

Chapter 6 Social Compacts as Moral Codes

§ 1. Private and Public Morality

Rousseau stated that civil association gives the actions of the individual "the morality they had formerly lacked." This statement is true when looked at in one particular context, but it is not critically true in general. A man, even when living in the state of nature, obeys a private, personal code. His manifold of rules contains highest rules that, at any particular point in time, stand under no still-higher constructed practical rules and are therefore *practically unconditioned*. These are his practical hypothetical imperatives and they constitute rules of action that, when provoked by *parástase* of desiration, carry all the *force* of moral imperatives in Self-determination.

Critical morality in general (*Moralität*) is a system of practical laws standing under practical hypothetical imperatives that an individual constructs in his manifold of rules. Every person constructs for himself his own private moral code, i.e., his own value system that for him *practically* defines what is right, what is wrong, what is good, and what is evil. Critical *good* is *the Object of practical Reason by which an object is represented as a necessary object of appetitive power*. By "necessary object of appetitive power" I mean an object the Organized Being acts to realize (make actual). Critical *evil* is *the Object of practical Reason by which an object is represented as a negative and necessary object of appetitive power*. By "negative and necessary object of appetitive power" I mean an object that practical actions aim to abolish the actual *Existenz* of, or if the object is not yet actual, to prevent from becoming actual in *Existenz*. This is a part of the Nature of being a human being to which it is irrelevant whether the individual lives in the state of nature or in a civil association with fellow human beings.

Santayana gave this facet of being human the name *pre-rational morality*. He wrote,

What ethics asks is not why a thing is called good, but whether it is good or not, whether it is right or not to esteem it. Goodness, in this ideal sense, is not a matter of opinion but of nature. For intent is at work, life is in active operation, and the question is whether the thing or the situation responds to that intent. So if I ask, Is four really twice two? the answer is not that most people say so, but that, in saying so, I am not misunderstanding myself. To judge whether things are *really* good, intent must be made to speak; and if this intent may itself be judged later, that happens by virtue of other intents comparing the first with their own direction.

Hence good, when once the moral or dialectical attitude has been assumed, means not what is called good but what is so; that is, what *ought* to be called good. For intent, beneath which there is no moral judgment, sets up its own standard, and ideal science begins on that basis, and cannot go back of it to ask why the obvious good is good at all. Naturally, there is a reason, but not a moral one; for it lies in the physical habit and necessity of things. The reason is simply the purposive essence of animals and of the universal flux, which renders forms possible but unstable, and either hurtful or helpful to one another. That nature should have this constitution, or intent this direction, is not a good in itself. It is esteemed good or bad as the intent that speaks finds in that situation a support or an obstacle to its ideal. As a matter of fact, nature and the very existence of life cannot be thought wholly evil, since no intent is wholly at war with these its conditions; nor can nature and life be sincerely regarded as wholly good, since no moral intent stops at the facts; nor does the universal flux, which infinitely overflows any actual synthesis, altogether support any intent it may generate. [Santayana (1906), pp. 215-216]

The most striking feature of moral judgment is its character of *absoluteness*. But to judge something absolutely presupposes an absolute standard for judgment. The moral question always revolves around the question, *What is this standard?* But for every individual there is and can be

only one absolute standard. That standard is indissolvably bound to the one and only absolute certainty that any human being possesses, namely the certainty of his knowledge of his own *Dasein*. The absolute standard is the formula of practical Reason's categorical imperative. The fatal error at the foundation of all ontology-centered systems of ethics, whether we are speaking of consequentialist ethics or virtue ethics, is that these systems attempt to vest the absolute standard in something outside of the individual. Kant made this same error in his moral theory.

This does *not* mean "all morality is relative" in the context in which moral relativists use that phrase. To say this with the meaning usually signified by the phrase is to say no person is or can ever be *really* correct about any value he holds or in the moral judgments he makes. It is to posit that no moral judgment is truly moral merely because that judgment is not esteemed by the *universal* agreement of all people. But the nominal explanation of the word *truth* is nothing more and nothing less than *the congruence of a cognition with its object* [Kant (1787), B:82]. What, then, does it mean to say that a person is "correct" or "incorrect" about a judgment? Kant points out that to say either is utterly meaningless if one ignores the human Nature of the acts of judging objects, the laws the process of judgmentation follows, transcendental criteria that judgmentation employs, and the degree to which the judgment is *held-to-be-true* [Kant (1787), B:82-86; Kant (1800), 9:49-57, 65-81].

To suppose that "truth" is a property of objects regarded as things-in-themselves is to reify truth – to divorce it from the person who judges and place it "out in" external Nature – and to do this is an ontological error. It is, specifically, Hegel's error. Take this misstep and cold, clinical, relentless logic then can take you nowhere else but to Hegel's final Absolute destination:

The objects of philosophy, it is true, are upon the whole the same as those of religion. In both the object is Truth, in that supreme sense in which God and only God is the Truth. Both in like manner go on to treat of the finite worlds of Nature and the human Mind, with their relation to each other and to their truth in God. [Hegel (1830a), pg. 3]

Logic is usually said to be concerned with forms *only* and to derive the material for them from elsewhere. But this 'only', which assumes that the logical thoughts are nothing in comparison with the rest of the contents, is not the word to use about forms which are the absolutely real ground of everything. . . . We must however in the first place understand clearly what we mean by Truth. In common life truth means the agreement of an object with our conception of it. We thus suppose an object to which our conception must conform. In the philosophical sense of the word, on the other hand, truth may be described, in general abstract terms, as the agreement of the thought-content with itself. This meaning is quite different from the one given above. At the same time the deeper and philosophical meaning of truth can be partially traced even in the ordinary usage of language. Thus we speak of a true friend; by which we mean a friend whose manner of conduct accords with the notion of friendship. . . . God alone is the thorough harmony of notion and reality. All finite things involve an untruth: they have a notion and an existence, but their existence does not meet the requirements of the notion. For this reason they must perish, and then the incompatibility between their notion and their existence becomes manifest. [*ibid.*, pp. 40-41]

The **Idea** is truth in itself and for itself – the absolute unity of the notion and objectivity. Its 'ideal' content is nothing but the notion in its detailed terms: its 'real' content is only the exhibition which the notion gives itself in the form of an external existence, while yet, by enclosing this shape in its ideality, it keeps it in its power, and so keeps itself in it.

