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EMPIRICAL INFORMATION AND KANT'S MORAL LAWS

by

JOSEPH PAYNE

Under the Direction of Eric Wilson, PhD

ABSTRACT

Immanuel Kant claims that moral laws must hold for all rational beings universally and necessarily. In this thesis I first investigate Kant's arguments against moral systems that are based on empirical information which can be found throughout his moral corpus. Then, I show that in Kant's own moral system what moral laws there are is partially determined by empirical information and that this result presents a problem for the necessity and universality of morality. Further, I argue that contrary to what one might expect, Kant's criticisms of an empirical foundation for morality do not resolve this issue and that it is unclear how Kant would respond to my critique.

INDEX WORDS: Kant, Empirical Information, Morality, Moral Laws, History of Philosophy

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JOSEPH PAYNE

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of

Master of Arts

in the College of Arts and Sciences

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EMPIRICAL INFORMATION AND KANT'S MORAL LAWS

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DEDICATION

I would like to dedicate this thesis to those who have made it financially, emotionally, and intellectually possible for me to study philosophy. Principal among them are my parents, Jennifer and Weldon, my girlfriend, Veronica, and my undergraduate advisors, Dr. Charlie Thomas and Dr. Kevin Honeycutt.

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LIST OF ABBREVIATIONS

CPR	<i>Critique of Pure Reason</i>
G	<i>Groundwork of the Metaphysics of Morals</i>
CPrR	<i>Critique of Practical Reason</i>
MM	<i>Metaphysics of Morals</i>
FUL	Formula of Universal Law
FH	Formula of Humanity
FRE	Formula of the Realm of Ends

1 INTRODUCTION

In the Preface to his *Groundwork of the Metaphysics of Morals*, Immanuel Kant states that “everyone must admit that a law, if it is to hold morally, i.e. as the ground of an obligation, must carry with it absolute necessity (4:389).¹ Thus from the beginning of his first major ethical work, Kant has highlighted a key attribute which he thinks moral laws must have, necessity. In this thesis I will investigate what Kant thinks morality must be like and whether he was successful in establishing a moral system that meets his own criteria. I will argue that Kant thinks moral laws must be universal and necessary.² However, I will show that in his moral system what moral laws there are is partially determined by empirical information and that this result presents a problem for meeting his criteria of universality and necessity. Further, I argue that his main criticism of an empirical foundation for morality does not resolve this issue and that it is unclear how Kant would respond.

2 AGAINST AN EMPIRICAL FOUNDATION FOR MORALITY

Before explaining Kant’s main argument against an empirical foundation for morality, it is important to clarify what it means for something to be empirical or *a priori* for Kant. He presents definitions and explanations for these terms in the introduction to the *Critique of Pure Reason* (CPR). Kant explains these concepts in terms of empirical and *a priori* cognitions. Empirical cognitions are those that “have their sources *a posteriori*, namely in experience” (B2). *A priori* cognitions, on the other hand, are “those that occur *absolutely* independently of all

¹ All citations to Kant’s works give the volume and page numbers of the Akademie edition, except for citations to the *Critique of Pure Reason*, which give page numbers from the second (B) edition. All quotations are from the English translations in The Cambridge Edition of the Works of Immanuel Kant, the relevant works of which are individually cited below (see References).

² Both higher-order moral laws, like the supreme principle of morality, and lower-order moral laws, like the law against lying, are included here.

experience” (B2-3). So if we can only come to cognize something through experience, such as the fact that when I throw a ball in the air it will fall back down to the ground, knowledge of that thing is empirical. Whereas, if we can come to cognize something without reference to experience at all, such as mathematical postulates, knowledge of that thing is *a priori*.

For the purposes of this thesis, the most important distinguishing factor that Kant identifies between empirical and *a priori* cognitions is that empirical cognitions can never be universal or necessary, whereas *a priori* cognitions are universal and necessary. He says

Experience never gives its judgments true or strict but only assumed and comparative **universality** (through induction), so properly it must be said: as far as we have yet perceived, there is no exception to this or that rule. Thus if a judgment is thought in strict universality, i.e., in such a way that no exception at all is allowed to be possible, then it is not derived from experience, but is rather valid absolutely *a priori*... Necessity and strict universality are therefore secure indications of an *a priori* cognition, and also belong together inseparably. (B4)

Because Kant thinks that the things which happen in experience are contingent, any knowledge that is dependent on empirical information, information about what happens in experience, is also contingent. Such knowledge can be highly reliable, even to the point of never having any counterexamples, but it is still not strictly universal and necessary. Only knowledge which does not depend on experience, *a priori* knowledge, can be universal and necessary, and all *a priori* knowledge *is* universal and necessary. If we encounter some cognition that is not universal and necessary, then it is not an *a priori* cognition. Rather, it is an empirical cognition.³

Now that we understand what Kant means by empirical and *a priori* we can better investigate his qualms with an empirical foundation for morality. Any moral system which ultimately grounds its investigation of what morality consists in in empirical information,

