those of the other. There is nevertheless a certain analogy between the two, when considered in general as two communities, and with respect to this analogy the ethical community can also be called an *ethical state*, i.e., a *kingdom* of virtue (of the good principle). The idea of such a state has an entirely well-grounded objective reality in human reason (in the duty to join such a state), even though we cannot subjectively ever hope of the good will of human beings that these will work harmoniously toward this end. (Kant *R*, 6:94-95)

Kant tells us that to move from the evil to the good principle (propensity), we must try to form an ethical state. If it turns out, as I argued in Chapter 2, that we cannot ever expect to get to that state (the KofE), and if it is the case that we have a duty to establish it anyway for the sake of moving from the evil to the good propensity, then there might be a problem for the move from the JS to the KofE. However, given my discussion of respect for the moral law (and in fact, this discussion comes from *Religion*), perhaps approximating the KofE (or trying it, rather) as best we can is what counts toward changing our propensity (i.e., changing our heart). Furthermore, as we can see from the passage Kant confirms that the JS and the KofE are analogous.¹⁸⁸

¹⁸⁸ In her book *Kant's Conception of Moral Character: The "Critical" Link of Morality, Anthropology, and Reflective Judgment*, Felicitas Munzel writes: "The true enemy of virtue, the propensity for evil inherent to human nature, has for its most obvious and damaging result the external conflict that makes up so many pages of human history" (Munzel 1999, 179). She essentially argues that it is the radical evil in individual

However, he says something which, if read uncritically, sounds like ethics *depends on right*, and that is contrary to my own interpretation. When he writes that the KofE could not have been formed without the foundation of a JS, this does not necessarily imply that ethics depends on right. First of all, it cannot mean this, because if it did, that would create a problem for what he has says about the formation of the civil condition to begin with (namely, that it requires an *ethical* backdrop). I think the best way to understand that part of the quote is to consider a distinction between the JS and *Recht*. The UPR exists outside of, and prior to, the formation of the civil condition. Without the UPR, we could not have private right, and without private right *and freedom in the UPR*, we could not have public right (i.e., the JS). Therefore, when I write ‘right depends on ethics,’ this means only that we cannot even make sense of the UPR unless we have ethics as backdrop (otherwise freedom in the UPR means something much less interesting than what I argue for at the end of Chapter 3). This is supported by my discussion, in that to form the JS, we do require ethics as a backdrop; but this backdrop only works if we understand ethics to be manifest in the UPR through freedom. So herein, Kant does not mean that ethics depends on right. He means simply that the JS, more than being merely sufficient, as I have tried to argue, is necessary in order to move into the KofE. But even this would not mean that an individual requires the JS to be ethical; it only means that we, as the human community, require a JS to have everyone in the fully cosmopolitan commonwealth (i.e., everyone) become ethical.¹⁸⁹

humans that makes it difficult to satisfy Kant’s conditions for international right (Munzel 1999, 8-9, 13-14, 16, 138, 140, 144-147, 149, 151, 154-156, 161, 168, 175-181).

¹⁸⁹ The KofE is not synonymous with being ethical (or *with ethics*). To be ethical in the world of sense requires that we act contrary to inclination. In the KofE, our wills would be more analogous to holy wills, in that the moral law would *describe*, rather than prescribe, our action. The immediate interest we have in

As was argued in Chapter 2, Kant argues that it cannot be a duty of right to leave the JS and enter into the KofE; it must therefore be a duty of ethics. He writes: “In an already existing political community all the political citizens are, as such, still in the *ethical state of nature*, and have the right to remain in it; for it would be a contradiction...for the political community to compel its citizens to enter into an ethical community, since the latter entails freedom from coercion in its very concept” (Kant *R*, 6:95). In the JS laws are made, essentially, from a combination of the UPR and contingent properties of the state. In India, it may be illegal to slaughter cows, and here in the US it is illegal to buy alcohol on Sundays in many jurisdictions. These laws could arguably both come from the UPR and thinking of the cultural backdrop of the people living there. Whatever the laws are, they are enforced through external coercion, and as Kant points out, this is inconsistent with ethics. Despite the fact that freedom is how ethics is manifest in the UPR, we still would need an *ethical* duty (as opposed to a juridical duty) to justify any normative move from the JS to the KofE. If a juridical state tried to force its citizens to become ethical, even if every citizen complied¹⁹⁰, they would lack autonomy with respect to their actions, and thus would fail to become ethical.

At the risk of excessively repeating content from Chapter 2, I just want to discuss briefly how the postulate of the existence of G-d plays a role in connecting both how we

the KofE (i.e., in a manner of speaking, our hope that we can someday think of ourselves as in that Kingdom) follows upon our being ethical to begin with (this is argued for in Chapter 2). For an individual to think of oneself as in the KofE, he need only act ethically. But for a group of people to have any hope of reaching that condition, they do require the JS. This does not mean that ethics depends on right. Rather, it simply means that, when we speak of the whole human community, *public* right (i.e., the JS) is how we, *as a group*, can think of the KofE as even attainable.

