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Hegel's Empty Formalism Critique

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HEGEL'S EMPTY FORMALISM CRITIQUE OF KANT'S MORAL THEORY

by

AUJ KAUSAR

Under the Direction of Sebastian Rand, PhD

ABSTRACT

In the *Elements of the Philosophy of Right*, G.W.F Hegel asks: can the Categorical Imperative (CI) determine our duties? Though Kant thinks that the CI can indicate to us (a) what our duties are, and (b) why we are obligated to do them, Hegel thinks that Kant is mistaken. According to Hegel, the CI is not able to do either (a) or (b) because it employs only a universalizability test and the criterion of non-contradiction to give an account for both. If Kant is able to direct us to our duties from the CI, it is only because, in Hegel's view, Kant has presupposed certain content-filled principles in the universalizability test. However, Kant is not justified to bring in outside content because of his formalist commitment to adhere only to the form of universality when conducting practical legislation.

INDEX WORDS: The Categorical Imperative, Empty Formalism, Hegel, Kant, Freedom, Duty

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DEDICATION

To my friends who do philosophy—for having made it possible to get through to the end.

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LIST OF ABBREVIATIONS

GMS *Groundwork of the Metaphysics of Morals*

MMS *Metaphysics of Morals*

Natural Law Essay *The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Science of Law*

PR *Elements of the Philosophy of Right*

1 INTRODUCTION:AN OVERVIEW OF THE PROBLEM

In the *Elements of the Philosophy of Right (PR)*, G.W.F Hegel raises an important question about Kant's moral theory: Can the Categorical Imperative (CI), the supreme principle of morality, give us a determinate account of our duties? According to Hegel, though Kant himself thinks that the CI can clearly indicate to us what our duties are and why we are obligated to perform them, Kant is mistaken. The CI can neither (a) clearly indicate to us what our duties are nor (b) spell out clearly what makes a particular duty obligatory. The CI is not able to do either (a) or (b) because it employs only a universalizability test and the criterion of non-contradiction to give an account of both (a) and (b). If Kant is able to direct us to our duties from the CI, it is only because, in Hegel's view, Kant has presupposed certain content-filled principles in the universalizability test. However, Kant is not justified to bring in outside content because of his formalist commitment to adhere only to the form of universality when conducting practical legislation.¹

Most Hegelian discussion of the topic (Sedgwick, Wood, Korsgaard) centers around the idea that, first, Hegel thinks the CI is by itself empty of content and that, second, because of this lack of content, the CI cannot demonstrate the full range of actions that are *permissible*.² I argue, however, that Hegel thinks that Kant *presupposes* content within the formal procedures of the CI

¹ By "outside content" I mean empirical content from outside the CI should not be brought in during the process of practical legislation to help justify how the content expressed in the maxim is a duty. It is important to distinguish this additional content from empirical facts, which Kant says in the *Metaphysics of Morals (MMS)*, can be brought in during the process of practical legislation.

² With the exception of McCumber. John McCumber, in *Hegel's Mature Critique of Kant*, interprets Hegel's critique as Hegel looking at the universalizability test from the point of view of a philosopher "who is trying to see whether a particular *content* – a norm or social practice – is a duty, that is, a rationalized drive" (166). McCumber does not think that Hegel's critique concerns a moral agent "who must decide whether a given *action* is *required* by duty" (*ibid.*) I agree with McCumber that Hegel's critique is looking from the perspective of a philosopher, however, I hold that since Hegel thinks that Kant as a philosopher presupposed content within the CI, these presuppositions also have consequences for the moral agent trying to determine her duty. That is, the moral agent might not be on board with the presuppositions that Kant makes in the universalizability test, and this would produce differing results than what Kant thinks the CI would produce in showing whether a maxim is moral or immoral.

(i.e., the universalizability test and the criterion of non-contradiction) in order to show which maxims of actions are *obligatory*. To demonstrate that Kant presupposes content within the universalizability test, I will take a look at three examples Hegel provides in *The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Science of Law*.³ The first example, converted deposits, will show that, on Hegel's view, without presupposing some moral content in the CI, maxims of theft can pass the universalizability test. The second example, the maxim of helping the poor, will show that, on Hegel's view, obligatory maxims can end up annulled when universalized. Kantians have responded to Hegel's examples by arguing that Hegel has misinterpreted Kant's account of which variety of contradiction is involved; Hegel seems to think only of logical contradiction, but an interpretation involving practical contradiction can better show which maxims are moral and which are immoral. However, I will argue that regardless of which sort of contradiction we read as Kant endorsing when applying the universalizability test, the test can generate the right kind of contradiction or non-contradiction only when we have a "contentful" understanding of the universalizability test. Lastly, Hegel's third example, the duty to defend one's country, highlights the tension that exists between demonstrating what one's duty is at the level of universality and the principle's helpfulness in articulating dutiful action. Moreover, the example will show that Hegel thinks that one cannot separate form and content when providing an account of the moral ground of doing one's duty to the agent. Hegel thinks one must, necessarily, delve into empirical content to explain the obligation one has to do a particular duty.

³ Hereon to be referred to as the Natural Law essay. All citation will be from the following edition: Hegel, G.W.F. *The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Science of Law*. trans. Knox, T.M. (University of Pennsylvania, 1975).

2 KANTIAN FORMALISM

2.1 What constitutes Kantian formalism? Why does Kant take a formalistic approach to morality?

In the Preface to *GMS*, Kant asserts that his task is the “identification and corroboration of the supreme principle of morality” (4:392). Kant’s task in the *GMS* is to both present to us what the supreme principle of morality is (SPM) and show why we are obligated to follow it. However, before identifying the SPM, Kant makes it clear that part of his project in providing us the SPM is to also provide it in such a way that it is “cleansed of any empirical generalizations” (4:388). Kant believes that moral philosophy has thus far been impure because philosophers have tried to show that the basis of morality depends on empirical determinations of human beings. Moral philosophers have sought to establish the ground of our moral obligation, for example, on our natural sentiments or fellow-feeling for humanity, or upon empirical circumstances that human beings face. Other philosophers have explained the origin of all our moral deeds to be self-interest or self-love.⁴ However, such discussions of morality, according to Kant, have led us to an indefinite understanding of moral principles and morality. Kant states that “All philosophy in so far as it is based on grounds of experience can be called *empirical*, that which presents its doctrines solely from a priori principles *pure philosophy*” (4:388). In contrast to empirical philosophy, pure philosophy explains the basis of our moral obligations with a deductive, analytical approach, and according to principles that can be found within our common moral reason whose truth value we can ascertain independently of experience (what Kant calls “a priori” principles).

⁴ Hill (2002), 15.

The a priori foundations of morality constitute one aspect of Kant's *formalism*. More broadly, within the Kantian framework, that formalism consists in all those aspects of the moral theory that are used to remove, separate, or prevent empirical conditions from being taken into consideration when the agent is looking to fulfill moral obligations. In the Preface to the *GMS*, Kant gives several reasons why his moral theory has such a strict separation from what is empirical from what is a priori in explaining our moral obligations. First, Kant states that "morals themselves remain subject to all sorts of corruption as long as we lack that guideline and supreme norm by which to judge them correctly" (4:390). It is not enough that our actions merely conform to the moral law, for even "the immoral ground will indeed now and then produce actions that conform with the law" (*ibid.*).⁵ In other words, as an agent, I can do my duty not from a fully virtuous motive, but, for example, because doing my duty personally benefits me in some way. However, if doing my duty is contingent upon some prudential benefit, then I may be inclined to *not* do my duty in circumstances in which I gain no benefit at all when carrying it out. Even more, I might not be inclined to do my duty in cases where doing my duty meant I would be putting myself in less than favorable circumstances. The a priori foundations of morality are to counter such indefinite understanding of moral principles. Kant seeks to establish the foundations of morality and ground moral concepts in such a way that there is no confusion about what one *ought to do*.

Kant's reason for establishing a priori foundations (and other formalistic aspects) in his moral theory may be found most clearly at the end of the first section of the *GMS*. Kant states that within the human being there arises "a propensity to rationalize against those strict laws of

⁵ Like Kant, I will use the term "moral law" in two different ways. For Kant, regular moral rules like "do not lie" are considered moral laws. To distinguish between these moral laws and the supreme principle of morality, the CI, I will use the phrase "supreme moral law."

duty, and to cast doubt on their validity...where possible, to make them better suited to our wishes and inclinations” (4:405). In Kant’s view, human beings are creatures prone to avoid doing their duty when it is possible. This propensity of rationalizing one’s actions against duty is termed the “natural dialectic” (*ibid.*). Though human beings have their reason to guide them towards doing their duty, we are also creatures that have inclinations that can strongly influence and determine our actions such that we avoid doing our duty, or act contrary to it. Kant is painfully aware of the limitations of the human being. In Kant’s view, human beings are creatures like any other: they are part of nature like all other creatures, such as non-human animals. Human beings have some characteristics in common with non-human animals: both have instincts, drives, desires, and inclinations. However, human beings are distinguished from non-human animals in one important respect: they are creatures who have the use of reason, and thus, are considered rational beings. Human beings’ use of reason elevates them in nature because it gives them the capacity to do otherwise than what their instinct or inclinations drive them to do. This ability also makes them capable of achieving other ends that non-human animals are incapable of achieving. Non-human animals are incapable of representing laws to themselves and acting otherwise than what their instinct leads them to do. They are bound to the causality of the laws of nature in this respect. Kant, however, is also aware that though human beings have their use of reason and “reason issues its prescriptions unrelentingly” (*ibid.*), human beings can still be strongly influenced by their inclinations and still do otherwise than what their reason deems right to do.