³ While it is not important for the purposes of my thesis, Kant complicates the distinction between empirical and *a priori* cognitions by allowing for impure *a priori* cognitions. The highest concepts of morality, as it turns out, are examples of impure *a priori* cognitions. They concern empirical concepts while not being empirical themselves (B28-29). I will not be investigating their position as *a priori* cognitions in this thesis.

information from experience (e.g. the natural world), has an empirical foundation for morality. David Hume's moral theory in which he argues that we make moral judgements based on our sentiments, which he thought were part of our empirical nature, is an example of such an empirical foundation.⁴ Kant argues explicitly against any such foundation in all three of his major ethical works: the *Groundwork of the Metaphysics of Morals* (G), the *Critique of Practical Reason* (CPrR), and the *Metaphysics of Morals* (MM). However, Kant gives some arguments against empirical foundations for morality in general and other arguments against specific types of empirical foundations for morality. So in order to best understand his arguments, I will first present Kant's general arguments regarding empirical foundations and then use one of his arguments against a specific type of empirical foundation as an example.

Kant thinks that moral laws must obligate all rational beings as such. As evident from the quotation included in the introduction above, he takes moral laws to be both universal and necessary.⁵ In MM, he says, "they hold as laws only insofar as they can be *seen* to have an a priori basis and to be necessary. Indeed, concepts and judgments about ourselves and our deeds and omissions signify nothing moral if what they contain can be learned merely from experience" (6:215). If a law is based on empirical grounds, it cannot be a moral law.⁶ Empirical concepts are contingent and therefore unable to establish the necessity and universality that is required for moral laws. Continuing the introductory quotation, Kant says

⁴ See David Fate Norton and Manfred Kuehn's enlightening article in which they track the debate regarding the foundations of morality through 18th century British and German philosophy for examples of various foundations of morality, empirical and otherwise (Kuehn and Norton 2006, 949). See Stephen Darwall's article for a similar but uniquely helpful account (Darwall, 2006).

⁵ I am not here investigating *why* Kant thinks that moral laws must obligate all rational beings universally and necessarily. While this is an interesting and complicated topic, for the purposes of this thesis, it is enough to know *that* he thinks they must obligate all rational beings universally and necessarily.

⁶ See Section 2 below for a detailed discussion of Kant's definitions of practical principles and their sub-types, including moral laws.

Everyone must admit that a law, if it is to hold morally, i.e. as the ground of an obligation, must carry with it absolute necessity; that a command: thou shalt not lie does not just hold for human beings only, as if other rational beings did not have to heed it; and so with all remaining actual moral laws; hence that the ground of obligation here must not be sought in the nature of the human being, or in the circumstances of the world in which he is placed, but a priori solely in the concepts of pure reason. (4:389)

Our reason for following a moral law cannot be anything empirical. Another way of putting this is that our motivation to act morally cannot be because we want to achieve some particular empirical object. For example, suppose that I desire to eat a particularly tasty-looking piece of cake that I spot across the room but an acquaintance of mine happens to be intently striding towards that piece of cake as well. In order to delay my acquaintance long enough to grab the cake for myself, I strike up a conversation with them in which I kindly listen to their recent struggles and offer helpful and appropriate advice that greatly consoles them. While striking up such a conversation may outwardly appear as if it is a moral action, my motivation all along was simply to eat the piece of cake for myself. But the piece of cake being there available to me was a contingent, empirical matter. Had it not been there, I would not have been motivated to have the reassuring conversation with my acquaintance. The fact that I was motivated to do the supposedly moral thing was contingent on my having a desire to eat cake and on there being cake nearby. This contingency is unacceptable according to Kant, and a moral system based on any empirical ground will have a similar problem. Kant is perhaps most explicit on this point later in G, where he says

Empirical principles are not fit to be the foundation of moral laws at all. For the universality with which they are to hold for all rational beings regardless of differences – the unconditional practical necessity that is thereby imposed on them – vanishes if their ground is taken from the *particular arrangement of human nature*, or the contingent circumstance in which it is placed. (4:442)

No empirical principle can produce moral laws, because moral laws require universality and necessity, but empirical principles cannot hold for all rational beings as such.

Happiness is the specific empirical foundation for morality that Kant argues against most often and most explicitly. Kant claims that “the concept of happiness is so indeterminate a concept that, even though every human being wishes to achieve it, yet he can never say determinately and in agreement with himself what he actually wishes and wants. The cause of this is: that the elements that belong to the concept of happiness are one and all empirical, i.e. must be borrowed from experience” (4:418). Kant had previously defined happiness as “the entire well-being and contentment with one’s condition” (4:393). So if we were to base a moral system on achieving happiness, morality would require all sorts of empirical things. Whether or not we are happy is a result of things that happen in experience. However, because empirical matters are contingent, we can never be certain that any given action will have the desired effect. You may quit your job because you think that another profession would make you happier only to find out that your original job was actually much better than your new job. Thus, there is no way to know for sure which actions will lead to happiness and which will not. Therefore, if morality is based on achieving happiness, there is no way to know for sure which actions are moral and which are not. Kant says that even the “most insightful and at the same time singularly able but still finite being...is not able to determine with complete certainty, according to any principle, what will make him truly happy, because omniscience would be required for this” (4:418). In the above example, I did not know for sure that starting the beneficial conversation with my acquaintance would allow me to secure the cake for myself. And further, I did not know for sure that securing the cake would make me happy. This inability to know with certainty what will make us happy is a result of the fact that happiness depends on empirical matters.