¹⁹⁰ They cannot ‘comply’ by definition. What I mean here is ‘even if everyone were to make choices consistent with ethics, as a result of coercive legislation,...’

view duty and how we view its relationship to changing our evil propensity into a good one.¹⁹¹ Recall, from that chapter, that the KofE is a hope; it is something in which we have faith when we act ethically. The idea of G-d actually connects the two ideals quite nicely. Just as we worry about the violence we might want to commit in order to protect what is ours, in terms of the JS, we also worry about the mutual corruptibility between people away from the propensity to good. We have a duty to enter into an ethical commonwealth (or at least try). “Just as the juridical state of nature is a state of war of every human being against every other, so too is the ethical state of nature one in which the good principle, which resides in each human being, is incessantly attacked by the evil which is found in him and in every other as well” (Kant *R*, 6:96-97). But the KofE is not a system of government very similar to the JS. We have no guarantee, in its description, that we will not be corruptible anyway, or that, to put it more bluntly, others won’t act in ways that undermine our own desire to be good. We have no guarantee because G-d is merely a postulate of practical reason. We have no proof of His existence, according to Kant, but only proof that we believe in G-d. This was all covered in Chapter 2, but Kant adds something here in *Religion*:

If an ethical community is to come into being, all individuals must be subjected to a public legislation, and all the laws binding them must be capable of being regarded as commands of a common lawgiver. Now if the community to be founded is to be a *juridical* one, the mass of people joining in a union must itself be the lawgiver..., because legislation proceeds from the principle of *limiting the freedom of each to the conditions under which it can coexist with the freedom of everyone else, in conformity with a universal law*, and the universal will thus establishes an external legal constraint. If, however, the community is to be an *ethical* one, the people, as a people, cannot itself be regarded as legislator. For in such a community all the laws are exclusively designed to promote the *morality* of actions...whereas these public laws...are on the contrary

¹⁹¹ I readily admit that this part of the exposition is Kant’s Christianity showing through. This is something that I think Kant suggests without arguing very well for its necessity. But I think it important to include, because it drives home the point I’ve been trying to make. At any rate, this is only one paragraph about this subject.

directed to the *legality* of actions, which is visible to the eye, and not to (inner) morality which alone is at issue here. There must therefore be someone other than the people whom we can declare the public lawgiver of an ethical community. But neither can ethical laws be thought of as proceeding *originally* merely from the will of this superior..., for then they would be ethical laws, and the duty commensurate to them would not be a free virtue but an externally commensurate legal duty. Therefore only such a one can be thought of as the supreme lawgiver of an ethical community, with respect to whom all *true duties*, hence also the ethical, must be represented as *at the same time* his commands; consequently, he must also be one who knows the heart, in order to penetrate to the most intimate parts of the dispositions of each and everyone and, as must be in every community, give to each according to the worth of his actions. But this is the concept of [G-d] as a moral ruler of the world. Hence an ethical community is conceivable only as a people under divine commands, i.e. as a *people of [G-d]*, and indeed *in accordance with the laws of virtue*. (Kant *R*, 6:98-99)

When he writes ‘all true duties, hence also the ethical,’ it seems like he is including *juridical* duties as well (or *true* juridical duties anyway). Consider also what he writes in *MM*: “...conscience must be thought of as the subjective principle of being accountable to [G-d] for all one’s deeds” (Kant *MM*, 6:439). In other words, we are accountable to the moral laws, *including the juridical ones*, as though the laws came from G-d Himself. Furthermore, in order to be guaranteed of my incorruptibility in trying to create the KofE, I must have faith that G-d is the ruler of that kingdom of virtue; thus, in following my *true juridical* duties, I affirm that faith even when I am not yet in the ethical commonwealth.

5b: International Right

Now in this discussion, Kant has just said that legality is the outward appearance of morality. Surely, if one is being ethical, one is also acting legally, since the standards of ethics exceed that of legality. So, from a certain perspective, we cannot be sure that just because someone is acting legally, that they have an ethical motive. But there are ways to infer such a thing. Kant does this in the *Groundwork* when he considers the man

whose life is so horrible that anyone in his situation would consider suicide. When he does not commit suicide, we ascribe to him the ethical motive (by definition, he seems to have no other motive to live) (Kant *G*, 4:398). It seems to me reasoning like this allows us to infer dispositions of the people in a state from how closely the state outwardly approximates the articles of perpetual peace. This discussion will thus deal with the third and final aspect of right, albeit somewhat briefly. My main focus has been to discuss the connection between juridical and ethical tensions, but I have not been able to fold in *international* right until this point. That said, how this all works will require more research, and a perhaps reimagined project, wherein the focus is more on the states, than on the individuals within those states. In what follows, I will limit my discussion to the six *preliminary* articles of perpetual peace.¹⁹²¹⁹³¹⁹⁴

¹⁹² There is no need to go over the definitive articles, since they essentially define the three types of right, and while we have gone over civil and cosmopolitan right, this section is dedicated only to international right, which deals with things like the right to go to war, etc. Essentially, international right covers the rights states have *against* each other to settle disputes.