Thus, we may see Kant’s formalistic approach to morality and moral concepts as a way of countering the sensibilities and weaknesses of the human being. In Kant’s view, the formalistic aspects constitute the strength of his moral theory because it better equips human

beings with the proper tools to combat the natural dialectic, and better allows them to achieve ends that only human beings, insofar as they are rational beings can achieve, that is, ends that are purely self-determined and not adopted from any external influences. When human beings achieve such ends, they have achieved autonomous freedom.

2.2 The good will and the concept of duty

In the first section of the *GMS*, Kant famously begins with an explication of the good will. Kant states of the good will that it is the only thing that is “good without limitation” (4:393), and that it is “good not because of what it effects, or accomplishes, not because of its fitness to attain some intended end, but good just by its willing, i.e., in itself” (4:394). Moreover, Kant believes that our reason as a practical faculty has been imparted to us “to produce a will that is good, not for other purposes as a means, but good in itself” (4:396). In order to make sense of this puzzling claim, Kant delves into explaining the concept of duty and when an action has moral worth. Why does Kant make this transition? As it turns out, the good will acts from duty and, thus, any actions brought about from the effect of a good will have moral worth. Kant believes that reason had to have been given to human beings to cultivate and produce the good will so that human beings could better achieve their natural end (4:396). And, as it will turn out, what the good will aims at is its own freedom; the natural end for human beings for which human beings have been given reason is, according to Kant, autonomous freedom.

Kant presents three propositions to make clear what counts as doing one’s duty and what merits such praise when the good will performs a dutiful action. The first element that must be present for an action to be considered dutiful is that the will determines the action *from duty* as opposed to merely *in accordance with* duty. Kant provides examples to show that when an action is done *from duty*, the action is not done out of (unreflective) natural inclinations or self-interest,

but from the incentive that the action is one's duty. Kant gives an example of one who wishes to end his life and has no inclination to continue living. Kant states that if the agent manages to preserve one's life not "from inclination, or fear, but from duty; then his maxim [a subjective principle of volition, or a general rule of conduct one abides by] has moral content" (4:397-4:398). Similarly, Kant gives another example of the friend of humanity, who finds joy in helping people. Kant explains that if the agent's mind were beclouded with grief, and the agent had no inclination whatsoever to help others, but still managed to do it from duty – "not until then does [the maxim] have its genuine moral worth" (4:398). What is common to both examples is that the agent has no inclination or empirical incentive to do the dutiful action, but *knowing* that the action is what duty requires, the agent manages to do it. They are both cases showing most clearly when reason, as opposed to sensible motives, is governing the will. If one's duty is done *from duty*, it seems that duty must be done *predominantly* from reason, and not from sensible influences of the will. Only actions that are done from duty merit praise, in Kant's view, because when the will is doing its duty *from duty*, the will is exercising its capacity to do otherwise than what the agent's natural inclinations incline the will to do. This capacity is something that human beings are able to achieve because they possess reason and, in Kant's view, elevates them beyond all other animals in nature.

Kant's second proposition on duty is that "an action from duty has its moral worth *not in the purpose* that is to be attained by it, but in the maxim according to which it is resolved upon, and thus it does not depend on the actuality of the object of the action, but merely on the *principle of willing* according to which...the action is done" (4:399-400.) For Kant, it is not the external action – of whether the action from duty is successfully conducted or not – but rather the inner principle that matters in determining moral worth. Or, another way of putting it, is that

Kant emphasizes examining with what sort of *reason or rationale* the agent is performing the dutiful action.⁶ In other words, for an action to be considered dutiful, it must have been done for a morally good reason, and this is what makes the action praiseworthy, and not what was achieved by the action. This view starkly contrasts to the consequentialist view that an action is good only if the effect of the action has brought about something good in the world. (This proposition also touches on what Kant mentioned earlier about the good will: that it is good not because it achieves some “hoped-for effect.”) Part of doing an action for a morally good reason means not doing it for an instrumental purpose, such as the action will promote one’s own personal ends or one’s own happiness, but for a reason that one considers intrinsically valuable.⁷ What could be a morally good reason to do one’s duty? The agent can give herself the reason that she should do her duty simply because it is her duty, and her duty requires her to do it.

When the agent is motivating herself to do her duty by giving herself such a (morally good) reason, the agent is acting from the idea that such a reason is good enough to act on and has *respect* for it. This idea follows closely on Kant’s third proposition that “*duty is the necessity of an action from respect of the law*” (4:400). We can understand that the third proposition is a more complete spelling out of what is going on within the agent’s principle of willing itself when the agent performs a dutiful action. Kant gives an example of an agent who has an immediate inclination to carry out beneficent actions but Kant states that the action does not have moral worth. The reason why the action would not have moral worth, I think, is made clear by this third proposition; the agent does not seem to be acting from a firm principle or rationale when carrying out the action. Based on Kant’s own characterization, the action seems to be done from

⁶ Uleman (2010) states, “whether my will is dutiful or not, hence good or not, is a matter of the *kind of reason* I allow to guide my will, the *ground* of action I accept” (84).

⁷ Hill (2002), 24.

the feeling of joy or pleasure – a kind of impulsive instinct, rather than an act of deliberation and having an understanding of the duty of beneficence. In the second case of the grieving friend of humanity, there is no immediate inclination present to do a beneficent action, however, in order for the individual to be able to perform the dutiful action, there seems to have been clearly another motivational force present that helped the agent to do duty: knowing what was one's duty and understanding the significance of doing one's duty. When an agent understands the significance of doing her duty, in Kant's view, this understanding brings about the moral feeling of respect.

Respect is the only moral feeling Kant encourages for us to foster because, in Kant's view, it is not an inclination or feeling born out of sensible influences, but one born out of understanding the truth of the moral law. Kant states that "respect is a feeling, it is not one *received* by influence, but one *self-wrought* by a rational concept and therefore specifically different from all other feelings of the former kind" (17).⁸ The characterization of respect as a feeling that is "self-wrought by a rational concept" shows that, in Kant's view, respect is born out of first understanding the importance of the law, it is an "*effect* of the law on the subject and not as its *cause*" (*ibid.*). In other words, it is not that I first already have respect for a principle and then come to understand its significance, but rather the respect I develop for a principle is cultivated from an awareness of the principle's importance. Respect cannot take place without rational deliberation. Thus, for Kant respect is born out of our rationality. We cultivate respect for laws when we represent laws to ourselves. This ability to represent laws to ourselves, Kant holds, is also something we can do in virtue of our rationality. The representation of the law "can take place only in a rational being" (4:401). Only rational beings are capable of understanding

⁸ The quote is taken from Kant's own parenthetical remark in 4:402.

the importance of laws, principles, and concepts and being able to act in accordance with them through their representation. Non-human animals do not have this capacity—they are subject to the causality of the laws of nature and are driven by impulse and instinct.

It is the *will* that allows a rational being to represent a law to herself and legislate actions according to it. Kant gives various definitions of the will. Kant states that “The will is thought as a capacity to determine itself to action in conformity with the representation of certain laws” (4:427). In other words, the will initiates and chooses the grounds for action. However, Kant also states that “Since *reason* is required for deriving actions from laws, the will is nothing other than practical reason” (4:412). When the will represents reasons to itself and is trying to choose among the grounds for acting, the will uses its own reasoning to determine itself to action.⁹ Moreover, Kant states that the will has the capacity to choose “*only that* which reason, independently of inclination, recognizes...as good” (4:412). The will desires to act on reasons that are intrinsically good. When the will’s own reason (pure practical reason) determines the will, the will is determined to act on a morally good end. However, the will is not always determined by reason, otherwise, we would always act from morally good reasons and possess a perfect will. For human beings, inclinations may also determine the will, in which case the will determines itself to action through an instrumental reason looking to promote the agent’s own personal end.