Kant gives similar arguments against happiness as a foundation for morality in CPrR and MM as well. In CPrR, he says, “because cognition of [happiness] rests on sheer data of

experience,... it can indeed give *general* rules but never *universal* rules, that is, it can give rules that on the average are most often correct but not rules that must hold always and necessarily; hence no practical *laws* can be based on it” (5:36). Kant is again here emphasizing the fact that what makes us happy is an empirical contingency. Not only is it impossible to predict with certainty what will make each of us, ourselves, happy. It is impossible to predict with certainty what will make anyone else happy. There may be general rules of thumb that we can live by that are usually right. For instance, people generally require food in order to be happy. But because this is an empirical principle, it is not universally and necessarily true. So this rule by which we might try to increase our own happiness and that of others can never qualify as a moral law. Kant repeats this point in MM, saying, “only experience can teach what brings us joy. Only the natural drives for food, sex, rest, and movement, and (as our natural predispositions develop) for honor, for enlarging our cognition and so forth, can tell each of us and each only in his particular way, in what he will *find* those joys; and, in the same way, only experience can teach him the means by which to *seek* them” (6:215). According to Kant, what makes each of us happy is a thoroughly empirical and therefore contingent matter, thus “all apparently a priori reasoning about this comes down to nothing but experience raised by induction to generality” (6:216).

Thus far, I have focused on one way in which Kant argues that empirical foundations of morality prevent morality from achieving the universality and necessity required for it. Because what makes each of us happy is empirically contingent, having happiness as our moral goal can produce no genuinely moral laws. However, Kant also gives another sort of argument for why empirical foundations of morality prevent morality from achieving universality and necessity. This other argument has to do with our incentive for acting morally. However, in order to fully understand this argument, it is important that we first understand the distinction between

hypothetical and categorical imperatives. Kant says that “imperatives are only formulae to express the relation of objective laws of willing as such to the subjective imperfection of the will of this or that rational being, e.g. of the human will” (4:414). In other words, we, as rational but finite beings, are presented with objective laws of willing but we do not already necessarily act according to those laws. We do not necessarily act according to those laws because we are also finite beings, subject to inclinations. Inclination is “the dependence of the desiderative faculty on sensations” (4:413). In addition to being presented with objective laws of willing, we are also presented with subjective incentives, incentives that apply to each of us as an individual, finite being. These two things that can factor into our choices of action, two potential determining grounds of the will, are often in tension with one another. We might know that in order to land a secure job, it is required that we spend copious amounts of time refining our application materials and searching for promising job offers and yet also feel the inclination to go on a vacation with our family where we do not spend any time doing those things. Imperatives are the form that objective laws of willing take for finite, rational beings like humans. Because it is possible for us to act not according to objective laws of willing, they take the form of an ought. In the above example, the imperative is: ‘if you wish to secure a job, you ought to spend a lot of time working on your applications and searching for jobs.

Now, Kant says that “all *imperatives* command either *hypothetically*, or *categorically*” (4:414). Hypothetical imperatives, like the example from the last paragraph, are those that depend on us having a particular goal. The reason that I ought to spend a lot of time working on job applications and searching for jobs is because I do in fact wish to secure a job. If I did not wish to secure a job, I would no longer be necessitated to do that work. However, there are also categorical imperatives. Kant says, “the categorical imperative would be the one that represented

an action as objectively necessary by itself, without reference to another end” (4:414).

Categorical imperatives do not require that we have any particular goal in order for them to apply to us. We are simply obligated to follow them no matter what goals we do or do not have.

Because they depend on us having a particular goal in mind, hypothetical imperatives cannot obligate us universally and necessarily. The obligation to work on job applications does not apply to all rational beings as such. It only applies to those of us who wish to secure a job, and not all rational beings wish to secure a job. For this reason, hypothetical imperatives are not moral imperatives. Moral, categorical, imperatives must apply to all rational beings as such.

Empirical foundations for morality cannot produce categorical imperatives, because they do not obligate rational beings as such. Kant says, “wherever an object of the will has to be made the foundation for prescribing the rule that determines it, there the rule is nothing other than heteronomy; the imperative is conditional, namely *if* or *because* one wills this object, one ought to act in such or such a way; hence it can never command morally, i.e. categorically” (4:444). For example, if happiness is the foundation for morality, our incentive to act morally relies on us wanting happiness. If we did not care about happiness, we would have no reason to pursue morality. Therefore, morality would be neither universal nor necessary.