¹⁹³ This discussion, for brevity's sake, assumes the reader is familiar with the articles already. If you want to re-familiarize yourself with the articles, they are covered in Chapter 1.

¹⁹⁴ Munzel, herself, attempts to connect certain ethical maxims to these six preliminary articles: "...there are those maxims identified by Kant as specifically 'relating to character,' principles that bear a remarkable affinity to the initial preliminary articles of the just constitution" (Munzel 1999, 16). She further writes: "By 1793 an internal cause has become *the* issue: not only is it the central problem for moral character, but Kant further comprehends all human conflict as a manifestation of this inner root of opposition to moral good. Thus the establishment of good moral character is also ultimately of central importance to the solution of conflict in all its forms in human life" (Munzel 1999, 144). Taken together with her view that radical evil is the source of human conflict, it seems that to truly get toward a *rightful* condition (considered from the perspective of *international* right), we must first have the internal revolution (the change of heart I earlier mentioned) away from the propensity toward evil (i.e. away from radical evil).

In support of this reading, I would point out that Kant writes in TPP: "All good that is not grafted onto a morally-good character is nothing but illusion and glistening misery. The human race will likely remain in this state until, in the way I have described, it has worked itself out of this chaotic state of national relations" (Kant TPP, 26). There is a sense in which Kant is here agreeing with my own claims in Section 4: namely, by dealing with problems between nations, we help move our own *moral* character away from evil. Kant can also be compatibly understood to be agreeing with Munzel's position, in that: without any attempt to change one's propensity toward evil, the nation is for sure doomed to not be able to satisfy the conditions set forth by the preliminary articles.

The first preliminary article deals with signing peace treaties. All treaties must be signed with the intention to not go to war (Kant TPP, 8:343-344). Since *states* cannot have intentions, Kant must be referring to the people in those states, through their representatives per the republicanism explained in the first *definitive* article. It seems like states might worry, especially if they are in a voluntary congress with other states, that other states within and outside of that congress might betray the treaty. Thus, a state might be motivated to sign what, Kant says, amounts to a mere truce. Rather than making commitments to actual peace in the hopes that your enemy will work toward that same peace, the state worries first, and perhaps only, about its own safety. So long as states have not resolved to work together peacefully, this will always be a problem for peace treaties. The point is that if a state signs these treaties in good faith, even if the state is betrayed and ultimately destroyed, it has shown outwardly that its only motive would have to be ethical, rather than merely juridical. In other words, the citizens would be much more likely to influence their state to sign truces, were they worried only about survival or power. But citizens who care about the motive of duty and preservation of their freedom will influence their states to sign actual peace treaties. This shows, since under normal conditions a state cannot trust other states, that states must have ethically minded citizens, since they normally have no other motive other than that of duty to sign good intentioned peace treaties.

The subject of the second article deals with vassal states. All states must be treated as sovereign and, therefore, not acquirable or rutable by any other state (Kant TPP, 8:344). Again, states cannot have intentions; so, everything said here applies to the people within those states. Sometimes it is easier to allow one's state to be acquired in

this way, because it confers a benefit; similarly acquiring a state might confer a benefit. Kant seemingly gives us the example of getting troops from the parent nation, or, similarly, giving troops to the parent nation. He points out that when this occurs, and the two states do not have the enemy in common that the troops are fighting, the “subjects are used and wasted as mere objects to be manipulated at will” (Kant TPP, 8:344). The benefit of combining resources is again a result of not trusting other states, aside from those involved in your vassalage agreement. So, if the state is not acquired by another state and does not own another state, then that shows that the people have an ethical motive for the same reasons listed before.

The third article tells us that we should gradually diminish our standing armies. As I pointed out in Chapter 1, it seems to me this applies today directly, and seems also to apply to instruments of war (such as nuclear weapons) (Kant TPP, 8:345). Kant himself makes the analogy between standing armies and keeping a large warchest (i.e., a lot of money). Money that is saved can be used for war. A state can want to keep these ‘standing armies’ (whichever version of this applies to the state) for protection. But so long as they have them, other states will (and war is still very much possible). Since other states will have them, though, it follows that any state which chooses to start diminishing its own army, even if this diminishment effectively makes them less prepared for the next war, could have no other motivation than a moral one.