Since the will in rational creatures, such as human beings, is not altogether good, and does not always conform to reason, the will must be *necessitated* into action by the representation of formal principles to count as a will that is good. The representation of formal

⁹ Jennifer Uleman, in clarifying what the will is and why it has a multiplicity of functions, states “[r]eason [needs] the capacity to furnish and represent principles, the capacity to choose among principles, as well as the capacity to judge cases in light of those principles and figure out how to act accordingly” (33).

laws and objective principles for rational beings that do not have a will that is altogether good takes place in the form of *imperatives*. Imperatives are commands of reason given to the will to necessitate the will to action. “All imperatives are expressed by an *ought*...they say that to do or to omit something would be good,” and imperatives say all this to a will that is not altogether good (4:413).¹⁰ There are different types of imperatives, but, for our purposes, the important ones are categorical imperatives. All imperatives of morality, or our moral duties, are represented in the form of categorical imperatives. Moreover, categorical imperatives are represented as being good *in themselves* and not as a means to something else (4:414). They are the morally good reasons the will represents to itself when acting from duty. Kant uses the term “categorical imperative” in two different ways. Kant has a distinction between “the Categorical Imperative” and categorical imperatives in general. The Categorical Imperative is the supreme principle of morality that contains all the principles of duty within it. Commands like “do not steal” or “do not lie” are categorical imperatives that can be determined from the CI.¹¹

2.3 What is the supreme principle of morality? And how do we determine our duties from it?

The question arises: if there could exist a law that could determine one to duties, a law that could contain all principles of duty within it, what would be the content of such a law? In the second section of the *GMS*, Kant states that if there were to exist one (supreme) imperative of morality from which all our moral duties could be derived, it would be the Categorical

¹⁰ Kant holds that holy or angelic beings, who are also considered rational beings who have a will, do not have moral laws represented to them in the form of categorical imperatives because their will already conforms to the good. Kant states, “Therefore no imperatives hold for the *divine* will and generally for a *holy* will: here the *ought* is out of place, because *willing* already of itself necessarily agrees with the law” (4:414).

¹¹See Hill (2002), 24. I distinguish the distinction Kant has between the Categorical Imperative and categorical imperatives in general by capitalization and abbreviation. Whenever I write “the CI,” it refers to the supreme principle of morality. Whenever I write “categorical imperatives,” I mean the principles of duty or moral laws in general.

Imperative (CI) (4:421). In the second section of the *GMS*, Kant shows that the CI can be represented in different ways, and, in total, Kant gives us four different formulations of the same principle. All these various formulations we are told are “at bottom, one and the same” (4:436). The first formulation that Kant (re)introduces is the universal law formulation (FUL). Kant introduced the formulation briefly in the first section, stating that the only principle that can determine the will, once all material incentives and empirical influences are removed, is the principle of universality (4:402). The CI represented in its most formal formulation is, “act only according to that maxim through which you can at the same time will it become a universal law” (4:421). The FUL formulation contains both the form of the law that practical reason conforms to when the agent is doing her duty (that of universality) and states that it is this form alone that should be represented as necessary because it is separated from all that can empirically influence the will.¹² Out of all the different formulations of the CI, Kant emphasizes that “in moral *judging* it is better always to proceed by the strict method, and make the foundation the universal formula” (4:437).¹³

Kant provides four examples to show how the FUL formulation can determine what duty requires and what duty forbids. I will not go through all of the four examples and present an interpretation of them here. However, here is the basic sense: the formulation applies a universalizability test and the criterion of non-contradiction to determine which maxims are

¹² Wood (1999, pgs. 76-78) states that Kant begins with the FUL formulation because he is establishing an objectively valid reason, i.e., law, that could serve as a determining ground for all rational beings. This reason would have to serve as an overriding reason for all rational beings (be a non-instrumental reason) to act on and be “numerically the same for all rational beings” (76). So Kant makes the form of universality (an end independent of any empirical influence) to be the determining ground for the will, and begins with addressing that the will must conform to universality.

¹³ The other formulations are the Universal Law of Nature Formulation (FLN), Humanity Formulation (FH), and the Autonomy Formulation (FA). All the other formulations also apply the principle of universality and the criterion of non-contradiction, but have more content within them.

permissible. The agent conducts the universalizability test like a thought experiment. The universalizability test works as follows: I have a maxim – “a subjective principle of willing,” or a general principle or rule of conduct – that I exercise. I want to see if my maxim is something that can be acted on. In order to check whether my maxim is one that I can act on, I must universalize my maxim. I ask myself, “is my maxim universalizable, that is, if I willed such-and-such state of affairs where everyone acted on my maxim at the same time as I wish to act on it, would I still be able to act on my maxim?” If the maxim can be given universal form, then the maxim is either consistent with duty (permissible) or required by duty (obligatory). If the state of affairs I will when the maxim is given universal form differs from the state of affairs that existed before the maxim was universalized, such that I could no longer act on my maxim when it is universalized, then the test has shown that my maxim is immoral. The test will reveal if there is an inconsistency in my own willing, which results in a contradiction. If a maxim generates a contradiction when applied to the universalizability test, then the maxim is forbidden by duty; the agent should not act on the maxim.

According to Kant, the contradiction can occur in two ways. Kant states that “some actions are such that their maxim cannot even be *thought* without contradiction” (4:424). In other words, the maxim proposes to do an action that by its very idea is already in contradiction with itself (4:424). This first kind of contradiction is commonly known as “contradiction in conception.” Moreover, Kant states of this contradiction that “[i]t is easy to see that the first conflicts with strict or narrower (unrelenting) duty” (*ibid.*). Kant provides two examples dealing with strict or narrower duty to show where the contradiction occurs. Kant provides another example of an agent who “sees himself pressured by need to borrow money” (4:422). The agent knows that “he will not be able to repay” should he borrow money from someone else, but

knows that, unless he makes a promise of repayment, he will not be able to obtain the money. According to Kant when the agent universalizes his maxim, “when I believe myself to be in need of money I shall borrow money, and promise to repay it, even though I know that it will never happen” (*ibid.*), the universalized form generates a contradiction. The maxim generates a contradiction because when the agent envisions a state of affairs where everyone made false promises at the same time, “no one would believe he was being promised anything, but would laugh at any such utterance” (4:422). The maxim of the action, we might think, is already logically inconsistent with itself, for there is no such thing as a false promise. The very idea of a false promise proposes an “inner impossibility” because it goes against the definition of what is a promise, that is, what it means to make a promise, keep a promise, and accept another’s promise (4:424). However, if an agent is unsure and torn about lying--an action that duty forbids--once the universalizability test is applied to the maxim the result makes it clear: if everyone were to make promises about borrowing money knowing that they would never be able to pay the other individual back, no one would believe another’s word. The contradiction in conception occurs, it seems, when an agent proposes to do an action that given its very idea or concept is inconsistent with itself.

The second kind of contradiction Kant describes is commonly known as “contradiction in will”. Kant states describing this kind of contradiction that “...[i]n the case of others that inner impossibility is indeed not to be found, but it is still impossible to *will* that their maxim be elevated to the universality of a law of nature, because such a will would contradict with itself” (4:424). Moreover, Kant states that this kind of contradiction conflicts “only with wider (meritorious) duty” (*ibid.*). For the sake of clarity, I shall only focus on the example Kant provides about an agent who wishes to avoid doing the duty of beneficence. According to Kant,

the agent is well and prospering, but sees others around her in hardship. The agent desires to act on the maxim of doing no harm to anyone, but also has no desire to contribute to another's well-being, "or his assistance in need" (4:423). Such a maxim has no internal logical inconsistency such as the kind that "a false promise" clearly does. However, Kant states that such a maxim could not be conceived "to hold everywhere as a universal law of nature" because universally there comes a time when every human being is in need of "the love and compassion of others" (*ibid.*). The agent in question could come across a time when she would be in need, but in the envisioned circumstances "would rob [her]self of all hope of the assistance [s]he wishes for [her]self" (*ibid.*). In this example, there is no logical inconsistency in the very *action* that the maxim proposes, however, the maxim undermines itself because it cannot be willed *universally* consistently. The maxim undermines itself because a state of affairs results where the agent could wish for the very thing that he neglected to give to others in his original maxim, and be unable to obtain it. In this case, the agent's past will thwarts only a distinct now-present universalized will, whereas in the first case, the agent willing the false promise could already understand the maxim of the past will inconsistent and clarify the inconsistency by finding the maxim thwarted in the universalized will. The test shows that the maxim ends up being self-defeating, in this case, on the grounds that the agent's maxim is inconsistent with his own needs as a rational being, which could not have been understood by looking at the maxim alone, but only in its universalized form.¹⁴

For these two different kinds of contradiction that Kant illustrates in the *GMS*, Kantians have provided three branches of interpretations to better explain Kant's account of where to

¹⁴ I put the contradiction in this way because Kant in his explanation of the ground of the duty of beneficence in the *MMS* says that "the maxim of common interest, of beneficence toward those in need, is a universal duty of human beings, just because they are considered fellowmen, that is, *rational beings with needs*, united by nature in one dwelling place so that they can help one another" (6:453, my emphasis).