The definition which declares the Absolute to be the Idea is itself absolute. All former definitions come back to this. The Idea is the Truth: for Truth is the correspondence of objectivity with the notion – not of course the correspondence of external things with my conceptions, for these are only *correct* conceptions held by *me*, the individual, nor with

figurative conceptions, nor with finite things. And yet, again, everything actual, in so far as it is true, is the Idea, and has its truth by and in virtue of the Idea alone. Every individual being is some one aspect of the Idea: for which, therefore, other actualities are needed, which in their turn appear to have a self-subsistence of their own. It is only in them altogether and in their relation that the notion is realized. The individual by itself does not correspond to its notion. [*ibid.*, pp. 274-275]

The Absolute is Mind (Spirit) – this is the supreme definition of the Absolute. . . . Absolute mind knows that it posits being itself, that it is itself the creator of its Other, of Nature, and finite mind, so that this Other loses all semblance of independence in the face of mind, cease altogether to be a limitation for mind and appears only as a means whereby mind attains to absolute being-for-self, to the absolute unity of what it is in itself and what it is for itself, of its Notion and its actuality. The highest definition of the Absolute is that it is not merely mind in general but that it is mind which is absolutely manifest to itself, self-conscious, infinitely creative mind. . . . It is in the Christian religion that the immanently differentiated *one* nature of God, the totality of the divine mind in the form of unity, has first been manifested. [Hegel (1830b), pp. 18-20]

I wonder: Which particular Christian religion would that be? This transcendent drivel is what got philosophy kicked out of the science club by the positivists.

§ 2. Moral Customs

When individual cognition concerns an object of physical Nature, it is possible for many individuals to compare and critique each others' concepts and their logical consequences and thereby arrive at empirical consensus about the object. This doesn't mean there is a guarantee that future experience will not overturn that consensus, but it does mean a concept is established in which coherence of the cognition and the object is found *so far as we yet know*. When individual cognition concerns a *noumenal* object of mathematical Nature, it is likewise possible for many individuals to compare and critique each others' concepts and arrive at a consensus of logical truth. This, in point of fact, is a stronger consensus because the objects of mathematics are *defined* objects and are therefore *made necessarily coherent* in their conception.

But when the object is a *noumenon* called "moral," what is its epistemological standing? Here is where we must draw a logical (and therefore mathematical) distinction between what I called *private* moral codes and *public* moral codes. The truth found in Rousseau's statement is a truth that applies only insofar as one considers what should properly be called *public* morality. Consensus among different individuals can be possible for the latter because a public moral code can be jointly agreed to and set to service as a norm. This is what Santayana was getting at when he said "rational ethics is a politics of will." Its public then consists of all individuals who *consent* to its definition. As for the practical objective validity of the notion of "moral *per se*," this is a human trait and the ground can therefore only be vested in our social atom and, specifically, in the *homo noumenal* aspect of being a human being. But this practical ground is likewise the birthplace of the possibility of public moral codes and private moral codes alike and is manifested in appearances by estimations and expressions of values. Santayana said,

Philosophers would do a great discourtesy to estimation if they sought to justify it. It is all other acts that need justification by this one. The good greets us initially in every experience and in every object. Remove from anything its share of excellence and you have made it utterly insignificant, irrelevant to human discourse, and unworthy of even theoretic consideration. Value is the principle of perspective in science, no less than of rightness in life. The hierarchy of goods, the architecture of values, is the subject that concerns man the most. [Santayana (1906), pp. 216-217]

Kant remarked in his handwritten notes,

Moral custom is founded on the rule of acts from the viewpoint (station) of the common participant or representative:

1. of the participant in nature with regard to himself;
2. of the participant in freedom with regard to others. In the latter case, from the viewpoint of either the representative of the choice of others or of their welfare.

The common is either the property or the things that have a certain property. *Universalitas interna* or *externa*¹. Moral feeling is that through which the common objective *principia*² of judgmentation become subjective resolution, thus that through which absolute rules become maxims. [Kant (c. 1764-1800), 19: 163-164]

The absolute rules here are the currently unconditioned practical hypothetical imperatives in the manifold of rules. The maxims to which he refers are *concepts of Duty* represented as theoretical ideas of maxims in his manifold of concepts. Such an idea, however, is subjective because the intuition (that which the concept is a rule for reproducing in sensibility) is marked by an act of reflective judgment in the free play of understanding and imagination. All objective *parástases* are marked through acts of reflective judgment and therefore are subjective *parástases*. By this I mean that the act of representation is grounded in a subjectively sufficient condition for judging but is not also grounded in an objectively sufficient condition. The feeling of *Lust* or *Unlust* that marks the equilibrating constitution of the subjectively sufficient condition is what Kant properly means by "the moral feeling."

People conjointly living in the same physical environment and facing more or less the same physical situations and conditions will tend to form many similar practical maxims in their private manifolds of rules because the conditions with which they must contend are similar. This is, all by itself, a sufficient condition for producing individual practical maxims and laws that are not utterly alien to those other people come to construct. To the extent to which individuals might come to reflect upon their own customary conduct, the concepts they form of these will likewise not be found utterly alien to each other. This is the significance and importance of Santayana's remark that "the good greets us initially in every experience and every object." It is also the basis in physical Nature that provides the possibility for and even encourages the making of social conventions and compacts between people whose lives bring them to have mutual intercourse.

Kant used the term *elater animi* ("driver of mind") to denote a ground for Self-determination or a source of the possibility for producing represented, determining, or impelling reasons for specific actions. In this connotation, an *elater animi* denotes the object of a motive. Kant gave this sort of motive the rather colorful and metaphorical technical name *Triebfeder* or "main-spring" (as in the mainspring of a clock, something that "makes us go"). Kant tells us,

The capacity for purposes (unity of intents), i.e. choice which is aimed at the sum of all mainsprings, is will (aim – purpose – intention – maxim – disposition – law).

Elater is the capacity of an impelling reason to determine appetite to deed so far as it rests on the nature of the subject. Hence, many grounds of motion³ are not easily satisfied *elateres* for human beings. Either we take special interest in nothing or no interest in

¹ "generally applicable to the private or the external"

² "principles"

³ *motiva*, plural of *motivum*. This is "motive" in the connotation of a *Bewegungsgrund* (ground of motion). Kant uses this term in connection with the determination of volition. Motive in this connotation is the non-sensuous rational counterpart of a mainspring and denotes a rational reason for acting in some particular way in a particular circumstance.

anything intellectual or only as much interest as suffices for wishing. . . .

Human choice⁴ is not necessitated *per stimuli*⁵, thus is not animal [choice], but as subjective *liberum*⁶ is also not necessitated by motives, thus is not pure but sensitive, *affectum stimulis*⁷. Nothing is *more* opposed to freedom in all intention than that the human being have an alien author. [Kant (c. 1773-79), 15: 458]

In other words, each one of us is his own agent of Self-determination and each of us is the author of his Self *in choosing the person he makes himself to be* through the types of maxims he sets up to govern his own actions. In moral terms, there is no more pernicious falsehood than the excuse, "I had no choice." Each one of us always *exclusively* has the choice. We might not like the possible options, but the options are always there: to do or to refrain; to lead or to follow; to fight or take flight; to submit or defy. The options are always there.