One might argue that all rational beings do in fact have happiness as their goal. Therefore, we can preserve the universality and necessity of morality, because all rational beings necessarily and universally aim at happiness. Kant himself says something like this: “to be happy is necessarily the demand of every rational but finite being and therefore an unavoidable determining ground of its faculty of desire. For satisfaction with one’s whole existence is not, as it were, an original possession... but is instead a problem imposed upon him by his finite nature itself” (5:25). Because we are finite beings and have material needs, we necessarily have the

satisfaction of those needs (and our other desires) as our goal. While Kant does not say this here, it is worth pointing out that our aiming towards happiness is not a result of our *rational* nature. Rather, it is a result of our *finite* nature. It is implied that if there were an infinite, rational being, God, it would not necessarily have happiness as its goal. Thus, happiness is not the goal of all rational beings as such. Kant argues on other grounds. He says that “just because this material determining ground can be cognized only empirically by the subject, it is impossible to regard this problem as law, since a law, as objective, must contain the *very same determining ground* of the will in all cases and for all rational beings” (5:25). This is similar to his argument against happiness as the foundation for morality above. Happiness consists in different things for different rational beings, so if all rational beings followed the same principles, they would not all become happy. However, Kant takes his argument one step further and says, “suppose that finite rational beings were thoroughly agreed with respect to what they had to take as objects of their feelings of pleasure and pain and even with respect to the means that they must use to obtain the first and avoid the other; even then they could by no means pass off the *principle of self-love* [of which the principle of happiness is a type]⁷ as a *practical law*; for, this unanimity itself would still be only contingent” (5:26). In order for morality to be truly universal and necessary, it can have no empirical principles as its foundation. Even if all rational beings aim at those empirical principles in exactly the same way, the fact that they are universally aimed at is not a result of the rationality of those beings. Because they are empirical principles, even the universal consensus is itself contingent. All rational beings do not and cannot necessarily aim at happiness or any other empirical principle.

⁷ See 5:22.

Kant's attack on any empirical foundation for morality is focused most explicitly on happiness, but the most serious problems with happiness as a foundation for morality apply to all other empirical foundations for morality as well. Throughout his three major moral works, Kant condemns empirical foundations for morality for failing to establish the universality and necessity required for moral principles. He argues both that such principles cannot produce identical moral laws for all rational beings as such due to the indeterminacy of empirical principles as goals and that they rely on us having a contingent incentive for morality.

3 EMPIRICAL INFLUENCE ON THE MORAL LAWS

In what follows I will argue that despite Kant's concern with empirical foundations for morality, what moral laws there are, according to Kant's moral system, is partially determined by empirical information. Towards that end, I will introduce the major formulas of Kant's supreme principle of morality before showing that they rely on empirical information in order to produce moral laws.⁸ I will then show why this result presents a problem for the consistency of Kant's moral system.

3.1 Formula of Universal Law

When searching for the supreme principle of morality in G, Kant first identifies it as follows: "act only according to that maxim through which you can at the same time will that it become a universal law" (4:421). This version of the supreme principle of morality has come to be known as the Formula of Universal Law (FUL). A version of this formula also appears in CPrR, where Kant says, "so act that the maxim of your will could always hold at the same time as a principle in a giving of universal law" (5:30). Further, in the introduction to MM, Kant says

⁸ I am indebted to Allen Wood's, *Kant's Ethical Thought* for helping organize my consideration of the different formulas of Kant's supreme principle of morality (Wood 1999, 76-190).

that “the categorical imperative, which as such only affirms what obligation is, is: act upon a maxim that can also hold as a universal law” (6:225). So this version of Kant’s supreme principle of morality, FUL, can be found throughout Kant’s moral corpus, but still, it is not immediately clear how it is to be used for everyday moral reasoning.⁹

In order to understand how we are to apply FUL, we must understand Kant’s definitions of the following terms: practical principles, maxims, and (practical) laws.¹⁰ Kant most helpfully defines these terms in CPrR, saying, “Practical *principles* are propositions that contain a general determination of the will, having under it several practical rules. They are subjective, or *maxims*, when the condition is regarded by the subject as holding only for his will; but they are objective, or practical *laws*, when the condition is cognized as objective, that is, as holding for the will of every rational being” (5:19). ‘Practical principles’ is the most general term here. They contain a determination of the will, meaning that they contain a resolution regarding how to act. Further, that determination of the will is general, meaning that it is supposed to apply to multiple situations. Practical principles guide action across situations. Maxims and practical laws are both types of practical principles. Insofar as they are practical principles they contain “a general determination of the will” (5:19). The difference between maxims and laws hinges on who they are supposed to apply to. Maxims are subjective and are only taken to apply to the person willing them. Laws are objective and are taken to apply to all rational beings as such. One of Kant’s examples of a maxim is “to increase my wealth by every safe means” (5:27). This is a practical principle because it is action-guiding and because it applies across situations. The person who holds this maxim would increase their wealth whenever it is safe to do so. Further, it would be a

⁹ I will not here be discussing a related but separate question as to whether Kant truly derives the supreme principle of morality *a priori*. For the purposes of this thesis, I am assuming that he does.

¹⁰ In what follows I will be using the terms ‘practical laws’ and ‘moral laws’ interchangeably, as Kant seems to.

maxim if that person had only resolved that they would follow it, if they had not considered whether *everyone* ought to follow it. They just accept that for them it is good to increase their wealth by every safe means. Thus, it is a subjective practical principle, a maxim. Now imagine another person who is acting according to the principle that lying is forbidden. This is also a practical principle because it ranges across scenarios and it is action-guiding. However, we can imagine that this practical principle is taken to hold for all rational beings. The person acting according to it may think that lying is not just forbidden for them personally. Rather, lying is forbidden for all rational beings as such. Then, this practical principle is objective, a practical law.