locate the contradiction: the logical contradiction, the teleological contradiction, and the practical contradiction.¹⁵ In addition, Korsgaard draws a distinction about the types of actions maxims can propose into “natural” and “conventional” actions. Maxims that propose actions where the agent is participating (or trying to undermine) a social practice or institution in society are considered conventional actions. The false promise case discussed earlier proposes a conventional action because the act of promising is a social practice. The practice’s existence is dependent upon socially accepted norms and rules of the practice, or generally agreed upon “convention” of the practice.¹⁶ Natural actions are those whose existence and “efficacy depend only on the laws of nature, not on any conventional practice” (85). Murder or killing of any kind is an example of a natural action.¹⁷ Most readers of Kant have the understanding that the contradiction Kant introduces in the *GMS* is only to be understood as a logical contradiction. Kantians state that the logical contradiction better accounts for the contradiction in conception, and specifically, for maxims that propose conventional actions. The logical contradiction occurs internal to the structure of willing itself. Under the logical contradiction interpretation, if the maxim proposes a conventional action, the contradiction is located between the agent being committed to the existence of the social practice or institution that she is engaged in (X) and trying to undermine the social practice or institution because of the maxim she would be adopting (not-X). The false promise case, for example, falls under the logical contradiction interpretation because the agent

¹⁵ Korsgaard was the first to make clear these three types of distinction, following Onora O’Neill, who was the first to propose the “the practical contradiction.” Kantians, however, largely endorse the logical and practical contradictions to explain Kant’s account of the variety of contradictions. Wood follows Korsgaard’s reading of the three interpretations. Both Korsgaard and Wood think that the teleological interpretation can account for only the case involving suicide that Kant gives in the *GMS*, and the practical contradiction is the interpretation that best gives an account for most of the examples Kant provides in the *GMS*.

¹⁶ Korsgaard states, “[b]oth the possibility and the efficacy of actions performed within a convention such as promising – such as making, accepting, and keeping promises – depend on the existence, by conventional establishment, of the practice” (85).

is both choosing to participate in the practice of promise-keeping (X), and undermining the existing social practice by willing that the agent will not keep one's promise (not-X). All such cases of where the agent is trying to make herself an exception to either general social practices or institutions can be captured as a contradiction in conception because the result is that if the agent were to universalize the immoral maxim, the general practice or institution would no longer exist.¹⁸

However, the logical contradiction interpretation only covers examples that use contradiction in conception. Kantians endorse that the practical contradiction can better account for where Kant himself locates the contradiction for examples that make use of the contradiction in will. According to Korsgaard, the contradiction in will reveals inconsistencies for the agent such that when the agent's immoral maxim (if it proposes a conventional action) is universalized, the social practice or institution will no longer *work* (97). The practical contradiction occurs when "your action would become ineffectual for the achievement of your purpose if everyone (tried to) use it for that purpose. Since you propose to use that action for that purpose at the same time as you propose to universalize the maxim, you in effect will the thwarting of your own purpose" (78). So, in the example where the agent wills the maxim of choosing to not participate in the practice of helping those in need, he bars the possibility of obtaining help from others should he ever be in need. The agent's purpose in the maxim was to profit from a condition of living where he only helps himself and no one else, but if that purpose is applied universally, such a purpose backfires on the agent. The two views of the logical and practical contradiction are commonly confused, according to Korsgaard, "because the reason the action no longer works

¹⁸ Korsgaard, however, admits that "[t]he Logical Contradiction interpretation works well for immoral conventional actions, but it is not very clear how it can handle immoral natural actions. When an action's possibility depends only on the laws of nature it cannot become inconceivable through universal practice" (85).

is *because* it no longer exists. But on the Practical Contradiction Interpretation, it is the failure of efficacy, not the non-existence, that really matters” (97).¹⁹

The logical and practical contradiction interpretation Kantians provide capture the distinction that Kant himself drew between the two different kinds of contradiction and the examples they may be applied to. The logical contradiction interpretation more fully accounts for what Kant calls “the inner impossibility” of a maxim – showing that universalization of the maxim is inconceivable because one is willing both X and not-X at the same time. The practical contradiction interpretation emphasizes that when the maxim is universalized, the results in the envisioned circumstances show that the maxim cannot be consistently willed because the effects undermine the agent’s own intended end (i.e., whatever the agent sought to achieve in willing the maxim). The emphasis on the “failure of efficacy,” under the practical contradiction reading, maps on well to both of the examples related to the contradiction in will Kant gives in the *GMS*. However, neither the logical nor the practical contradiction interpretation can give a clear account of why maxims that involve immoral natural actions, such as murder or killing, are wrong.²⁰ For example, we can think of a case of an agent who has been wronged in some way and seeks to take another’s life out of revenge. There would be no logical impossibility apparent in the very idea the maxim would propose, so the logical contradiction could not be appealed to

¹⁹ One thing to note, however, is that in both examples that Kant uses in the *GMS*, the agents are *choosing* to withdraw from participating in a social practice. This is different from entire non-existence of the practice. However, given what Korsgaard states, the non-existence of the practice, or choosing to not participate in the practice, still has consequences for the maxim’s universalization: the maxim does not work because the practice is non-existent in the universalized world.

²⁰ This is why Kantians are left with appealing to the teleological contradiction interpretation to explain an example Kant gives of an agent who wishes to commit suicide. According to Kant, if an agent acts on a maxim to take one’s own life, the maxim’s contradiction lies in the alleged fact that “a nature whose law it were to destroy life itself by means of the same sensation the function of which it is to impel towards the advancement of life would contradict itself and thus would not subsist as a nature ” (4:422). Here the contradiction lies in not a practice or institution but nature itself, or rather, the existence of a nature. Kantians have said that the contradiction is teleological because the maxim proposes to do an action that is “against some natural purpose...the maxim is inconsistent with a systematic harmony of purposes” (Korsgaard 78).

explain the contradiction. (Although, based on what Kant says in the *GMS*, it is the contradiction in conception that should rule out a case involving murder or killing of any kind.) The practical contradiction reading proves even more problematic because if everyone acted on a maxim that sought to kill another out of revenge, once universalized, the purpose would not be thwarted, but better fulfilled.²¹

2.4 What does the will achieve following the supreme principle of morality, the CI?

After having discussed all four formulations, Kant turns our attention back to the good will. Kant says that the good will makes it its principle to follow the CI (4:437). What happens when the will follows the CI? Since the CI is a law deduced *a priori* from practical reason, when the will follows the supreme principle of morality, it abstracts from all particular ends (i.e., does not look to fulfill any other purpose that aims at some material end or effect); it gives itself a law of reason and determines itself from it. That the will can give itself a law (“author” its own law) and choose to act according to the representation of that law (subject itself to the law such that it actively *chooses to make* itself subject to it) without the aid of any material or external influences, shows that the will has the capacity to be *self-determined*. The will can determine itself by giving itself internal reasons to act on, and those internal reasons are given by practical reason. When the will is able to exercise this capacity, it has achieved *autonomous freedom*. In the *GMS*, Kant states that “[a]utonomy of the will is the characteristic of the will by which it is a law to itself” (4:440). When the will achieves autonomy, the will is determined by nothing else but itself, pure practical reason. Uleman sums up nicely what is so extraordinary about when the

²¹ Korsgaard’s response to cases where an agent is acting out of revenge or hatred is that “the kind of case around which the view [of the logical or practical contradiction] is framed, and which it handles best, is the temptation to make oneself an exception: selfishness, meanness, advantage-taking, and disregard for the rights of others. It is this sort of thing, not violent crimes born of despair or illness, that serves as Kant’s model of immoral conduct” (100-101).

will is self-determined, “when, for Kant, I choose to act on *reason*’s reasons, so on reasons that are most truly mine, the moment of (free) choice passes, but rather than slumping back, so to speak, into the order of nature and acting in ways that can be chalked up (ultimately) to natural mechanisms, freedom – now as self-determination – is sustained” (64). When the will acts autonomously it has achieved a level of freedom beyond the minimal sense of the capacity to act otherwise than what external influences incline the will to do. In Kant’s view, the autonomy of the will is the pinnacle of what human beings as rational beings can achieve.

The purpose and the aim of the CI, we can say, is to cultivate a will that is free, a will that aims at nothing else but its own freedom. Kant deduces the CI as the supreme moral law that the will follows when it acts from duty. All moral duties are categorical imperatives and are contained within the supreme moral law, the CI. Recall, when the will acts from duty, it is determined by reason; the will is exercising the capacity of acting otherwise than what sensible influences would incline it to do, and chooses grounds that are from reason. Reason finds itself intrinsically valuable because it is capable of determining itself and, when the will as practical reason determines itself, it achieves autonomous freedom. In the third section of the *GMS*, Kant states that we must necessarily presuppose that we are free if we are to believe ourselves to be rational beings who have moral duties.