Metaphorically speaking, we are each the author of our own moral autobiographies. There is no other rational ground than this for any possible justification of the idea that a person can be *held-to-be-culpable* for his own actions. Culpability is the ground of justification for all legal systems and, indeed, for all judgments of moral virtue, moral fault and moral transgression. The idea of culpability is one of the main load-bearing members in the construction of every conventional system of *public* morality in civil associations. All moral customs get their social force from this.

The following point bears repeating: Theoretical maxims – ideas in the manifold of concepts – are not copies of the practical maxims and rule substructures in the manifold of rules. They do not *command* one's actions as practical hypothetical imperatives do (until these are overridden by the categorical imperative of pure practical Reason). But, nonetheless, these concepts do enter into the synthesis of apprehension and apperception. Once re-introduced into this synthesis, they affect the course of reflective judgments, representation in the manifold of Desires, and by this exert an influence on both the determination of appetites and the acts of the process of practical judgment (the capacity by which accommodations are produced in the manifold of rules).

The manifold of practical rules contains no *parástase* of Duty. Duty subsists solely within the manifold of concepts. Yet the *Existenz* of Duty-concepts exerts a powerful influence on Self determination. The key issue for any applied metaphysic of morality, and for the Idea of the Social Contract, is to understand the mental physics governing judgmentation of Duties. Why does any person ever make for himself concepts of Duty? Why is he inclined to follow his own maxims and why are his actions sometimes incongruent with his concepts of them? More importantly, what governs the evolution of Duty-concepts and accommodations made to the manifold of rules? Why and how are moral customs established among people and what is the human Nature of these establishments? Most important of all, *how is civil society possible?* What are its necessary or even its sufficient conditions?

§ 3. Duties to Oneself

Most theories of ethics attempt to begin immediately with public moral customs and codes. However, this is at best a tactical mistake and at worst an ontology-centered error. We must begin with the idea of Duties, but not with *public* Duties. This is because public Duties are made possible and necessitated by Duties of another class. Kant called this class ***Duties to oneself***. If it seems peculiar to begin here, the peculiarity fades when we remember our social atom. Kant says,

⁴ *arbitrium humanum*.

⁵ by sensuous stimuli.

⁶ freedom.

⁷ affected but not *determined* by stimuli.

The first topic . . . is our Duties to ourselves. There are not taken in juridical regard, for justice regards only the relationship to other people. Justice cannot be observed in regard to myself, for what I do to myself, I do with my own consent and commit no breach of public justice when I take action against myself. We shall be speaking here of the use of freedom in regard to oneself. By way of introduction, it should be noted that no part of morals has been more defectively treated than this of Duties to oneself. Nobody has framed a correct concept of such Duties; it has been deemed a trifle and ultimately thought about only as a supplement to morality, and believed that once a man has fulfilled all his Duties he may finally also think about himself. In this portion, therefore, all philosophical morals are false. . . .

Far from these duties being the lowest, they actually take first rank and are the most important of all; for even without first explaining what Duty to self is we may ask, If a man debases his own person, what can one still demand of him? He who violates Duties to himself throws away his humanity and is no longer in a position to perform Duties to others. Thus a man who has performed his Duties to others badly, has not been generous, kindly or compassionate, but has observed Duty to himself, and lived in a seemly fashion, may still in himself have a certain inner worth.

But he who has violated Duties to himself has no inner worth. Thus the infringement of Duties to oneself takes all his worth from a man, and the infringement of Duties to others deprives him of worth only in that respect. Hence the former are the condition under which the others can be observed. [Kant (*c.* 1784-85), 27: 340-341]

What Kant says here in the first paragraph is correct, and what he says in the second paragraph is almost but not quite correct. There are two Relations of Duties to oneself: (1) Duty according to one's own person (and this goes to personality); and (2) Duty according to one's situation. Kant is correct about these Duties being the first-rank and most important Duties a person makes for himself inasmuch as Duties of the third type (reciprocal Duties relating the person and the situation of other people) give way if they call for Duties of either of the first two types to be violated. Where Kant errs is in presuming that all people formulate the *same* concepts of Duties to themselves. This error follows from his error in reifying the categorical imperative of pure practical Reason by equating it with "the moral law within me."

To speak of "*the* moral law with me" is to subtly presuppose there is only one or, at most, one single *class* of such Duties. This is not so. Each person's manifold of rules is uniquely *his* manifold of rules, and his conceptions of moral laws originate from the structure of his own manifold. The error is in not recognizing this. In his lectures on moral philosophy, Kant stated a number of concepts of Duties to oneself, and I do not think he was the least insincere about holding that these Duties were properly Duties everyone *ought to* adopt. Nonetheless, a number of them would have been scornfully rejected by any self-respecting samurai in feudal Japan.

Because of this transcendent error Kant was forced, logically, to hold that the imperatives of pure Reason are mere "ought to" laws (because the phenomenon of people who act contrary to their own moral conceptions is so evident a fact of life). This is a follow-on error that leads to his tacit statement, buried in the second and third paragraphs above, that it is possible for a person to intentionally violate a Duty to himself. It *is* true that a person can *misconstrue* a Duty to himself. A quite common misconception of this sort occurs when a person over-generalizes concepts of Duty to himself and then finds himself confronted by situations that bring his error into plain sight. A misconception cannot overrule a practical hypothetical imperative of Reason, and the unhappy person finds himself "going against his own principles" *as he (mis)understands them*. Moral philosopher Onora Nell was correct to say,

It was assumed that it could be discovered when an agent's maxim was inappropriate to his situation or to his act, or when the agent was acting on the basis of a mistaken means/ends

judgment. But when we act we are not in that position. Once all reasonable care has been taken to avoid ignorance, bias, or self-deception, an agent can do nothing more to determine that his maxim does not match his situation. Once an agent has acted on his maxim attentively, he can do no more to ensure that his act lives up to his maxim. We cannot choose to succeed, but only to strive. Once he has taken due care to get his means/ends judgments right, he can do nothing further to ensure that they are right. Agents are not simultaneously their own spectators. In contexts of actions they cannot go behind their own maxims and beliefs. We can make right decisions, but not guarantee right acts. [Nell (1975), pg. 127]

In point of fact, conceptualized moral maxims are not the same thing as the practical imperatives and maxims in the manifold of rules. A person cannot and will not violate his own manifold of rules (although he does accommodate this manifold in the aftermath of new experience). The importance of this distinction is this: What Kant called the individual's "self worth" does not subsist in his manifold of concepts but, rather, in his manifold of rules. The manifold of rules is structured, constituted, and serves as the person's *value system*. One can only meaningfully say (with practical objective validity) that one "throws away his humanity" or "has no inner worth" or "takes from himself his own inner worth" if that person violates his own system of values. *This is something no human being can ever do*. You can *misunderstand* your values; you can *change* your values; you can never *act contrary to* your values. They are your self-made practical rules that provide you with your laws equilibrium, and through them you put together a *nexus* of practical coherence in the overall context of your life experience. To recognize this is to grasp the logical essence of transcendental *Self-respect*. It is Self-respect, and not Piaget's two derivative theoretical brands of respect, that underlies the phenomenon of human moral judgment.