Returning to FUL as stated in G, Kant says, “act only according to that maxim through which you can at the same time will that it become a universal law” (4:421). With a better understanding of what Kant means by maxim and law, it becomes apparent that FUL requires that we ask ourselves whether our maxims, the practical principles that we take to hold only for us, can also qualify as practical laws, the practical principles that hold for all rational beings. Further, it requires that we only act according to the practical principles that can qualify as practical laws. However, these requirements prompt the question: how are we supposed to tell whether our maxims also qualify as practical laws?

In order for a practical principle to be a practical law, it must hold for all rational beings as such, that is, it must be objective. Kant says, “all practical principles that presuppose an *object* (matter) of the faculty of desire as the determining ground of the will are, without exception, empirical and can furnish no practical laws” (5:21). As explained above, if the motivation to act on a practical principle is contingent on it bringing about some material end, that principle

cannot be a practical law.¹¹ To return to Kant's example: if the reason that one is trying to increase their wealth by every safe means is so that they can purchase something, impress someone, achieve greater future security, or any other material goal, that principle cannot be a practical law because it cannot hold for all rational beings as such. Kant says, "a principle that is based only on the subjective condition of receptivity to a pleasure or displeasure (which can always be cognized only empirically and cannot be valid in the same way for all rational beings) can indeed serve as his *maxim* for the subject who possesses this receptivity but not as a *law* even for him (5:21-22) So any practical principle which is willed because the subject hopes to achieve some material end is a maxim and cannot qualify as a practical law.

Given that all practical principles which rely on their matter as the determining ground of the will cannot be practical laws, Kant tries to establish what the determining ground of the will for any practical law would be. He says

Now, all that remains of a law if one separates from it everything material, that is, every object of the will (as its determining ground), is the mere *form* of giving universal law. Therefore, either a rational being cannot think of *his* subjectively practical principles, that is, his maxims, as being at the same time universal laws or he must assume that their mere form, by which *they are fit for a giving of universal law*, of itself and alone makes them practical laws. (5:27)

A practical principle's form is its fittingness for being a universal law (5:74, 109, and 6:214).

Thus, when we are investigating whether a practical principle can qualify as a universal law, we are investigating its form, not its matter, the thing we hope to accomplish by willing the practical principle. However, the question as to exactly how we investigate a practical principle's form still remains.

¹¹ The 'motivation to act' here is another way of putting the 'determining ground of the will.' It is the thing for the sake of which we act. It must not be confused with a 'determination of the will' as referred to in the definition of practical principles above. A determination of the will is a resolution to act.

In CPrR, Kant describes a situation where he has a financial deposit in his possession, and the owner of that deposit has just died and left no record of it (5:27). As introduced above, Kant says that he has made it his maxim, “to increase my wealth by every safe means” (5:27). So Kant looks to apply FUL in order to determine whether it permits him to take the deposit for himself. FUL requires that Kant be able to will the maxim of his action to become a universal law. Kant shows us what this means by saying that he is considering “whether I could through my maxim at the same time give such a law as this: that everyone may deny a deposit which no one can prove has been made” (5:27). He is asking himself whether the subjective practical principle on which he is acting *could* also be objective and hold for all rational beings. He is considering whether it would be possible to will the maxim of his action, when it has been universalized, that is, when everyone is acting on that maxim. Kant says, “I at once become aware that such a principle, as a law, would annihilate itself since it would bring it about that there are no deposits at all” (5:27). It would be impossible to will that the maxim be universalized, because the action would become impossible when universalized. Kant does not specify here exactly how the action would become impossible, but presumably, if everyone were denying deposits and stealing from one another at whatever chance they had, the practice of making deposits would fall out of existence. This action is not permissible because its maxim cannot be universalized. Thus, the practical principle quoted above does not qualify as a practical law, and according to FUL, it is impermissible to act on it. In order to tell what practical principles can qualify as practical laws, we must imagine a world in which everyone is acting according to that practical principle.

In G, Kant enumerates two ways in which actions can fail to be permissible according to FUL. First, “some actions are such that their maxim cannot even be *thought* without

contradiction as a universal law of nature” (4:424). Further, some actions are not permissible according to FUL because they cannot be *willed* to become universal laws of nature. In other words, a will that willed that such a maxim become a universal law of nature would necessarily contradict itself, even though it is possible to conceive that such a maxim *could* be a universal law of nature. I take Kant’s deposit example from CPrR to be an example of the first type. According to Kant, it is impossible to conceive of deposits continuing to exist when they are being universally denied at every opportunity. Now that I have laid out both the underpinnings and the concrete application of Kant’s Formula of Universal Law, I will analyze two of Kant’s examples in order to show that whether a practical principle is a practical law or not is partially determined by empirical information.