The fourth article prohibits any nation from contracting debt to another nation, for the purposes of any “foreign affairs” (Kant TPP, 8:345). This prohibition goes both directions. If you borrow money in order to conduct foreign affairs, then that money can be used for war, and in fact constitutes a kind of infinite war chest, where there is no

actual limit to the amount of money you can spend on a war, because your economy borrows as a matter of standard economic policy. If you lend the money, then you potentially financially cripple other nations, which violates their sovereignty as well. That said, there are plenty of reasons a state would want to do this, and not all of those reasons have to do with going to war. A state might be motivated to lend money to another nation because that nation plans to work with them to solve some external problem common to both nations. Regardless, if a state chooses not to lend or borrow for the purposes of foreign affairs, then since they would be ignoring motivations to lend or borrow, they must be acting from a kind of moral center.

In the fifth article, states are prohibited from involving themselves in the governance of other states (Kant TPP, 8:346). But states have a motivation, so to speak, to do this when the government of another nation attacks its own citizens, or when a state shows itself to be violent and unable to form peaceful relations. While we certainly find this motivation, my idea is that states will worry that states different enough from itself are unlikely to create peace. Thus, we get things like American colonialism (e.g., the taking over of native American land). When a state stops this kind of behavior in a world where there really are nations that are warlike, it shows that there is an ethical core to that disposition.

Basically, the sixth article prohibits performing actions during a war that would make a peace harder, if not impossible to attain (Kant TPP, 8:346). Kant uses examples like assassination, but he is referring here to any action that an enemy nation would consider a show of untrustworthiness. For example, if during a war, civilians are targeted, it makes it difficult to trust the nation who targets civilians during peace time. Frankly, it

makes it difficult to even trust that nation enough to have peace. However, many states, whether powerful or not, end up using these tactics in order to stop what they believe to be a worse outcome. For example, the nuclear bombs dropped on Hiroshima and Nagasaki supposedly was a calculated move on the part of the US to stop Japan and show Germany that it would be a good idea to surrender. Another example would be when certain less well-off countries attack the civilians of more powerful enemy countries, because they are easier targets than the military, or because they perceive those civilians as the enemy. States have motivations to act this way; this is certain. Thus, since we live in such a violent condition, any state that would actually achieve this article reveals the moral motivations of its populous (as goodly).

In each case, there was an implicit suggestion that the people change from having non-moral motivations to having moral ones, and that the states therefore reveal this change of heart among the citizens. What I think could be good further research would be a discussion of how a state's coming to actualize these articles is itself an indication that the state has gone from being a JS to a kingdom of virtue. There are problems with this, as these articles are really about the JS itself, according to my own discussion of this in Chapter 1. That said, I think that some of what I suggest *here* about the articles of peace must follow, in some degree, because it is undeniable that the people in the state have to morally grow in order to achieve these articles (whether that is juridical or also ethical growth is the issue I am trying to settle here). Perhaps, since the JS is an ideal, and the articles of peace will never really be achieved by any state, one could argue that, in line with what I have said about civil and cosmopolitan right, trying to achieve that JS *just is* what counts as trying to create the KofE.

Conclusion

In this chapter, I hope to have shown that right depends on ethics, and how this dependence works. We needed to show that ethics is necessary for right, *and* that right is sufficient for ethics. To show the former, I explained that we require freedom, as the manifestation of the ethical, in the UPR to make sense of the transition from private to public right. Explaining that right is sufficient for ethics turned out to be far more complex. It was pointed out that public right includes both cosmopolitan and civil right, and that the duties of love and respect, respectively, are analogous to them. Furthermore, it turned out that the necessary tension between love and respect and that between cosmopolitanism and patriotism are also analogous. On further analysis, we found that the duties of love grounded cosmopolitanism, and the duties of respect grounded patriotism. Thus, it was surmised that the ethical tension grounded the juridical tension. On the assumption that this is the case, I explored how recognizing, and dealing with, the juridical tension can help us to recognize and deal with the ethical tension. But in order to make sense of this, I distinguished first between the duty making principle and how to decide what to do. If the CI were the ground of all ethical decisions *alone*, then this would run contrary to Kant's whole discussion of balancing the duties of love and respect. This allowed me to use his discussion of this tension as the 'way to decide what to do.' However, in order to make the claim that merely considering the tension and dealing with it is enough, at the juridical level, I needed to draw a picture of Kant's motivational ontology that showed that trying to achieve juridical balance counted, however indirectly, as acting from respect for the moral law.

This project represents years of interaction with Kant's fundamental practical texts; and something I find absolutely amazing about Kant is how such a mathematical system can really drive home a simple existential point. In life, we will try to accomplish things, and we will end up doing a lot, but not necessarily accomplishing everything we set out to. We can consider this failure, but failure is *not trying*. To try to do a thing *just is* to do a thing. This discussion merely focuses on Kant's recognition of this in his practical philosophy. The standard for his moral system has to be *simultaneously transcendentally ideal and yet obtainable*. It is impossible to achieve full respect for the moral law, because we have inclinations and because we cannot know our own motives; thus, controlling these motives is epistemically problematic. It is impossible to create the JS, or to really be in the KofE, for similar reasons. But Kant tells us that a human being counts as having acted from respect for the law *if they try*. Similarly, perhaps, trying to achieve the JS *just is* achieving it, and trying to think of oneself as self-legislating member of the KofE *just is* thinking of oneself that way. Kant doesn't say either of the latter two, but these are worth considering, given what Kant says about respect. Nevertheless, I hope this discussion has illuminated the reader's understanding of the connection, as I think Kant saw it, between the JS and the KofE.