Neither I nor anyone else *has any authority or power to dictate to you* what your Duties to yourself must be. *You* have the option to listen to the advice of people you trust and respect, and you have the capacity to employ concepts you recognize from that advice to amend your own manifold of rules and modify your own conceptions of Duties to yourself. You also have the capacity to ignore such advice. The choice is yours and yours alone. As a *person*⁸, you will be the person you choose to make yourself become. It is a different situation altogether when it comes to public Duties, but for the moment we are talking about Duties to oneself. The *possibility* of sustainable social compacts and civil associations depends critically upon properly understanding the human Nature of Duties to oneself.

□ It is often wise to listen to advice, but it is also wise to exercise due caution about how to properly use advice. What people all over the world generally call "the moral upbringing of children" is, in this context, a prolonged exercise in moral advising and a socially important exercise. Some groups appear to do a better job of it than others insofar as preparing the child for life in on-going social intercourse situations is concerned. For example, my personal life experience leads me to think that the Catholics typically do a good job, although not a perfect job, of it. I think this even though I am not a Catholic and was not raised as one. It has been the accident of my life that when I list the people I trust the most, have the most respect for, and with whom I have my closest personal affiliations, the greater majority of these people have had a

⁸ A **person** is that subject of a judgment who can be regarded with practical objective validity as the agent of his own actions and to whom these actions can be attributed. Put in moral terms this is to say that a person is one who can be held accountable for his actions [Kant (1797), 6: 223]. If your toaster burns your toast, you cannot attribute agency to the toaster because it is nonsense to say the toaster could have *chosen* not to burn your toast. The toaster is not a person; it is a corporeal and dead-matter *Sache*-thing. If I set fire to your house, you can *blame* me for doing it because I *am* a person and can be held accountable for my own actions.

Catholic upbringing. I make no pronouncement here in regard to Catholicism as a religion or in regard to its religious doctrines. I merely observe that the majority of people who are closest to me were raised in that environment, and that this background is represented on my list wholly out of proportion to the sum of all the backgrounds of people I know. I conclude from this that the Catholic upbringing must be doing *something* better than most other kinds do.

Even so, I have also observed that the institution of Catholicism appears to have a general tendency to employ guilt tactics in a way that has potentially destabilizing psychological effects on some individuals. Catholicism is not alone in this, of course. I know of no religious sect of which the same thing cannot be said with objective validity and to some degree. I know of no society of which this same thing cannot be said to some degree. Mental physics indicates that using guilt or fear to mold social development is an unwise tactic. Guiding a child's experience, in such a way as to purposively promote his self-development of a particular value system or a particular conceptualization of moral customs and Duties, without also producing unintended side effects is a tricky thing to do – possibly the trickiest undertaking any society or association can attempt. It is all the more difficult to accomplish in the manner one intends if that upbringing and guidance does not pay adequate attention to the phenomenon of Self-respect and the child's conceptualization of Duties to himself. And it is all the more difficult, and fraught with perils for the child's future, if the teachers and exemplars take too much of it for granted or act too much from precepts based on moral realism. □

Again, *all* Duties, whether Duties to oneself or public Duties, are concepts formulated and placed in the manifold of concepts. More especially, the Objects of these concepts are, without exception, *noumena*. An Object of a Duty is one type of Object that Critical metaphysics calls an Ideal. An *Ideal* is an Object by which the Organized Being understands an Idea not merely *in concreto* but rather as an individual thing determinable through the Idea alone. For example, "honor" is such an Ideal. "Happiness" is another example. The classical Object called the *summum bonum* (highest good) is a third. Because an Idea is made up entirely of notions⁹, its Object is beyond the possibility of actual experience. An Idea, therefore, can have no objective validity except *practical* objective validity *as a regulative principle of actions*. Santayana wrote,

Gnomic wisdom . . . is notoriously polychrome, and proverbs depend for their truth entirely on the occasion they are applied to. Almost every wise saying has an opposite one, no less wise, to balance it; so that a man rich in such lore, like Sancho Panza¹⁰, can always find a venerable maxim to fortify the view he happens to be taking. In respect to foresight, for instance, we are told, Make hay while the sun shines, A stitch in time saves nine, Honesty is the best policy . . . But on the same authorities exactly we have opposite maxims, inspired by a feeling that mortal prudence is fallible, that life is shorter than policy, and that only the present is real; for we hear, A bird in the hand is worth two in the bush, *Carpe diem*¹¹, *Ars longa, vita brevis*¹² . . .

That these maxims should be so various and partial is quite intelligible when we consider how they spring up. Every man, in moral reflection, is animated by his own intent; he has something in view which he prizes, he knows not why, and which wears to him the essential and unquestionable character of a good. With this standard before his eyes, he observes easily – for love and hope are extraordinarily keen-sighted – what in action or in circumstances forwards his purpose and what thwarts it; and at once the maxim comes, very likely in the language of the particular instance before him. Now the interests that

⁹ A *notion* is a pure concept that cannot be exhibited in an intuition. Notions can only be explained in terms of their application, i.e., in terms of the effect the notion has in the noetic processes of judgmentation.

¹⁰ the ignorant but shrewd, selfish but faithful squire of Don Quixote.

¹¹ "seize the day"

¹² "art is long, life is short"

speak in a man are different at different times; and the outer facts and measures which in one case promote that interest may, where other less obvious conditions have changed, altogether defeat it. Hence all sorts of precepts looking to all sorts of results.

Prescriptions of this nature differ enormously in value; for they differ enormously in scope. By chance, or through the insensible operations of experience leading up to some burst of genius, intuitive maxims may be so central, so expressive of ultimate aims, so representative, I mean, of all aims in fusion, that they merely anticipate what moral science would have come to if it had existed. This happens much as in physics ultimate truths may be divined by poets long before they are discovered by investigators [Santayana (1906), pp. 218-220].