3 WHAT DOES HEGEL FIND SO INEFFECTIVE ABOUT KANTIAN FORMALISM?

3.1 Hegel's Empty Formalism Critique in the *Philosophy of Right*

Hegel's empty formalism critique begins on §133, where he raises the question about "the relation of the good to the particular subject," or more specifically, to the "subjective will" (161). The relation is characterized as follows: how the subjective will relates to the good can help determine the moral consciousness of the particular subject. The subjective will *realizes* the good through the fulfillment of duty. Thus, it is through an agent's performing duty that we can determine the particular subject's moral consciousness.

Hegel's characterization of the will's relation to the good should make us recall how Kant characterizes the relation. Recall, for Kant, the good will is "good" not out of what it effects or accomplishes, but good "in itself" insofar as it acts from duty. Based on whether the agent fulfills her duty, we can determine how closely the agent's will relates to the good. However, Hegel continues on from this characterization of the will and its relation to the good, stating that the good is "initially" determined only as "universal abstract essentiality" (*ibid.*). If all we know is that the subjective will should will toward the good, and that the good is an objective criterion in determining the particular subject's moral consciousness, the only determination we can make of the good with any certainty is that it is universal. However, the content of the good and the determinations that should count as fulfilling the good remain abstract. Insofar as duty is how the will realizes the good, duty, too, remains at the level of universality and abstractness (*ibid.*). According to Hegel, given this level of abstractness, all that is left as a characterization of why we are obligated to do our duty is that "*duty should be done for the sake of duty*" (*ibid.*) In other words, given these abstract determinations of the good and duty, the nature of moral obligation has not been fully spelled out to the agent. There has been no justification and explanation given

to the agent, based on these determinations of the good and duty, on *why* a particular subject should perform this or that duty.

Since the above formulation of the good and duty is a characterization identical to the Kantian concept of the good will and duty, Hegel's remarks made about the abstract nature of both the good and duty are clearly intended to make us recall Kant. Hegel explicitly references Kant in his additional remarks stating that "the merit and exalted viewpoint of Kant's moral philosophy are that it has emphasized this significance of duty" (161, Addition H). Recall, for Kant, the importance of doing our duty is that it is only when the will acts *from duty* that it acts freely. The good will is unconditionally good because it acts from duty, which allows human beings to fulfill their natural end (i.e., autonomous freedom). Like Kant, who thinks that it is only when the will acts from duty that it is free, Hegel also believes that in doing my duty "I am with myself and free." Moreover, Hegel thinks that it is only when I do my duty that I bring to fulfillment "my own objectivity" (*ibid.*).²²

Given the significance of duty – that our ability to act from duty makes us beings capable of achieving freedom – the next logical question to ask is, "what is one's duty?" What are the different determinations that are to count as my having done my duty? In pursuing this line of thought, Hegel anticipates the Kantian answer: "all that is available so far is this: to do *right*, and to promote *welfare*, one's own welfare and welfare in its universal determination, the welfare of others" (161). However, such an answer still remains vague and abstract. For example, it remains unknown to the agent what sort of actions are to count as promoting my own welfare and the welfare of others. In the Addition to §134, Hegel writes, "the universal aspect of good, or good

²² Why Hegel thinks this does not become clear until the third section of the *PR*, Ethical Life, but for now we should interpret this remark as Hegel agreeing with Kant's commitments that when the (subjective) will acts from duty that it is truly free.

in the abstract, cannot be fulfilled as an abstraction; it must first acquire the further determination of particularity” (*ibid.*). For Hegel, the universal concept of good by itself does nothing. It is the particular subject that brings the concept of good to life; it is through the individual, concrete actions of the agent that the good is first brought into “actuality” (158). A concept as a universal has no reality if it remains in the abstract, divorced from the reality which it is supposed to be representing. This question of what the agent ought to do so that her actions may count as fulfilling the good, or having done her duty, is crucial.

Kant’s moral theory only has one principle, the Categorical Imperative, that, according to Kant, contains all the principles of duty within it. The more pressing question that Hegel raises may be rephrased as can the CI direct me to my concrete duties? That is, can it determine which ends I should adopt and what actions I should perform that will count as having done my duty, and thereby, having fulfilled the good? In §135, Hegel explicitly addresses that the only principle Kant has to determine my duty, the Categorical Imperative, remains unable to accomplish the task of directing the moral agent to her duties. Hegel states that the determination of duty itself does not contain any concrete determinations on how to act, and so, duty remains on a sphere of “the unconditional” and “abstract universality” (162). The CI should be able to determine principles of moral action (my duties), principles that I am to act on if I am to make my own freedom known to myself and to others. The CI should help me understand (a) what are my duties, and (b) what is the nature of my obligation to do a particular duty.

Hegel’s argument in §135 starts with asserting that the CI is a principle that, according to Kant, should be able to determine what duty requires. However, Hegel states that the principle of the CI is “absence of contradiction” and “formal correspondence with itself” because it only has the empty form of universality within it to determine our particular duties (i.e., duty at the level

of individual, concrete actions). If we are applying the principle of universal legislation to determine our duty, Hegel thinks, this implies that we must already have “content-filled” principles to give guidance on determining our duties. Otherwise, it would be possible “to justify any wrong or immoral mode of action” (162). Kant uses the criterion of contradiction to rule out immoral maxims, but Hegel states that “a contradiction must be a contradiction with something, that is, with a content which is already fundamentally present as an established principle” (163). So, again, in Hegel’s view, we are left with the emptiness of the form of universality. It is only if we presuppose certain moral content within the principle of universality, such as, “that property and human life should exist and be respected,” that we can show that certain actions, such as murder and theft, are immoral (*ibid*). Hegel concludes that since Kant is unable to successfully derive our concrete duties “immanently,” that is, without appeal to content outside the general principles of the CI, Kant’s moral theory is an “empty formalism,” and moral knowledge is reduced to doing “duty for duty’s sake.” Hegel thinks that if an agent performs her duty using the CI, it is not because the agent has clearly understood why she is obligated to perform the duty. In other words, to truly grasp her duty, the agent would be able to grasp the obligatoriness of the content of the duty (the good reasons why the action is a duty), and not simply that that content is in fact a duty.

I have laid out above what Hegel’s critique is in the *PR*. However, to more fully understand Hegel’s critique we must get clear on what the terms that Hegel uses in the *PR* mean. For example, why does Hegel construe the principle of the CI as “absence of contradiction” and “formal identity”? It is only having figured out what these terms mean that we might come closer to fully understanding and appreciating Hegel’s critique. However, Hegel’s account in the *PR* does not provide sufficient material for understanding what these terms mean. Throughout the

entirety of his career, Hegel leveled similar criticisms as ones he presents in his empty formalism critique against Kant. However, unlike in the *PR*, Hegel gave specific examples to supplement his criticisms in his other works. For this reason, I will turn our attention to the Natural Law essay to better unpack the empty formalism critique.

3.2 Converted Deposits and Helping the Poor

Similar to Hegel's claims in the *PR*, Hegel shows problems that can occur when we use the FUL formulation of the CI to determine what duty requires in the Natural Law essay. In the essay, Hegel gives two examples to illustrate difficulties that can occur when we use the FUL formulation of the CI. The first example of converted deposits is meant to show that any content can be given universal form, with the result that if formal, non-contradictory universality is the mark of the moral law, then "there is nothing whatever which cannot in this way be made into a moral law" (77). The second example focuses on the maxim of helping the poor, a well-known duty of beneficence, and shows that this maxim when universalized ends up annulling itself because either poverty is eliminated (in which case there is no more duty), or there are only poor people left and no one to help them. These two examples give us two different ways of seeing the same problem: that Kant's employment of the universalizability test and the criterion of non-contradiction is insufficient to demonstrate what duty requires.

The first example Hegel gives is one that Kant himself presents in the *Critique of Practical Reason*. The lengthy example goes as follows,

I ask whether the maxim that I should increase my fortune by any and all safe means can hold good as a universal practical law in the case where [appropriating] a deposit entrusted to me has appeared to be such a means; the content of this law would be that "anyone may deny having received a deposit for which there is no proof." This question is then decided by itself, "because such a principle as a law would destroy itself since the result would be that no deposits would exist." But where is the contradiction if there were no deposits? (77)

Kantians state that the deposit example uses the logical contradiction; the contradiction is located within the structure of willing itself. This is in accordance with what Kant states in the *GMS*—the duty to not steal or be dishonest is considered strict or narrower duty, so contradiction in conception would be applied to this case. Kantians state that the case has similarities to the example of the false promise case.²³ The similarity exists insofar as the agent is trying to make an exception of himself in regards to the general institution of deposit-making. The agent is committed to the institution of deposit-making because he chooses to engage in it (X), but insofar as the agent is keeping another's deposit for oneself, the agent is trying to undermine the institution too (not-X). Thus, if we universalize the maxim, if everyone were to act on the maxim at the same time, the institution of deposit making would no longer exist because no one would trust the institution for safe-keeping their deposits. The fact that the universalizability test reveals that no one would make a deposit shows that the agent acting on the maxim was trying to make an exception for himself when participating in the institution.