In G, Kant gives four examples to help illustrate how to apply FUL. For all of these examples, empirical information partially determines whether the given practical principle qualifies as a practical law. However, for brevity’s sake, I will focus on two of these examples. First, Kant considers suicide. The practical principle in question is: “from self-love I make it my principle to shorten my life if, when protracted any longer, it threatens more ill than it promises agreeableness” (4:422). Kant argues that such a practical principle is not permissible according to FUL because it is incoherent when universalized. He says, “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 would thus not subsist as a nature (4:422). The reason that one would be committing suicide is to avoid unnecessary suffering. In this case, humans’ natural tendency towards self-love would motivate suicide. But self-love is generally motivated towards the advancement of life. So, were we to pose the practical principle of suicide as a universal law of nature, self-love would require us to commit suicide *and* require us to

advance our lives. This is incoherent, and thus, the practical principle is not universalizable. Therefore, it is impermissible to act according to the practical principle given above, according to FUL.

In G, Kant does not explain the concept of self-love beyond saying that it impels us “towards the advancement of life” (4:422). However, in other texts, Kant confirms that self-love is an empirical concept. The empirical nature of self-love is most evident in CPrR, where Kant calls self-love a “predominant benevolence toward oneself” and says that “pure practical reason merely *infringes upon* self-love, inasmuch as it only restricts it, as natural and active in us even prior to the moral law, to the condition of agreement with this law, and then it is called *rational self-love* (5:73).¹² By distinguishing rational self-love from ordinary self-love, Kant shows that self-love is ordinarily non-rational in its origin. It is a feature of our nature as empirical beings. Because Kant’s argument for the impermissibility of suicide depends on self-love (1) being an inclination that human beings actually have and (2) having certain features, the impermissibility of suicide rests on empirical facts about us. Were those facts different, suicide *could* be permissible according to FUL. Therefore, the fact that the given practical principle does not qualify as a practical law is partially determined by the empirical facts that humans have self-love and that it has certain features.

In Kant’s suicide example, the practical principle of suicide does not cohere with FUL because it is incoherent when universalized. The next example is of a practical principle that does not cohere with FUL because it cannot be *willed* to be a universal law. It is the neglect of one’s natural talents. Kant describes someone who has natural talents that, were they to be cultivated, “could make him a useful human being in all sorts of respects” (4:423). However, this

¹² See also 5:22.

person would rather not exert the effort to cultivate those talents and prefers laziness. The question is: “whether his maxim of neglecting his natural gifts...agrees with what one calls duty” (4:423). Kant argues that such a maxim is coherent as a universal law. Humans could continue to exist even if everyone acted on such a maxim. However, the lazy person, “cannot possibly **will** that this become a universal law of nature, or as such be placed in us by natural instinct. For as a rational being he necessarily wills that all capacities in him be developed, because they serve him and are given to him for all sorts of purposes” (4:423). The practical principle is not universalizable because it conflicts with something that Kant thinks all rational beings necessarily will. Therefore, it is impermissible to neglect the development of one’s natural talents according to FUL.

This example is more curious than the previous one. Kant claims that laziness in regard to developing one’s talents is at odds with the fact that all rational beings necessarily will that their talents be developed. If this really is the case, then the fact that laziness in regard to one’s natural talents is impermissible according to FUL does not depend on empirical information. It can be derived *a priori* just from the concept of a rational being. However, Kant does not provide an *a priori* argument for his claim that rational beings necessarily behave this way. In fact, if it really is the case that all rational beings necessarily will that their talents be developed, it seems strange that Kant is even positing a rational being who is contemplating not doing so. Without *a priori* proof that rational beings necessarily will that their capacities be developed it is difficult to assume that Kant is not relying on empirical information here too. So while it is not clear that the evaluation of this practical principle definitely does require empirical information, it is also not clear that the evaluation definitely *does not* require empirical information.

I have shown that in order for FUL to determine whether or not a practical principle qualifies as a universal law it must rely on some empirical information. As I laid out above, Kant thinks that the form of a practical principle is its fittingness for practical law. So insofar as empirical information determines whether or not a practical principle is fit for being a practical law, and I have argued that it does, empirical information determines what sort of form that practical principle has. However, as I will elaborate on in section 4, even if it is true that a practical principle's form is determined by empirical information, that does not mean that all practical principles are maxims, according to Kant's definition, but it does complicate Kant's picture of practical laws as universal and necessary. What practical laws there are, what practical principles qualify as practical laws, depends on empirical information, which is contingent. If that empirical information were different, it could affect whether a given practical principle qualifies as a practical law. Thus, contrary to what Kant claims, moral laws are neither universal nor necessary according to FUL.

3.2 Formula of Humanity

I have established that for FUL, the first formula of Kant's supreme principle of morality from G, whether a practical principle is a moral law or not depends on empirical information. But it is possible that Kant's other formulas of the supreme principle of morality may avoid such a problem. In order to show that this is not the case, let us consider the next major formula of the supreme principle of morality from G, the Formula of Humanity (FH). This formula is as follows: "so act that you use humanity, in your own person as well as in the person of any other, always at the same time as an end, never merely as a means" (4:429). FH is different from FUL in several important ways. In order to make these differences clearer, let us look to Kant's discussion of having ends as duties in MM.