Duties to oneself logically antecede public Duties because the latter are always formulated to serve the former in some way. I again stress that whether or not some particular action is expressive of a Duty is always and only in the mind of the individual who takes that action (and in this, let us also understand that to *refrain* from taking an action is itself an action). Despite the fact that specific ideas of Duties vary greatly from person to person, these concept *structures* all have a commonality of effect in judgmentation. To understand the private moral code of any person in a useful way is to understand these judicial commonalities. To that end, there are two interlocked yet distinguishable aspects of Duty we must examine: (1) the conceptual formula; and (2) the practical formula the manifold of rules makes manifest in actions.

§ 4. The Conceptual Formula

To understand the conceptual formula of Duty it is helpful to make analytic divisions of the concept of *officium* [Kant (1793-4), 27:579-587]. Figure 6.1 illustrates this at first level analytic representations or 1LARs. Theoretically considered, the matter term is called *duty* and the form term is called *obligation*. A duty is very specific, i.e., a concrete *parástase* of composition that is to be regarded as a specific composed instance of some Duty. The *parástase* of duty depicts an object or action the Organized Being is said to be *committed to* by the obligation. In this connotation, the technical term "duty" is more or less what is expressed in German by the word *Verpflichtung*¹³, in contrast to the German word *Pflicht* (Duty). In Critical metaphysics, composition is the synthesis of a manifold of homogeneous parts that do not necessarily belong to each other yet can be considered *mathematically* as a magnitude [Kant (1787), B:201 fn].

An obligation represents a connection (*nexus*) of the manifold-of-a-duty with other concepts that give it a context. In Critical metaphysics, connection (*nexus*) is the synthesis of that which is manifold insofar as the *parástase* being connected are heterogeneous yet regarded to necessarily belong to each other [*ibid.*, B201-202 fn]. The connection is called *dynamical* in the sense that it pertains to both the physical combination of appearances and their metaphysical combination in the Organized Being's faculty of knowledge. It is in this context a formula into which duty is "plugged" as the operand to which the operation of the formula is applied. An obligation without a duty is an empty form. One might regard it as a sort of receptacle for duties.



Figure 6.1: 1LAR divisions of moral function. A. theoretical Standpoint. B. practical Standpoint.

¹³ literally, "duty-ation" = a "duty-ing" or "duti-tion" or "being dutied." The prefix *Ver-* gives the connotation of something being continued to its end. The term translates as "commitment-to-obligation."

Within at least the English-speaking community of philosophers, Kant's deontological ethics is regarded as, to quote the *Oxford Dictionary of Philosophy*,

Ethics based on the notion of a duty, or what is right, or rights, as opposed to ethical systems based on the idea of achieving some good state of affairs (see consequentialism) or the qualities of character necessary to live well (see virtue ethics). The leading deontological system is that of Kant. [Blackburn (1996)]

While this is not entirely incorrect, it is also not Critically accurate. Rather, Kant's deontological system of ethics is properly regarded as primarily a theory of **Obligation** (*Verbindlichkeit*) and, to a subordinated but still important degree, a theory of obligation. Note that Obligation is different from "obligation" (in German, *Obligation*) and for this reason "Obligation" is written here in capitalized form¹⁴. The distinction between Duty vs. duty and Obligation vs. obligation is the distinction made by two Critical Standpoints, one practical and the other theoretical. The practical Standpoint is represented in figure 6.1B, the theoretical in figure 6.1A.

An understanding of the Critical Standpoints is crucial for apprehending notions of duties and obligations in general. (The Critical Standpoints are explained in Wells (2009), chapter 2). With regard to moral theory, the ideas of Duty (or duty) and Obligation (or obligation) are united in an Object for which we have no distinct and suitable English word. For that reason, mental physics uses the Latin word *officium* for this Object. I settled on this terminology from usages of it Kant made in his lectures. Kant tells us:

The ancients comprehended the whole of moral philosophy as a genus under the term *ethics*, and understood it under both moral- as well as justice-doctrine. The two differ as the legality and morality of an act, depending, namely, on whether the mainspring is either: the compulsion or punishment associated with the law or the law itself; and the resulting conception of fulfilling a Duty, e.g., whether I pay governmental taxes from fear of execution or do so, even without being required, from a Duty to support the state. Nowadays we understand by ethics only the doctrine of the morality of our acts in particular, and under theory of justice that of their legality. Cicero, on the other hand, deals, in *De Officiis*, with the whole of moral philosophy. In modern times we divide philosophy into (a) theoretical, and (b) practical philosophy, i.e., the science of the laws of things and likewise of the laws of acts. The former embraces logic, as the formal, and physics as the material part. The latter, on the other hand, is divided into

(1) the *morally-practical*, i.e. the doctrine of Duties or moral philosophy, ethics, theory of virtue and

(2) the *technically-practical*: the latter signifies the *teaching of skill*, including that of using natural things for our designs, but particularly covers the *technically-practical doctrine of prudence*, i.e., the skill of using free men for our intentions. This is interwoven, even by Cicero, into his morals. We might also give this subsection of practical philosophy the name of pragmatic philosophy; it includes, for example, history if we employ the latter as a means to prudence in our conduct. [Kant (1793-4), 27: 481-482]

It is by Kant's references to *De Officiis* that I come to use *officium* as the term for the Object in which Duty and Obligation (or duty and obligation) are unified. Although it is traditional to translate *officium* into English as "duty," Cicero's use of the term in *De Officiis* had three principal connotations: (1) a helpful or beneficial act done to someone in fulfillment of an obligation; (2) that which one is bound to do in the way of service, one's duty or one's obligations to a person, the state, etc.; (3) what one has to do to fulfill one's role or job. It is perhaps rather clear that the word "duty" all by itself only partially conveys the connotation of *officium*. Cicero

¹⁴ In sentences where the first word is either obligation or Obligation, I denote the latter as Obligation.

introduced his subject in the following way:

Since, therefore, the whole disputation is to be on the subject of *officio*, I should like at the outset to define what *officium* is . . . For every rational development of any subject ought to begin with a definition, so that everyone may understand what the discussion is about. Every examination of *officio* is twofold; one class is that which is pertinent to the fulfillment of good; the other, with those dispositions of precepts which may shape all parts of habitual life. [Cicero (44 BC), I. ii-iii]

What is Obligation? As Kant explains it,

*Obligation*¹⁵ is the necessity of a free act under a [theoretically] categorical imperative of reason.