Kantians, however, in providing this Kantian response to Hegel's citing this example, do not understand the crux of Hegel's remarks. Given Hegel's description of the example, it does not seem like Hegel is concerned about what variety of contradiction is present in the example. Hegel raises the question about "But where is the contradiction if there were no deposits?" not because he does not understand what variety of contradiction is being used in this example, but rather, because he does not think *the presence of a contradiction is enough to fully spell out to the agent that acting on a maxim of theft is against duty*. That is, Hegel's question can be helpfully reformulated as: "But what would the problem be, really, if there were no deposits?" To answer this question would require proving that the institution of deposit-making is an

²³ See Wood (1999), 87-90.

institution that should be respected. Hegel's focus is on determining whether Kant, given the formalist commitments in his moral theory, can provide such a defense. Kantians think that the very fact that the agent is engaging with the institution shows that the agent is endorsing the institution, but this leap, Hegel thinks, is mistaken. It is possible for an agent's maxim to presuppose an institution, but not endorse that institution, or believe that it is to be respected.

After raising the question about where is the contradiction if there were no deposits, Hegel begins a discussion of property. Hegel makes this shift from the case of the converted deposits to the different determinations of property because the institution of deposit-making relies on property rights being in place. The discussion of property also becomes appropriate insofar as acting on the maxim of keeping another's deposit (without their knowledge or consent) is really an act of theft. And, as Hegel seems to think, if there really is no contradiction present in no deposits being made, then all maxims of theft can pass the universalizability test. But why does Hegel think that a contradiction might not be present at all? Hegel states that "[e]very specific matter, however, is inherently particular, not universal; the opposite specific thing stands over against it, and it is specific only because there is this specific opposition" (77). In other words, there are two determinations to every determinacy, A and not-A. What is problematic about formalism, Hegel thinks, is that it does not establish which determination (A or not-A) is to reign supreme in universal legislation because the CI itself is empty of any content.

We can apply this issue (the difference of determinations) to see whether the CI can generate a contradiction for maxims of theft. Since every determination has an opposite determination, the determinacy of property has two possible determinations: property and non-property. According to Hegel, formalism can construct the following proposition, "property, if property *is*, must be property" (78). In other words, if we understand property as an institution

that is to be respected, then it is a contradiction to act against the institution. Within the CI, however, there is no explicitly established principle proving why/that property is to be respected. Formalism, thus, can also construct the *opposite* proposition, “non-property is non-property. If property is not to be, then whatever claims to be property must be cancelled” (78). We can conceive of an agent who recognizes that property is an institution that is, but has reasons to think that property should not exist, and that it would be better if property was abolished. The maxim of such an agent would presuppose the existence of property since it would propose to engage with the institution, but not endorse the institution. Since such an agent would not really be committed to the institution, that is, the agent does not think that the institution should be preserved and respected, it would still be possible for an agent to act on a maxim of theft and there result no contradiction. [CLARIFY]

A Kantian could potentially respond that the above worry, that the contradiction might not be present at all if an agent is not committed to property, is mistaken: insofar as the agent is acting on a maxim of theft, the agent is *already* implicitly committed to the institution of property. The agent is still choosing to engage in the institution of property (X) and desiring to perform an action that threatens to undermine the institution when acting on a maxim of theft (not-X). Regardless of the agent’s explicit commitments to herself—the agent, for example, might still deny that she is really committed to the institution of property—the contradiction will still be present because the Kantian would say her actions already show that she is committed to property. The agent is choosing to keep the deposit for herself and acting with it as if it were her property. Thus, the universalizability test has still shown that the maxim of theft is immoral. However, this response does not adequately resolve the issue. Since the CI has no content within itself to show that property is fundamental to one’s freedom, we can still conceive of an agent

who may even see the presence of the logical contradiction, and who may be indifferent to the presence of the contradiction. For, in fact, all the presence of a contradiction shows is that the agent is acting inconsistently with oneself – that one is both partaking in the institution and threatening to undermine it if one acts on the maxim. However, showing that one is acting inconsistently with oneself is not a robust demonstration of what is at stake when one acts contrary to duty, or why it is even a duty to respect the institution in the first place. The agent could still recognize that property is an institution that exists, but believe that it does not need to be respected; thus, the agent can think to oneself to act on the maxim of theft until the institution is no more merely because it is possible to act on the maxim. Hegel has shown that there is a possibility for an agent to believe in the non-existence of property; however, what is immediately available in Kant’s moral theory to show to such an agent that she ought to respect property is nothing but the principle of universality in the CI. According to Hegel, formalism ends up constructing tautological propositions because the CI is empty of content and what is required is an additional argument to prove why property is an institution worth respecting as opposed to beginning with the premise that property is an institution that exists and one that we should respect. Hegel is pointing out that an agent might not be in agreement with such a premise and this has consequences for an agent trying to do her duty.

The main commitment that Kant’s moral theory has, which Hegel is skeptical of, is that practical legislation only takes *form* into account and not the matter of a maxim when determining whether the maxim should hold as a universal law. The property example that Hegel cites is one of Kant’s own examples from *The Critique of Practical Reason*. The example is used to establish the theorem that “[i]f a rational being is to think of his maxims as practical universal laws, he can think of them only as principles that contain the determining ground of the will not

by their *matter* but only by their *form*” (5:27, my emphasis).²⁴ Kant does not think that the determining ground of the will is subject to any empirical condition since the will should be determined by reason alone when the agent is doing her duty. Kant thinks that if the will was determined by certain empirical conditions, then morality (and doing our duty) would become contingent. If morality were contingent upon empirical conditions, then we could do our duty only when it was beneficial for us or only when we took joy in doing it. Since Kant wants to make morality necessary and provide a demonstration that all moral laws hold with absolute necessity (independent of any inclinations, such as feelings of pleasure or displeasure, we may have toward doing our duty), Kant abstracts from all material incentives and says that only the form of universality, “by which *they* [the maxims] *are fit for a giving of universal law*, of itself and alone makes them practical laws” (*ibid.*). But, as Hegel has shown, if it is true that it is *only* the form that makes the maxim fit to hold as a universal law, then Kant does not have any resources to prove what it is about property that makes it a duty to respect.²⁵

Hegel, however, is skeptical of Kant’s commitment that it is only the form and not the matter that makes a maxim hold as a universal law. His second example, the maxim of helping the poor, demonstrates this skepticism. Prior to providing the second example, Hegel states that “[b]ut if the content were really equated with the form, and the specific thing [determinacy] with unity, then no practical legislation would occur, but annihilation of the specific” (79). In order

²⁴ Any citations of the *Critique of Practical Reason* are from the following edition: Kant, Immanuel. *Critique of Practical Reason*, ed. Gregor, Mary. (U.K.: Cambridge University Press, 2015).

²⁵ To clarify, Kantians state that empirical facts can be taken into account when an agent is conducting practical legislation. “Property exists,” for example, is an empirical fact. However, even if such empirical facts can be taken into account, this is different from providing a proof on why property should be respected. Providing such a proof requires, necessarily, to show what about the *content* makes the action obligatory. It cannot be Kant’s position that we can delve into the empirical content to show what is the basis of doing the particular duty. The normative force in establishing the basis of doing a particular duty, from the Kantian view, is demonstrated solely by the fact that the maxim (in which the dutiful action is expressed) can be given universal form, or if the opposite of the duty was willed, the maxim would contradict itself.

for the universalizability test to clearly distinguish moral maxims from immoral maxims, Hegel thinks, the contradiction cannot be purely generated by form, but the contradiction must be “contentful.”

The second example focuses on illustrating a structural pattern that is present in the universalizability test, which ends up causing “difficulty for practical legislation” (79). Hegel describes the pattern as follows, “if the specific thing is such that in itself it expresses the supersession of something specific, then, by the elevation of the supersession to universality or to the state of having been superseded, not only the specific thing which is to be superseded, but the superseding itself, is cancelled” (80). In other words, if a maxim’s content is such that it engages in a practice or institution that seeks the elimination of some other determinacy, then when such a maxim is given universal form, the maxim will end up contradictory because if everyone were to engage in the practice or the institution that seeks the elimination of some other determinacy at the same time, then neither the practice/institution nor the determinacy would exist. To instantiate his point, Hegel focuses on the maxim of helping the poor: a social practice that seeks the elimination of the determinacy of poverty. Hegel states that “If the thought is that the poor generally [or universally] should be helped, then there are either no poor left, or there are nothing but poor; in the latter event no one is left to help them” (80). Here Hegel is presenting us an example that is an instance of the contradiction in will. The maxim is not an instance of the contradiction in conception because the very idea proposed within the maxim – that of helping the poor – is not inconsistent with itself.²⁶ The contradiction is found between what the agent has willed (the elimination of poverty) and its universalized effects. If universalized, the maxim undermines itself because in the universalized state of affairs the agent could no longer act on the

²⁶ The maxim, for example, is not willing an action that is inconsistent with itself such as the action of making a false promise clearly is.

maxim; if everyone acted on the maxim to give money to the poor at the same time, then poverty would be eliminated. The social practice would become non-existent. The maxim of beneficence, one that we would intuitively think should pass the universalizability test, ends up being self-defeating.