Appendix

Further Research

As with most dissertations, mine makes its case but leaves open many unanswered questions. While I hope to have kept my reasoning fairly convincing and logical, it would be remiss for me to think of my work as ‘flawless.’ In fact, in many places, I write that this or that topic is ‘too big’ to be covered in this dissertation. Such admissions are meant to keep my discussion honest, and make the limits of my work clear. For example: As I point out at the end of Chapter 4, my project has left open that, in order to finish connecting the KofE and the JS, we *may* need to elaborate further on how international right connects these two ideals. Here, I honestly admit that the discussion *may* still not be finished, and while I do argue for my thesis, it cannot be denied that international right might need more discussion. Time and space have placed limits on what I can do in a single dissertation. In addition to international right, there are other topics, while much more minor in their impact, that need more discussion *in order to continue* my project. As promised in the ‘Introduction,’ this section is devoted to those topics. In what follows, I discuss each topic (insofar as it was relevant to the dissertation; some repetition will thus be necessary), and I recommend further research articles and books that would be needed to discuss the topic in more detail. The order of topics is the same as they come up in the dissertation; and I have only selected a few to focus on, in order to keep this appendix concise.

How Many People in a Person?

In Chapter 1, I discuss Kant’s three authorities in the state: the legislature, the ruler, and the judiciary. Each authority is said to be ‘embodied in a *person*’ (Kant *MM* 6:313). Kant is fairly clear: a person has dignity, and is thus valued higher than any price (only *things* have market value). A rational being is considered a person, while

everything else has a price (i.e., 'is a thing'). In the *Groundwork*, Kant never really gives us any examples of 'persons,' other than *as individuals*. But in *MM*, Kant seems to suddenly speak of persons that can be made up of *multiple people*. While the dissertation does not focus on this issue, it requires mention, since an astute reader might wonder how Kant is able to reconcile issues of collective agency and dignity. A ruler's dignity and moral agency seems fairly clear, since ruler's are typically individuals: she has *a right to* make whatever decisions she wants, so long as they fall into the allowable powers of the ruler (i.e, to punish, make decrees and statutes, and appoint magistrates; in other words, to enforce the law). However, when the legislature makes a law, agency becomes somewhat murky. The legislature is said to be an agent (a 'whole' person), but it is composed of legislators, each of whom certainly shares in that agency. Consider an unjust (read 'immoral') law. If the legislature passes that law, but one legislator voted against it, then we seem required to say that the legislature has perhaps failed to fulfill its duty, but that one legislator has succeeded. But Kant does not seem to leave any room for this; in fact, it seems that, for Kant, the legislature is the 'person' to whom the wrong is imputed, and the legislator has not succeeded *in spite of* the legislature of which he is a part. One can readily see a similar issue coming up with judges via their role in the judiciary. Whether a person can be made of multiple people seems settled in Kant's mind, without having explained the details of how we make sense of goodly or evil legislators or judges, *in their role in a given legislature or judiciary*, respectively.

Whether Kant can account for collective agency at all has been the subject of recent debate. Some, like Matthew C. Altman, in his book, *Kant and Applied Ethics: The Uses and Limits of Kant's Practical Philosophy*, argues that Kant cannot account for

collective agency at all (Altman 2014, 236-237). As against this, in a recently published article, entitled ‘Kantian Moral Agency,’ Amy MacArthur explores the idea of a ‘group maxim’ in order to try to solve this issue as it relates to collective responsibility (MacArthur 2019). Needless to say, completely fleshing out Kant’s JS, as I attempt to do in Chapter 1, would require more research to determine how, and to what extent, Kant *does* (or does *not*) deal with collective agency.

Does G-d have a place in Physico-Theology?

In Chapter 2, I attempt to show essentially that through the fact that we reason ethically at all, one can derive the highest good, including its components: G-d, immortality of the soul, and freedom. This derivation, recall, was a reflective, yet *objective*, proof; in other words, what was proved was that these three are *postulates* of pure *practical* reason. That is to say, in virtue of being ethical, we must believe in G-d and believe that we have (or are) immortal souls. In the course of my discussion, I bring in Kant’s distinction, from *CPJ*, between physico- and ethico-theology. He explains that if you limit yourself only to *theoretical* reason (and thus only to the law of cause and effect), then it is more difficult, if not impossible, to derive any of these postulates. In the dissertation, this distinction between ethico- and physico-theology is initially brought up strictly in the context of the postulate of *G-d*. I point out there that Kant’s argument is that a physico-theology would at best suggest an intelligence with sufficient power to have created the world, with some original purpose in mind. But G-d is certainly more powerful than some extremely advanced, self-directed alien entity capable of creating a universe; thus, Kant’s position is that this really does not qualify as a proof of *G-d*’s existence, let alone as proof of belief in G-d as a postulate. There may be details to