[A theoretically] categorical imperative is a practical rule through which an act, in itself contingent, is *made* necessary. It differs from a practical law in that [a theoretically practical law] represents, to be sure, an act as necessary but takes no regard of whether this is peculiar to an inner necessity of the acting Subject . . . or is contingent to him (as a human being); for the first is the case where there is no [theoretical] imperative. Hence an imperative is a rule for which its representation makes necessary a subjectively contingent act and hence represents the Subject as one who must be beholden (necessitated) to that in conformity with this rule . . . The ground of the possibility of [theoretically] categorical imperatives lies only in this: that they refer to no other condition of choice . . . than simply to its freedom. [Kant (1797), 6: 222]

An Obligation is properly regarded as an overall orientation of judgmentation in the self-determination of appetites. It is very important to clearly grasp that a theoretically categorical imperative is an idea (in the manifold of concepts), the source of which is a practical *hypothetical* imperative of Reason in the manifold of rules. A person makes for himself many theoretically categorical imperatives (and these are indeed "ought-to laws" of self-*legislation*); but there is only *one* pure, practical and innately *a priori* categorical imperative of Reason ("the" categorical imperative), and this is *a law of human Nature* which, when we get right down to its logical essentials, is the ground for the construction of moral laws *but is not itself a moral law of any kind*. Misunderstand this and you open the door to all kinds of mysticism and nonsense in regard to human Nature¹⁶.

Kant's theory of Duty and Obligation is one of the technically densest and difficult parts of his philosophy. An already difficult situation is made more difficult by the fact that, while Kant paid a great deal of hairsplitting attention to the distinction between obligation and Obligation, he did not do this in regard to the distinction between duty and Duty. That distinction is one that I make in order to, as Lavoisier would have put it, "make the words more clearly depict the ideas." Kant used one word, *Pflicht*, for both duty and Duty, and the distinctions between them have to be mined from the context of how he is using *Pflicht*. Kant's theory is made still more challenging to

¹⁵ *Verbindlichkeit*

¹⁶ In the early days of the corpuscular hypothesis in physics, which revived the ideas of the Greek atomists prior to the advent of the discipline brought on by positivism, scientists didn't yet have a precise technical understanding of what an "atom" was. In the enthusiasm to reduce the theory of nature-in-general to a corpuscular foundation, the notion was entertained for a time that when the catalog of atoms was completed we would find among them atoms of various types of emotions that would explain the phenomenon of mind of a purely mechanistic corpuscular basis. (An interesting variation on this theme was set out by Leibniz in his notion of "non-material atoms," which he called "monads"). This specious pseudo-ontology later came to be called the mind dust theory. Diehard present-day materialists still cling to a version of this in which the mind dust atoms are replaced by reified probability – which in the final analysis is nothing else than a Platonic re-introduction of a disguised form of miracles and an utterly hypertypic idea of nature.

follow because he tended to scatter its pieces throughout the Kantian corpus of writings. It is not without reason that many philosophers react to Kant's writing style as Joad did, i.e.,

Kant's thought is intrinsically difficult, and makes use of conceptions which are not readily grasped. Secondly, his manner of exposition is exceedingly obscure. His method of writing is abstract and diffuse; he rarely condescends to use examples to illustrate his meaning, and his meaning itself changes in a bewildering way. . . . Kant does not, however, usually take the trouble to inform us of the fact, which the reader is left to divine for himself on discovering to his surprise that a particular position which Kant happens to be maintaining is quite different from a position he formerly maintained. Nonetheless, such is the obscurity of Kant's writing that the reader can never feel quite sure that it *is* different. It always remains a possibility for the reader to reckon with that he has simply failed to understand what Kant is saying. . . . Without actually subscribing to the dictum of a famous modern philosopher, who announced that "Kant is the greatest disaster in the history of philosophy," I find his general position no less satisfactory than his method of expounding it is exasperating. I do not think that the universe is as Kant conceived it, and I do not think that philosophy ought to be written as he writes it. [Joad (1936), pp. 359-360]

Bad English translations, such as Kemp-Smith's overly-famous mistranslation of *Critique of Pure Reason*, don't exactly help matters either¹⁷. Reading Kant, I often have the feeling that Kant wrote as if he presumed his readers had taken his philosophy courses before reading his books. "Exasperating" is precisely the correct word to apply in many places even if you read him in German and Latin. In my opinion, Palmquist has done more than anyone to cut the Gordian knot of what Joad called "the way Kant's meaning changes in a bewildering way" [Palmquist (1993)].

What, then, is Duty? Kant tells us,

Duty is that act to which someone is bound. It is therefore the matter of Obligation, and it can be one and the same Duty (in conformity with the act) although we can be bound to it in different ways. [Kant (1797), 6: 222]

Referring again to figures 6.1, Duty is matter to a form of Obligation, and duty is matter to a form of obligation. However, we have here a rather fine and hairsplitting distinction to make between Duty *as an act* and duty *as an action*. The latter appears as a phenomenon in physical Nature, whereas the former always resides wholly within the *homo noumenal* aspect of being a human being, is understood in Slepian's mathematical facet B, and has only practical objective validity. A duty is a specific action regarded by the person as necessary because he represents it as a necessitated action under a formula of obligation. The idea of a Duty, on the other hand, is logical and mathematical; it refers to representation in a concept and its object is a *noumenon*. In contrast the Object of a duty is real and phenomenal and the action is the duty's object. There can be many lower concepts of duties standing under one and the same idea of a Duty, and this is the significance of Kant's remark that there are many ways one can be bound to one and the same Duty. These duties stand as examples of a higher Object of Obligation.

A similar distinction holds for Obligation vs. obligation. You do not miss the mark too far if you think of Obligation as being like the formula of a major premise in a syllogism and obligation as being like a minor premise subsumed under the major. When one stops and thinks about it for a moment, one can conceive that without some sort of fine structure to stand under general persuasions, human ethics would make its appearances as a rigid thing rather than the diverse and fluid panorama of human behaviors we actually see. Obligations provide the more general,

¹⁷ Ditto for Cicero, Plato, Aristotle, and every other philosopher of bygone days who wrote works of technical metaphysics. I think it would very much benefit the world if we had a sweeping new set of translations of the old books – translated by people with more scientific and less poetic predilections.

obligations the more specific (and likewise with Duty vs. duty).

More specifically, *obligation* is the necessity of a free action under a theoretically categorical imperative as the act is not merely represented in the manifold of rules but *conceptualized* in action-form in the manifold of concepts; obligation is the form of a necessitated action and can be properly regarded as a formula for acting-rightly. The relationship between obligation and Obligation is quite close – namely, that of species to genus. An *Obligation* is an overall orientation in *judgmentation* in the Self-determination of practical appetites. The notion of Obligation pulls in all three of the processes of judgment: determining, reflective, and practical. An obligation only involves determining judgment and the manifold of concepts.