Kantians generally have responded that Hegel is wrong in thinking that the maxim of helping the poor ends up contradictory. Kantian efforts focus on showing that the example of helping the poor does not end up contradictory because (if there were a contradiction) it would not be a logical contradiction, but a practical contradiction. Recall that the practical contradiction is an interpretation to better account for Kant's use of the contradiction in will examples. One reason to think that this example is an instance of the contradiction in will, and, thus, subject to the practical contradiction interpretation is that Kant states in the *GMS* that the contradiction in will "conflicts only with wider (meritorious) duty" (4:424). In Kant's categorization of duties in the *MMS*, the duty of beneficence is derived as a wide and imperfect duty owed to others.²⁷ Recall, under the practical contradiction reading, Kantians have stated that a contradiction is generated if the maxim that is willed ends up thwarting the agent's own purpose when everyone acts with the same purpose at the same time as the agent. Kantians have responded to this case that Hegel has misunderstood how the contradiction works – recall that the failure of efficacy, not the non-existence of a practice, is what matters under the practical contradiction. Korsgaard states that, "[o]ne's purpose in succoring the poor is to give them relief. The world of the universalized maxim only contradicts one's will if it thwarts one's purpose. A world without

²⁷ The difference between narrow/perfect duties and wide/imperfect duties is that perfect duties are stricter in their application; they must *always* be followed and there are no circumstances whatsoever that we can choose to not to do them. Wide and imperfect duties are duties that must also be followed, but have more leeway in that it is up to the agent when to exercise the duty and how much, or to what extent, to exercise the duty.

poverty does not contradict this purpose, but rather satisfies it another (better) way, and no contradiction arises” (95).

Kantians think they have responded adequately to Hegel’s charge by showing us that the universalizability test can clearly generate the right kind of contradictions, and, thus the CI can clearly demonstrate which actions are moral and which immoral. However, Kantians have, again, missed the crux of Hegel’s point. Recall Kant’s commitment that when practical reason is determining which maxims are fit to be a universal law, it does not take into account the matter, but only the form of the maxim. In the example of helping the poor, Korsgaard states that there exists no practical contradiction because one’s purpose is not thwarted when the maxim is universalized. On the contrary, the maxim’s purpose is met if poverty was eliminated. However, this lack of contradiction presupposes that one *already* has an understanding of the matter or content expressed in the maxim – that the practice of aiding the poor is an action aiming at a moral end. Suppose that I can see that when the maxim of helping the poor is given universal form, then poverty would be eliminated. If poverty was eliminated, then I can no longer act on my original maxim; it is annulled. This annulment would disclose to me, given how the practical contradiction works, that my maxim should not be acted on. In order for me to make a determination that poverty being eliminated *is a good thing and there is nothing wrong with its elimination*, I would already have to had a “contentful” understanding that the practice of helping the poor is a moral end, since it promotes the development of rational agency; thus, I am not thwarting my own purpose when acting on the maxim, but better fulfilling it. However, when we test our maxims to see if they can hold as a universal law, according to Kant, it is not the matter that we need to consider, but form alone is to help in determining what should be considered a

universal law. Hegel's purpose in presenting this example is to question Kant's commitment to legislating "by form alone and not matter."

If practical reason were using form alone to determine which maxims hold as universal laws, then helping the poor example would end up contradictory because poverty would be eliminated. On the other hand, the example of the maxim of theft shows that an agent can question why the elimination of property is a problem. Kantians focus on showing which variety of contradiction is present in each example, and, in particular, endorse that the practical contradiction better accounts for locating the contradiction in the majority of the examples Kant gives. However, even Kantians admit that the practical contradiction cannot adequately account for showing how immoral natural actions are wrong, such as those involving murder or killing of any kind.²⁸ Hegel's focus is on determining whether a contradiction of any type (practical or logical) can even be shown to be present at all, especially given that practical reason only takes into account form and not matter to determine what holds as a universal law. If the maxim of helping the poor ends up not being contradictory, it is because there is already moral content presupposed in the universalizability test that is helping sort out which maxims end up with contradiction and which do not. Otherwise, without certain moral content presupposed, the maxim of helping the poor falls into the same trap as the maxim of theft—where the portrayal of

²⁸ Korsgaard (1996), 100-101. The main issue with the practical contradiction is that one can will immoral means to pursue moral ends, and the maxim in question need not end up with contradiction when universalized because so long as the moral end is met, the immoral means ends up being a null point. For example, suppose that I am a parent and my child comes up to me and discloses to me that a (supposed) family friend has been molesting her when she is alone with this individual. Having found this out, I feel indignant, hurt, and anger to the point that I think I could murder the supposed family friend. My maxim might be formulated as follows, "I will kill this individual (the family friend) in order to rid the world of any molesters (or people who might inflict harm on children generally)." When I universalize this maxim, in the universalized world, there would be no more molesters left. The purpose in the maxim, under the practical contradiction reading, would have been met, so, from the Kantian perspective, there would be no contradiction that takes place to show that action of killing another human being is wrong.

non-contradiction is not enough to demonstrate that the action is a duty. For looking at form alone, the maxim of helping the poor does not hold universally, so it cannot be a duty based on its form. Presumably, if helping the poor is a duty, it is because there is something about the content that makes it a duty. But Kant only has the criterion of non-contradiction to provide the moral ground of why helping the poor is a duty, which, as just shown, is ineffective. To provide additional justification for the claim that engaging in the social practice of helping the poor is a duty would require, again, providing a demonstration that goes outside the scope of the general principles of the CI to show how participating in the social practice of eliminating poverty promotes the development of my own rational agency and that of others. The only way that the duty of helping the poor remains a duty (if we are to take the content into account) is if the maxim were not given universal form and remained as a maxim; however, this very retention of poverty runs directly against the fulfillment of the duty (80).

Hegel provides one last example to further clarify that providing a determination of our duties at the level of universality results in an inarticulation both of what is one's duty and what are the good reasons that make a particular duty obligatory. The third example Hegel gives is about the duty to defend one's country. Hegel shows that since the third maxim engages in a practice or institution that seeks to eliminate a determinacy, it ends up self-contradictory. Hegel states, "So the maxim of honorably defending one's country against its enemies, *like an infinite number of other maxims*, is self-cancelling as soon as it is thought as a principle of universal legislation; for when so universalized, for example, the specification [or determinacy] of country, enemies, and defense is cancelled" (80, my emphasis). If everyone were to act on a maxim of defending one's own country at the same time, then the determinacy of countries, of enemies, and defense would vanish because there would be no more countries left to defend. "Defend

one's country" already has the appearance of universality and looks like a morally good maxim. However, Hegel is highlighting a tension between the principle of universality and the principle's helpfulness in articulating dutiful action; when the maxim is given universal form the results are not action guiding for the agent. If the agent universalizes such a morally good maxim, then the agent no longer has a country left to defend. The CI cannot endorse any version of the maxim to defend one's own country because of the structural difficulty that arises with the principle of universality.

Moreover, using the form of universality as a criterion to determine the duty does not help because the form cannot give an account of why a given agent's country should be defended over another. To demonstrate the moral ground of the duty would require, necessarily, to delve into empirical content to demonstrate why one's own particular country or state should be defended by the given agent and which groups or states we should see as enemies. However, since the CI does not concern itself with the matter or content of the maxim, but only requires that the maxim fit the form of universality when endorsing a duty, there is no principle or content within the CI itself to give an account for why the agent's country should be defended. Presumably, given Kant's account of the state in the Doctrine of the Duties of Right, Kant would say that the countries that should be defended are those that respect its citizens' freedom and establish laws that promote the respect and development of rational agency. However, to give a coherent account of why a country should be defended would still require taking into account what sort of states exist and what kind of states *do* embody the values of freedom, and then showing that the agent's own country upholds those values of freedom. To provide such an account, however, would go outside the scope of the general principles that Kant derives for us in the CI because it requires taking empirical matter into consideration. Given Kant's own

commitments, Kant cannot give such a coherent account of the duty to defend one's own country because Kant does not want to take empirical matter into account to help determine practical legislation, but wants only the formal principles of the CI to determine what is one's duty.