FUL outlaws or permits given practical principles. FH is supposed to allow us to know what practical principles we *should* have. More specifically, Kant is concerned with knowing what *ends* we should have. If all ends, as the things we mean to accomplish through our will, only had value because we desired them, then categorical imperatives would be impossible. All imperatives would be hypothetical, because they would only be imperatives insofar as we take those particular ends as our own. “But suppose there were something *the existence of which in itself* has an absolute worth, that, as an *end in itself*, could be a ground of determinate laws, then the ground of a possible categorical imperative, i.e. of a practical law, would lie in it, and only in it alone” (4:428). In order to ground a categorical imperative, there needs to be something that has absolute worth all on its own. Kant says, “a human being and generally every rational being *exists* as an end in itself, *not merely as a means* for discretionary use for this or that will, but must in all its actions, whether directed towards itself or also to other rational beings, always be considered *at the same time as an end*” (4:428). For the purposes of this paper, it is not crucially important that we understand exactly *why* humanity (as rationality) qualifies as an end in itself.¹³ Rather, what is most important for our purposes is that Kant presents FH as a result of this realization. Because humanity has absolute worth, we all have a duty to take humanity as an end in our willing.¹⁴

In order to demonstrate this fresh formula of the supreme principle of morality, Kant sets out to apply it to the same four examples he used to demonstrate FUL. So in order to show that

¹³ See Wood’s *Kant’s Ethical Thought* for an incisive explanation of exactly why humanity has absolute worth for Kant and how this leads Kant to FH (Wood 1999, 111-132).

¹⁴ One might argue that Kant’s argument for humanity as an end in itself is actually empirically based, in which case FH fails to get off the ground as a way of determining morality universally and necessarily. While this is a legitimate concern, I will not be discussing it here. Similar to the above, where I took Kant’s argument for FUL to be *a priori* and legitimate, I will be accepting Kant’s argument for humanity as an end in itself as *a priori* as well. My contention is that even accepting this, according to FH, what moral laws there are is still determined by empirical information.

this new formula also depends on empirical information, I will consider those examples myself. Similar to my treatment of FUL, for brevity's sake, I will only consider two of those four examples here, but it will be the two that I did not consider above.

Kant argues that FH can explain why lying is wrong. In G, he says that “someone who has it in mind to make a lying promise to others will see at once that he wants to make use of another human being *merely as a means*, who does not at the same time contain in himself the end” (4:429). He then argues that it would be impossible for the victim of the lie to consent to such treatment. Thus, they cannot share the ends of the liar's actions, meaning that the liar is treating them merely as a means. Kant's argument against lying in MM is more comprehensive. First, he says, “by a lie a human being throws away and, as it were, annihilates his dignity as a human being” (6:429). So it is not just that the liar disrespects the humanity of the person they lie to. They disrespect their own humanity as well. Presumably, this is because

Communication of one's thoughts to someone through words that yet (intentionally) contain the contrary of what the speaker thinks on the subject is an end that is directly opposed to the natural purposiveness of the speaker's capacity to communicate his thoughts, and is thus a renunciation by the speaker of his personality, and such a speaker is a mere deceptive appearance of a human being, not a human being himself. (6:429)

Humans have a capacity to communicate their thoughts to one another, and the natural purpose of that capacity is to accurately convey what they are thinking. Lying to someone else precludes the liar from achieving that natural purpose, because they are not actually communicating what they are thinking. So by deceiving his interlocutor, the liar is not only disrespecting the humanity of the *interlocutor* by treating him merely as a means. The liar is also disrespecting *his own* humanity by preventing himself from realizing the natural purpose of his capacity for communication.

Kant's belief that humans have a "natural purposiveness" to communicate our thoughts relies on humans having the capacity to communicate (6:429). If we were not able to communicate, we would not have this purposiveness, and in turn, lying would not disrespect our humanity. However, Kant does not argue that our capacity to communicate is a result of our rational nature as such, and there is reason to doubt that it is. If our capacity to communicate were a result of our rational nature as such, all rational beings would have such a capacity. But we can imagine (and perhaps observe) individual human beings who are rational but are unable to communicate their thoughts. For example, someone who is completely paralyzed may have a vivid, ordered inner life involving the reasoned consideration of their environment and yet find themselves unable to indicate their thoughts to any other person. Or for another example, a completely isolated individual could live rationally and yet have no other rational being available to them with whom they can communicate their thoughts. So the capacity to communicate is a contingent fact of humans' empirical nature, not solely our rational nature. And because Kant's argument for the impermissibility of lying depends on humans having the capacity to communicate, it depends on some empirical information. According to FH, lying is wrong because it treats humanity merely as a means, but in a different empirical world, even with rational beings, that could be different. Thus, the fact that lying is wrong according to FH is determined by empirical information.