The conceptual Nature of obligation was something Kant himself touched upon:

All obligation rests on the form of maxims; its matter cannot be made into a general rule, for it is arbitrary. Even the idea of perfection, if this is to mean a reality or even merely *consensus* of the many in one, presupposes a coincidence of feeling of satisfaction. Will as free, however, must be determined consequently only so far as it [obligation] can serve as a rule for all willing. [Kant (1764-1800), 19: 290]

Kant's remark about determination of one's will merely means the concept of obligation is one that has been stood under a theoretically categorical imperative that admits to no exceptions to the speculative rule.

I think it is more than a little likely that you will wish to see some greater detail to help bring these still rather abstract ideas into sharper focus. That will be forthcoming in chapter 7, where we take up some more of Kant's technical fine points – mainly those of *obligatione* (liability) and *obligatio* (pledging). Before getting to these, however, let us set the theoretical formulation to the side for a brief while and take up the practical formulation.

§ 5. Kant's Moral Categories

In the section just concluded our principal focus was on the manifold of concepts. The overall process of judgmentation was not ignored, but the emphasis in that section was heavily oriented towards cognitions and ideas that pertain to the individual's manifold of his *theoretical* moral code. In this section, our orientation changes and we focus principally on the formulation of rules. However, our specific context here is not with the primitive functions of practical judgment. It is instead with principal quantities of *expressions* springing from Self-determined appetites because it is only through expression that our *mathematical* notions of pure practical Reason make contact with the *phenomenal* world of human behavior and what we call moral conduct.

5.1 Context. A person's theoretical imperatives and conceptualized maxims, unlike their practical counterparts, are open to introspection and analysis. His practical imperatives and maxims, on the other hand, are cognitively dark to him and can only be understood in relationship to the appetitive power of pure practical Reason. These practical tenets always instantiate some meaning implication of a right/wrong, good/evil or better/worse thing-to-do. These ultimately reduce to a determination of appetitive power in relationship to Critical good/evil. Critical good is the Object of practical Reason by which an object is represented as a necessary object of appetitive power. It is a practical representation of the power of pure Reason and refers to choosing to either effect or maintain the actuality of an object represented in judgment. The Critical notion of good subsists in the act of practical determination of appetitive power according to a practical maxim in the manifold of rules and is not vested in either the outcome of the action or in the action itself. Its mirror in the logical division of *psyche* is *Lust*.

Critical evil is the opposite of this. Evil is the Object of practical Reason by which an object is

represented as a necessarily detested object (a negative-necessary object) of appetitive power. It refers to choosing to effect or maintain the *non*-actuality of an object represented in judgment. If the object is presently actual, the choice is one directed at abolishing its actual *Existenz*. If the object is presently non-actual (*Nichtsein*), the choice is directed at maintaining its non-*Existenz*. Like good, the notion of evil is not vested in either the outcome of the action or in the action itself. Its mirror in the logical division of *psyche* is *Unlust*.

It is rarely the case where a cognizable object can be associated purely with either a notion of good or a notion of evil. Instances of this mainly occur only in very young children and are due merely to the fact that very young children have not yet constructed a manifold of rules that rivals the adult's manifold in complexity. In this sense the sage was not wrong who said,

The great man does not think beforehand of his words that they may be sincere, nor of his actions that they may be resolute – he simply speaks and does what is right.

The great man is he who does not lose his child's-heart. – *The Chinese Classics*, vol. II, *The Works of Mencius*, IV, 2:11-12; [Legge (2010), pg. 70]

Kant analyzed the transcendental Logic of tenets in *Critique of Practical Reason*. From this he was able to formulate a second level analytic representation (2LAR) for what he called "the categories of freedom in consideration of the ideas of good and evil." These twelve categories are not, and were not intended to represent, primitive functions of mind. They are better called "Kant's moral categories." His analysis yields a classification system of 81 general species of Self-determinations of appetitive power. Figure 6.2 illustrates Kant's table. One category is selected at a time from each of the four headings of Quantity (form of the matter of determination), Quality (matter of the matter of determination), Relation (form of the form of determination) and Modality (matter of the form of determination) to yield the $3^4 = 81$ general species of Self-determinations.

Kant explained what he had in mind for the use of these moral categories in the following deluge of words:

These *categories of freedom*, for this is what we are going to call them in lieu of those theoretical notions which are categories of Nature, have an obvious advantage over the latter that because these [the latter] are only forms of thought which only put a mark on undetermined Objects in general, for every intuition possible for us, by means of general notions; [the former], on the contrary, go to the determination of a free choice (to which no

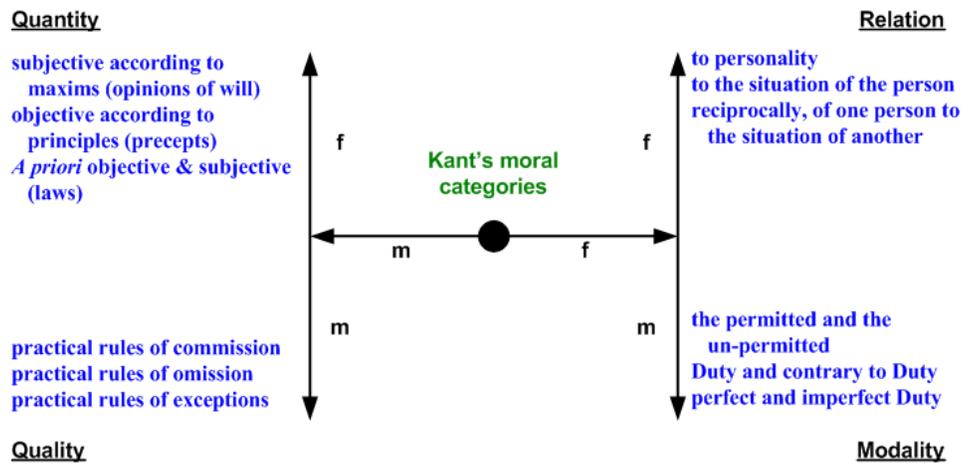


Figure 6.2: Kant's moral categories arranged in 2LAR form.

fully corresponding intuition can be given but which – as does not happen by notions of the theoretical use of our faculty of knowledge – has as its ground a pure *a priori* law); hence, instead of the form of intuition (space and time), which does not lie in Reason itself but must be drawn from elsewhere (namely from sensibility) these, as practical elementary notions, have as their ground the *form of a pure will* in them and therefore within the capacity of thinking itself; by this it happens that, because all precepts of pure practical Reason have to do only with *determination of will*, not with natural conditions (of practical capacity) for *fulfillment of its intent*, the practical *a priori* notions in respect to the highest principle of freedom at once become knowledge and do not have to wait for intuitions in order to receive meaning; and this happens from the noteworthy grounds that they themselves produce the actuality of that to which they refer (the disposition of will), which is not the business of theoretical concepts. But one must well note that these categories bear upon only practical Reason in general and so progress in their order from those which are as yet morally undetermined and sensuously conditioned to those which, being sensuously unconditioned, are determined only through moral law. [Kant (1788), 5: 65-66]

If Kant's page-long run-on sentence has left you feeling a little dizzy – well, this is an example of what I meant earlier by "exasperating." As a writer Kant was like the little boy who came home from school and told his mother, "Today I learned how to spell 'banana' but I didn't learn when to stop." When one considers that this same man was acclaimed by all who knew him as one of the most gifted conversationalists in an age when conversation was a high art form, it is an aspect of Kant one can only call psychologically fascinating.