Kant's argument that show an important distinction between what it is that we are authorized to believe in *through practical reason*, as against those things we can show exist through cause and effect. All that is proved in Chapter 2 is that Kant believes that as result of reasoning ethically *we have to believe* in a being who not only created the world, but also can transform it from the Kingdom of Nature into the KofE. Not only that; this being must have knowledge of the virtue of each of us individually so that we can each get as much happiness as we deserve. Kant calls this being G-d. But perhaps he falls into the same trap in practical reasoning, as he does in theoretical reason. Admittedly, the only thing that is proven through practical reason is that we must believe in this being (not that this being exists). But this 'G-d' does not check all the boxes either. It would seem insurmountable, even within practical reason, to show that the omnipotent G-d of the bible must be believed in. Perhaps, then, the being that Kant says could come out of physico-theology has enough attributes to count as G-d inasmuch as the G-d we must believe in, through ethico-theology. To deal with this issue, more discussion of Kant's *CPJ* would be required.

Some authors seem to think that Kant had preconceived metaphysical commitments to the existence of G-d, while others, like myself, seem to limit G-d to practical reason alone. Heidegger notices this problem in his *Wegmarken*, wherein he argues that this issue, specifically as it concerns G-d, is "the secret thorn" that drives all of Kant's critical philosophy (Heidegger 1976, 449). Edward Kanterian, in his recent book, entitled *Kant, God and Metaphysics: The Secret Thorn*, continues on this theme by arguing that Kant's system is essentially religious at the core (Kanterian 2018). While both Heidegger and Kanterian seem to take for granted some theoretical religious

assumptions on Kant's part (like the existence of G-d), there are others who argue, as I do in Chapter 2, that Kant's place for G-d is *only* to be understood through *practical* belief. For example, Stephen Palmquist argues, in his article 'Kant's Religious Argument for the Existence of God: The Ultimate Dependence of Human Destiny on Divine Assistance,' that Kant successfully proves G-d as an internal law giver, once the focus is shifted from metaphysical to moral reasoning (Palmquist 2009).

Is Radical Evil really necessary?

Kant starts *Religion* by making the case that religion is unnecessary from the perspective of giving moral force (i.e., the motivation to act morally). He then continues by explaining that while unnecessary in terms of providing moral force, it still can be discussed in terms of the goals that, nevertheless, accompany our moral motivation of respect. If a person acts from respect, they also, as I argue partly in Chapter 2, rationally believe that the KofE will happen (i.e., they, on some level, will this kingdom to come about). He even explains that there are ways to discuss things like G-d and the immortality of the soul without falling into heteronomy. To worship G-d as part of how the highest good (the KofE) can be hoped for is fine; however to commit *immoral* acts 'in the name of G-d,' or even to act in accord with what morality requires of us *as a result of G-d's having commanded it*, is to diminish "even the most sublime object" (Kant *R*, 6:3-4, 6-8). But even if discussion of religion is relegated toward that for which we hope, and nothing else, radical evil seems entirely out of place in that analysis. The propensity toward evil (radical evil or 'original sin') does not seem to be a positive thing associated with bringing about the moral world. In fact, Kant's discussion of original sin explicitly describes radical evil as both something we all have from the start, and something for

which we are each responsible. So, on the one hand, Kant's claim could be read such that everyone *contingently* has original sin; or he could be read to be saying, as I think he intends, that everyone *necessarily* has original sin. As I point out at the end of Chapter 4, original sin (or 'radical evil') may be able to help explain how a state can finally become *just*. In this way, then, perhaps original sin has a *necessary* place in the Kantian system, as Munzel argues. However, original sin could be out of place, especially given that it requires Kant to go through some metaphysical hoops to explain how a person can have original sin *originally* and be responsible for it. Certainly, in Christianity itself, original sin is understood this way. But Kant's passage about how sin is passed through semen (and there, originally from Adam) starts to ironically fit Kant's own satirical description of metaphysicians: featuring two men milking a billy-goat and using a sieve to catch the milk (Kant *R*, 6:79-80; *CPR*, A 58/B 83).¹⁹⁵

Some argue for an even more important place for original sin than merely in the creation of the JS (i.e., that radical evil is necessarily part of every person); while others argue that radical evil is Kant's failed attempt to reconcile his enlightenment philosophy with his Christian background. In his article, 'Sin and Freedom,' Roger Trigg argues that our corrupted human nature (or original sin) "is an indispensable pre-condition of morality and a presupposition of religion" (Trigg 1984). In other words, Trigg reads Kant as having correctly pointed out an important feature of human nature. As against this, Paul Formosa, in his article entitled 'Kant on the Radical Evil of Human Nature,' argues that Kant only succeeds at showing that radical evil is contingently "very widespread"; he

¹⁹⁵ This satirical description of metaphysicians is cited by Kant, vaguely, by writing "as the ancients said" just before giving the description. It actually comes from Lucian's 'Life of Demonax' (Lucian 2007, 380-387).

does not succeed, on Formosa's account, at showing that radical evil is universal to all human beings, let alone that it is *necessarily* so (Formosa 2007).