In regard to being indifferent to the needs of others, Kant says, "humanity could indeed subsist if no one contributed anything to the happiness of others while not intentionally detracting anything from it; but this is still only a negative and not positive agreement with *humanity, as an end in itself*, if everyone does not also try, as far as he can, to advance the ends of others" (4:430). The problem with indifference is not that it actively disrespects humanity as

an end in itself. Rather, it passively fails to respect humanity as an end in itself. Kant's argument against such indifference in MM is not particularly helpful here, because it only considers the action in terms of FUL (6:452-453). But an argument in terms of FH could be given as well. By being indifferent to the needs of others, one is directly failing to place humanity as one's end. Insofar as others are human, we should treat them as an end. It is not enough to simply avoid treating them as mere means; we should take their happiness as our end.

This argument also depends on empirical information. Namely, it depends on indifference being on-the-whole worse for those we would have helped. But imagine an empirically different scenario. Imagine that we are very inept at helping others. Were it the case that our help was predictably ineffective and actually harmful, it seems like we would no longer be treating humanity as an end in itself. By continuing to try to help, we would be harming. In such a scenario, indifference would actually be required in order to properly respect humanity. What determines whether or not being indifferent to the needs of others actually disrespects their humanity depends on whether or not it would be better to try to help them. But this is an empirical matter. Thus, the immorality of indifference to the needs of others according to FH depends on empirical information.

Kant's application of FH in his four examples from G, and their corollary arguments in MM, depends on empirical information in order to determine the morality or immorality of actions. But this problem is not limited to his particular examples. Rather, it is a result of FH itself. As Allen Wood notes, "we may regard every argument from FH to a general duty as resting on an intermediate premise, logically independent of FH itself, which tells us what a kind of action (or its maxim) expresses or fails to express concerning the worth of humanity" (152). In each of the above examples, an intermediate premise stating, for example, 'lying disrespects

humanity' was required to get from FH to the conclusion that lying is wrong. In the above passages, I have argued that in two of Kant's examples, that intermediate premise is determined by empirical information. Whether or not the action respects humanity is dependent on empirical information. The intermediate premise will always involve some action itself and an explanation for why that action does or does not respect humanity. However, those explanations will rely on the empirical circumstances relevant to the case. So any decision issued by FH will be influenced by the empirical information imbued in its intermediate premise.¹⁵

Thus, whether we use FUL or FH to determine what moral laws there are, the outcome will be partially determined by empirical information. Further, because empirical information is contingent, what moral laws there are is also contingent. This result is at odds with Kant's insistence that moral laws be both universal and necessary. However, it remains to be seen whether Kant's argument against empirical foundations for morality from section 2 can solve the problem that I have presented in section 3.

4 Can Kant Avoid this Problem?

To recap, Kant's main argument against any empirical foundation for morality as laid out above revolved around two claims: (1) the realization of empirical goals is empirically contingent, and (2) material ends cannot be the incentive to moral action. Neither of these claims solve the problem from section 2, because in order to solve that problem Kant would need to explain how what the moral laws are is not determined by empirical information. His argument

¹⁵ As this thesis is focused on showing that Kant's moral system does not establish the universality and necessity of moral laws, and as noted by Wood, Kant's Formula of the Realm of Ends (FRE) is not used to establish particular moral laws in Kant's major moral works, I will not be discussing it at length here (Wood: 1999, 167). It is worth noting however, that the idea that all moral actions must cohere together, which is the impetus behind FRE, requires that no two moral actions contradict one another. This coherence is only ensured if moral laws are not contingent, which I have argued Kant's system does not establish.

against an empirical foundation for morality does not do this, because it instead focuses on the problems associated with having empirical goals for morality. Kant thought that the form of a practical principle was not empirical and thus that it would be both universal and necessary. However, I have shown that the form of a practical principle, its fittingness for being a practical law, is in fact determined by empirical information. However, this does not mean that when we act morally according to Kant's system, we are really acting for the sake of some material end. Rather, even if the form of a practical principle is empirically determined, we are still judging practical principles based on that form and not on their matter. So there is still a significant distinction between Kant's moral system and the ones that he argues against.

However, the deeper motivation behind Kant's critique of empirical foundations for morality was that they failed to establish the universality and necessity of moral laws. These laws are supposed to obligate all rational beings and be the same for all rational beings. But according to my argument above, Kant's own moral system also fails in this regard. So while the problem from section 2 is not the same problem that Kant argues against in section 1, it has a similar result. What moral laws there are is a matter of empirical contingency.¹⁶

Kant's argument against an empirical foundation for morality focuses most heavily on the fact that the determining ground of the will for a moral action cannot be the material end that we hope to achieve by that action. In my view, Kant successfully argues against such foundations on the grounds that they do not provide for the universality and necessity of moral laws that is

¹⁶ Although, there may still be reason to prefer Kant's system to that of his targets. Kant's system does not base morality on anything empirical directly. He would have us ask ourselves if, to the best of our knowledge, the principles on which we act could be taken up by all rational beings. The answer to that question may be empirically determined, but Kant's system does a better job of approximating universality than his opponents' empirical moral theories.

required by morality. However, this argument does not address a problem with the role that empirical information plays in Kant's own moral system which leads to the same result. What moral laws there are is partially empirically determined, and thus, Kant's own moral laws are neither universal nor necessary. It is unclear from his main argument against empirical foundations of morality how Kant would respond to this charge.

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