4 THE IMPORTANCE OF AN "IMMANENT THEORY OF DUTIES"

Now we may return to Hegel's remarks in the *PR*. Recall that in the original remarks in the *Philosophy of Right*, Hegel construes the principle of the CI as "absence of contradiction" because he thinks that the CI lacks determinate content-filled principles to help with universal legislation. As shown with the immoral maxim of theft, Hegel thinks that the contradiction does not have to be present at all. The contradiction can only be present if Kant has already established determinate content-filled principles, such as "the respect of human life and property" within the CI (163). It is only then that a contradiction may clearly be present because, as Hegel states, "a contradiction must be a contradiction with something," that is, with determinate principles that have already been established as fundamental (to freedom) (*ibid.*). Once we have these fundamentally established principles made explicit, then the universalizability test becomes easy to apply, and can successfully generate the right kind of contradictions. This is why Hegel states "if it is already established and presupposed that property and human life should exist and be respected, then it is a contradiction to commit theft or murder" (*ibid.*). If the test is able to generate the right kind of contradictions, in Hegel's view, it is because certain moral content has already been presupposed within the universalizability test that helps with sorting out which maxims are contradictory and which ones are not because the additional content helps with relating the content of the maxim to the aims of morality.

Hegel's issue with the universalizability test and the criterion of non-contradiction, however, does not stop there. Recall that Hegel states in the *PR* that the formalism of Kant's

moral theory has two consequences: (a) there can be no immanent theory of duties derived from it and (b) moral knowledge for the agent is reduced to doing “*duty for the sake of duty.*” Part of Hegel’s issue with the universalizability test and the criterion of non-contradiction is that in order for me to do my duty, it is not sufficient for me, as a rational agent, to know (or believe) that something is my duty simply because it can be given universal form. If I am to be fully impelled by reason to do my duty, I must also know the good reasons behind why the action is obligatory. Part of why Hegel thinks this might have to do with the problems he sees in the universalizability test, that is, that the CI cannot clearly determine even what my duty is; moreover, even immoral actions can pass the universalizability test. If I have determined that something is my duty from the universalizability test and I choose to do the action because I believe it to be my duty, I am, in a sense, acting on “good faith.” Hence, Hegel thinks that when the Kantian agent does her duty, it is only for duty’s sake, but not because the agent has understood what about the action makes it a duty. If I both know what my duty is, and the good reasons on why I am obligated to do it, then I am more fully determined by reason. However, Kant’s moral theory does not deal explicitly on establishing that the moral ground of a duty is based on its content, and so, it does not have the resources within the CI itself to show to the agent the good reasons that she has in doing her duty.

When Hegel charges Kant’s moral theory to be an empty formalism because it fails to produce an immanent theory of duties, Hegel means that Kant’s formalist commitments fail to produce the effects that Kant thinks the CI can, that is, a clear demonstration of what my duty is and why I should do it using only the formal procedures of the CI. Since the CI contains no principle within itself other than that of universality, Hegel thinks that the only way our concrete duties can be derived from the CI is if moral content were presupposed when conducting

practical legislation. Kant, however, is not justified in bringing content from outside into the CI given his formalist commitment of looking to form alone to generate the right kind of contradictions. Moreover, even the right kind of contradiction cannot demonstrate what makes the action expressed in an obligatory maxim a duty; it can only show that duty requires the action. An immanent theory of duties would give an account of our duties without needing to draw from any content outside the principles or system. It would also be able to clearly justify what our duties are and spell out clearly what makes any duty obligatory using content already established as fundamental from within the principles or system alone.

Kant's moral theory has formalist commitments because Kant wants to ensure that the will is governed by practical reason and not other sensible influences of the will. Kant's use of the form of universality is to remove any material incentives and empirical considerations when one is doing one's duty, so that duty is commanded with absolute necessity. Kant thinks morality and doing our duty should follow with absolute necessity; it should not be contingent on anything empirical. However, given the last example Hegel gives of the duty to defend one's country in the *Natural Law Essay*, it becomes clear that Hegel thinks that one must necessarily delve into the content expressed in the maxim to establish the moral ground of doing the duty. Hegel thinks that it is still possible to hold to the Kantian commitment of doing duty from reason without the commitment of legislating according to form alone when conducting practical legislation. However, the demonstration of how the content that the maxim expresses is a duty, in Hegel's view, should be done from the standpoint of particularity and not from a standpoint of universality because without moral content presupposed, in Hegel's view, the form of universality cannot help with practical legislation.²⁹

²⁹ In his *Lectures on the History of Philosophy: Volume Three*, Hegel specifically deals with the emptiness of the CI in Kant's moral theory. There Hegel, again, makes essentially the same charge of empty formalism as in the *PR* and

Hegel thinks that it's possible to give a rational demonstration of one's duty without having the qualification that it be given universal form. If a duty is a duty, it is so not because it fits a certain form, but because of the content that gets expressed in the maxim. Specifically, the content must aid in, or be an expression of, our rational freedom. A better way to establish the moral ground of, for example, the duty to possess property and respect another's property would be starting with first proving that property is an institution that both exists and is an expression of our freedom. If we want to maintain our freedom and continue to maintain our status of being free rational beings, we must necessarily, on account of our rational agency, respect the institution. Such an argument proves first what is at stake when we violate the institution and shows that the moral ground of doing the duty is that the institution makes it more possible for us to exercise our freedom, and so we, in turn, are better able to will rational ends and maintain our status as free rational beings. It explains to the agent that it is in the agent's best interest to respect the institution if the agent wishes to maintain her own freedom. It notes that because the institution (or social practice) aids in, or is an expression of, our freedom, it is our duty to respect or engage in it.

Though such an argument removes the form and matter distinction that Kant holds steadfast to in his moral theory, it better adheres to Kantian concepts of duty, of freedom, and of the rational will than Kant's own moral theory, arguably, does. It is also, in fact, the argumentative method that Hegel uses in establishing an immanent theory of duties in his own ethical system. Hegel also thinks it is important for the will to be determined by reason and not

the Natural Law essay. In giving a similar example of the maxim of beneficence, Hegel shows that if one were to universalize the maxim of "give your possessions," then beneficence is done away with. There Hegel explicitly furthers the argument by saying, "But nothing would be lost if it [the duty] was not placed into this form [the form of universality and non-contradiction] at all" (461).

merely inclinations when doing duty.³⁰ What remains missing from the Kantian perspective, in Hegel's view, is a clear rational demonstration of what makes an institution or social practice a duty and giving an account of how it is an agent's best interest to participate in those institutions and practices that are our duties insofar as they help promote, aid in, and exercise our freedom. Without such knowledge, Hegel thinks that an agent does not have to be impelled to perform any duty. In Kant's view, such empirical considerations should not be taken into account because then the will would not be necessitated entirely by reason. However, without taking into account such empirical considerations, it is hard to imagine how an agent who clearly sees the presence of a contradiction in her maxim of theft would be persuaded to not act on the maxim. If one were to respond to such an agent by proving that property is an institution that she should be committed to because it is an expression of freedom, and give an account of how it is so, the agent must necessarily, if she wants to continue to maintain her status as a free rational being, respect it. If one were to respond to the agent in this way, the agent would still be impelled by reason to do duty.

5 CONCLUSION

We can see how Hegel's own ethical system is a furthering of Kant's own moral theory, and not a refutation of it. Hegel's empty formalism critique shows the problems he saw with Kant's moral theory in giving a determinate account of our duties and looked to remedy it in his own ethical theory. Hegel's ethical system, too, adopts Kantian concepts of duty, of freedom, of the rational will. Moreover, Hegel grounds our moral duties on our lived experience by providing an account of real existing institutions and social practices in ethical life, and showing how those

³⁰ Hegel, however, thinks it's not possible for the will to be necessitated entirely by reason to do duty, but insofar as human beings are rational beings, human beings also have other sensible impulses on account of their rationality that mere animals do not, such as love and friendship. These feelings, in Hegel's view, are considered extra-moral sensibilities that can help in doing duty.

institutions and practices aid in, and are expressions of, our rational freedom. Thus, if we are to consider ourselves free, rational beings, we must necessarily respect them. Hegel's ethical system provides an immanently developed, self-justifying system, where each stage of the system unfolds itself with logical necessity to the next stage. The institutions and social practices that are our duties have been arrived at through a historical, developmental process; we are subject to these institutions and practices insofar as we ("spirit") have actively chosen to make ourselves subject to them. Hegel's empty formalism critique shows why Hegel transitioned to ethical life to give an account of our concrete duties. It is only when the agent actively chooses to participate in the institutions that have already been shown to be fundamental to the realization of the will's freedom that the agent both knows what is one's duty and is fully determined by the right reasons to do one's duty.

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