Kant's Categorical Imperative(s)

In Chapter 3, in making my case for the connection between the UPR and the CI, I run into the question of whether Kant intends for there to be a single or many categorical imperatives. While my argument centered more on how particular categorical imperatives are connected, I simply passed over resolving the implicit conflict with Kant's claim, in the *Groundwork*, that there is *only a single* categorical imperative. The implication of my argument, regarding this issue in particular, is that there is only one, but that they are all restatements of the supreme principle of morality. However, this is not universally agreed upon. One reason this is such a big issue is that Paul Guyer himself, in his article entitled 'The Possibility of the Categorical Imperative,' points out that the various 'formulations' of the CI are not always expressed as imperatives (e.g., neither the formula of autonomy, nor the formula of the Kingdom of Ends, are expressed as imperatives) (Guyer 1995). Guyer is actually someone with whom I engage in the dissertation and it seems that more work could be done on how Guyer's interpretation of the connection between imperatives coheres (or not) with my own. Nevertheless, the issue of the one and many categorical imperatives would remain an issue. Regardless of potential disagreement, Guyer seems to implicitly share my intuition that there is really only one categorical imperative; with the notable difference that he views the UPR as a completely separate, yet derivable, categorical imperative, while I do not.

Some argue, however, that each formulation is actually an entirely separate, and semantically distinct, imperative; while others argue more in line with my and Guyer's

intuition. In the 1950s, there was lively debate about this subject. John Kemp, in his article entitled ‘Kant’s Examples of the Categorical Imperative,’ argues that each formulation not only differs in meaning, but also “the method by which they are applied” (Kemp 1958). He is arguing against Jonathan Harrison who had argued for a position very similar to my own, in which other formulations are merely restatements of the categorical imperative (Harrison 1957). More recently, in their article entitled ‘Logical Relations Between Kant’s Categorical Imperatives and the Two Golden Rules,’ Hans-Ulrich Hoche and Michael Knoop actually argue that the CI is derived once the golden rule is universalized (Hoche and Knoop 2010). An important consequence of what they argue is that the categorical imperatives are derived from *the* CI and that the CI itself is derived from an antecedent golden rule. More recently, as mentioned in the dissertation, Adam Cureton, in ‘A Contractualist Reading of Kant’s Proof of the Formula of Humanity,’ finds such derivations problematic; whereas Oliver Sensen, in ‘Duties to Others from Respect (TL6:462-468),’ argues for a derivation much in line with my own conception that the supreme principle can be said to ‘ground’ the CI and the UPR (Cureton 2013; Sensen 2011b).

Did Kant conceive of *mathematical* postulates as derivable propositions?

In Chapter 3, I discuss Guyer’s attempt to show that to call a proposition a postulate does not infer that the proposition is not derivable. He does this, recall, by appeal to Kant’s own comparison between mathematical and practical postulates. While it might seem natural to think of mathematical postulates as underivable axiomatic assumptions, Guyer points that Kant “does not actually say that” (Guyer 2005, 216). From this lacuna in Kant’s own discussion, Guyer attempts to show that the comparison

between mathematical and practical postulates is meant to bring out that *practical* postulates can still be in need of a deduction. I have already responded to this in the dissertation, but it should be noted that Guyer's implicit claim that Kant thinks that mathematical postulates are not derivable is somewhat contentious. In his recent article, 'Kant on Parallel Lines: Definitions, Postulates, and Axioms,' Jeremy Heis argues that Kant's view of *indemonstrable* axioms implies that all mathematical fundamental propositions, *including postulates*, are indemonstrable (Heis 2020, 175). Heis is responding to Michael Friedman's book, *Kant and the Exact Sciences*, in which it is argued that Kant has a unique way of understanding indemonstrable axioms that would set it apart from his account of the certainty of mathematical *postulates* (Friedman 1992).

There is a history of this discussion as early as Bertrand Russell's own attack on Kant's mathematical philosophy, in his book *Introduction to Mathematical Philosophy*. In it, Russell points out that Kant's theory of mathematics was influenced by the "geometers of his day," who "could not prove their theorems by unaided argument, but required an appeal to figures" (Russell 1919, 145). Kant's mathematics then presumed the role of intuition, which meant that mathematical proofs could not be merely *analytic*, but needed to be synthetic. However, since the mathematicians of Russell's day were so interested in logical rigor that they would surely reject Kant's need for appeal to intuition, Russell also rejected Kant's view of mathematical proof (Russell 1919, 145). If, as would seem to follow, mathematical postulates are purely *analytic*, then that might mean they are not derivable. Needless to say, given that there is still discussion of this 100 years after Russell, it would be remiss of me to exclude this small discussion of Kant's mathematical philosophy entirely from my work on Kant's practical philosophy.

Furthermore, this is especially important to include, since Guyer's position in favor of dependence (recall from Chapter 3) depends heavily on Kant's not having claimed that mathematical postulates require no derivation. Given the issue, one might even wonder if Guyer's position depends on an appeal to ignorance rather than primarily on Kant's actual mathematical philosophy; but without actually discussing this in far more detail, I would not venture to make, nor argue for, such an accusation.

Is Kant Compatibilist? Even so, why distinguish between the will and choice?

At the end of Chapter 3, in making my claim that freedom is how ethics is manifest in right, I discuss Kant's negative conception of freedom, which is that the will is neither free nor unfree; but the ensuing distinction between will and choice, where choice is the only faculty that really is free, in the sense that we think of our having 'free will,' generates a new problem. What purpose does it serve to distinguish between will and choice? Is Kant's account of human choice and responsibility *compatibilist*? Answering either of these questions leads to deep, but connected, rabbit holes. One answer we might give is that Kant's account of the distinction between will and choice just reveals a distinction between faculty and use of the faculty (shovels are for shoveling, but shovels do not shovel without someone using the shovel). However, J.B. Schneewind, in his article 'Voluntarism and the Foundations of Ethics,' argues that Kant was an anti-voluntarist: that is, he argued that Kant rejected the notion that morality flows from the will [of G-d] itself. Instead, Schneewind points out, Kant assumes that the source of morality is found in reason (whether G-d's or otherwise), while maintaining that all laws should be followed as if coming from G-d (Schneewind 1996). Thus, what we would task a voluntarist to justify might not be required for Kant. For example,

Kant's anti-voluntarist presumption forces him to work within the confines of that presumption; but he is not simultaneously tasked with justifying his rejection of voluntarism. In *MM* and the *Groundwork*, and even in the critical philosophy, Kant is not as interested in this as we might hope. Nevertheless, Schneewind's view is that Kant's positions, like the view that the will is not free or unfree, just falls out of an anti-voluntarist view; after all, if G-d's will is neither free nor unfree, then we can make sense of his will's being determined, as Kant argues, by [practical] reason. Only humans, *perhaps*, with their capacity to 'choose' would be free.

Schneewind's answer (to why Kant distinguishes between the will and choice), however, leaves Kant no less shipwrecked when it comes to the question of what role Kant's determined will plays in his seemingly libertarian view of choice. Recall that Kant even says of choice that the perception of free choice does not entail that we could have chosen otherwise. Benjamin Vilhauer, in his article 'Kant and the Possibility of Transcendental Freedom,' argues that Kantian *transcendental* freedom involves the claim that humans have control over "some of the deterministic laws that govern their psychological states"; he thus calls Kant a "determinist libertarian" (Vilhauer 2014, 105). As against this view, Simon Shengjian Xie, in his article 'What is Kant: A Compatibilist or An Incompatibilist? A new interpretation of Kant's solution to the free will problem,' argues that while Kant is an *incompatibilist*, he fails to defend that position adequately (Xie 2009). Thus, Kant's distinction between will and choice seems to bring up many questions about how Kant resolves the problem of freedom and determinism, even when the discussion is confined to his practical philosophy.

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Author Biography

With this dissertation, Julian Katz finishes his PhD at Tulane University, where he has been a philosophy Instructor for the past eight years. His research interests include Kant's moral, religious, and political philosophy, as well as Rousseau's political philosophy. After earning his bachelor's in philosophy, with honors, from the University of New Orleans in 2009, he did graduate work at Ohio University from 2010 until 2012. He participated in the Tocqueville Project Summer Seminar at the University of New Orleans in 2015, and then earned his MA in Philosophy from Tulane in 2016. In the 2016-17 academic year, he earned a graduate research fellowship at Tulane's Murphy Institute. Since then, in 2017, he presented his professional work at several conferences in the U.S. and one in Europe, including, but not limited to: New Mexico Texas Philosophical Society, Long Island Philosophical Society, and ECPR General Conference at Universitet i Oslo. In 2018, he published his first article in *Public Reason*, which is based out of Bucharest.

Julian was born in New Orleans in 1981, and carries with him the legacy of his European and Russian Jewish ancestry. His father, Myron, is a second generation New Orleanian whose roots go back to Russia; and his mother, Myriam, is a first generation New Orleanian from France, whose roots go back to Lithuania. He tends to do his work best at local coffee shops in the neighborhood of Tulane. For fun, he likes to walk in Audubon park with Arthur – his small albino, deaf dog.