We're going to have to dissect what Kant said point by point and get it all into a digestible form. Then we have to relate it back to his twelve moral categories. We'll start with Kant's chosen name for his twelve notions: the "categories of freedom." Why this name and why does he say these notions have an advantage over categories of Nature? The reason for this is quite simple. *Freedom*, the ability of an Organized Being to be an originating agent and the determiner of its own actions, is not something presented in the empirical appearances of physical Nature. Laws of physical Nature do not apply to freedom and we must therefore content ourselves with theoretical speculation regarding the objective reality of freedom. If, on the other hand, Kant's moral categories have demonstrable and explainable real objective validity, then there is something that is accomplished with them that categories of physical Nature cannot accomplish by themselves. A human being has no sensible intuition of being his own agent *per se*; *in mundo non datur libertas*¹⁸. But if psychological causality is demonstrable in any way, then mental physics is possible – and categories of physical Nature cannot ground mental physics.

Next Kant speaks of a relationship between his moral categories and determination of will by a human being. The problem of human willpower as a power of pure Reason was the central focus of Kant's *Critique of Practical Reason*. How *does* the very idea of a process of pure Reason stand up under scientific scrutiny? The statement of the problem is provided in the opening words of Kant's second great Critique:

Why this critique is not entitled a *Critique of Pure Practical Reason* but simply *Critique of Practical Reason* generally, although its parallelism with the speculative seems to require the first, is given with sufficient explanation in this treatise. It has merely to show *that there is pure practical Reason*, and for this objective it criticizes Reason's entire *practical capacity*. If it succeeds in this it has no need to criticize *the pure capacity itself* in order to see whether with such a mere presumption Reason is not overstepping itself (as does happen with speculative Reason). For if as pure Reason it is actually practical, it demonstrates its reality and that of its ideas by achievement, and all specious reasoning against the possibility of it being so [i.e., being actual] is futile.

¹⁸ "freedom is not given in the [sensuous] world"

With this capacity transcendental *freedom* is also established, taken indeed in that absolute sense in which speculative Reason needed it, in its use of the notion of causality, to rescue itself from the antinomy into which it unavoidably falls when it wants to think the *unconditioned* in the series of causal combinations; which notion, however, it [speculative Reason] could put forward only problematically, as not impossible to think, without assuring it objective reality, and only lest the alleged impossibility of what it must at least allow to be thinkable call its essence into question and plunge it into an abyss of skepticism. [Kant (1788), 5: 3]

Kant's second Critique was focused, from the very start, on the notion of moral law. To me it seems almost incredible he would have thought it unnecessary to explore practical Reason to its bottommost depths and in the same detail in which he had previously critiqued understanding and speculative Reason. This would have of course been the *Critique of Pure Practical Reason* that he never wrote. But he left that task for others to undertake, and it was not completed until the development of mental physics required it. The practical *momenta*, those that stand on equal footing with Kant's categories of understanding, are what I call the *true* categories of freedom [Wells (2009), chapter 11]. Kant's moral categories are not these.

Kant was a scientist and philosopher, but he was also a man of his times. It can barely be doubted that he was a religious man, although clearly one who deeply opposed the doctrines of the established *churches*. But to oppose a mere church is not at all the same thing as to be irreligious; it is merely to oppose the zealous fantasies of ordinary men. Then as now, many philosophers felt a deep conviction that philosophy must address religious theology. Kant had himself, in the 1760s, demolished as specious all of the then-current so-called "proofs" that God exists. I think that troubled him deeply and I have next to no doubt that he never gave up trying to reconcile the ideas of God and the Critical Philosophy. Palmquist has studied this question of how Kant's religious convictions entered into his philosophy and, I think, has explained it precisely and conclusively. He writes,

If Kant is neither a straightforward positivist nor a traditional rationalist, the question yet remains how he intends his philosophy to relate to theology. . . . Yet if the meaning of 'theology' is widened to include any serious, scholarly study of God, religion, and related subjects, his philosophy can be seen to be 'theocentric' in orientation. 'Theocentric' here does not mean Kant requires human *knowledge* of God to serve as the basis of or center for all other types of knowledge. On the contrary, it means the problems surrounding our understanding of the nature and reality of God serve as the central driving force of his philosophy. . . . Although it is true that Kant always writes primarily as a philosopher, it is also true . . . that the three 'ideas' guiding his entire philosophical endeavor – viz. God, freedom, and immortality – are all primarily theocentric in their orientation. [Palmquist (2000), pp. 7-8, 10]

Kant exposes this theocentric orientation in the opening paragraphs of *Critique of Practical Reason*. It is, I think, that orientation which led him to mistakenly equate the categorical imperative of pure practical Reason with "the moral law within me." This is, of course, precisely the error that mental physics corrects and, by doing so, keeps Kant's system strictly within the boundaries of legitimate science. Kant wrote,

Now, the idea of freedom, so far as its reality is proved by an apodictic law of practical Reason, constitutes the *keystone* of the whole edifice of a system of pure Reason, even of speculative Reason; and all other ideas (those of God and immortality), which as mere Ideas remain without support in the latter, now attach themselves to this idea [freedom] and with it and through it get stability and objective reality, i.e., their *possibility* is given evidence by this: that freedom is actual, for this Idea proclaims itself through moral law. [Kant (1788), 5: 3-4]

Now, everything is real in some contexts, unreal in others, and non-real in yet others. Are there contexts in which the idea of God is objectively real? Of course. If this were not so, the word "God" would literally be gibberish to you. Are the ideas of God and immortality "given stability" by the idea of freedom? Personally, I don't think so at all. I also think *faith* requires no such support; it merely requires personal conviction. Faith is holding-to-be-true that which you know you *cannot know is certain*, and holding-it-to-be-true even though you *know* you are uncertain. Whatever your views of God or immortality might be is a matter of complete indifference to *science*. Science is concerned and *only* concerned with *nature*. One can approach theology with scientific-like *discipline*, but religious theology itself can never *be* a science.

I think Kant probably knew this, too. I think it is significant that in the quote above his words were "moral law" and not "*the* moral law." It is important to notice that he did not actually say that establishing the objective reality of transcendental freedom *proves* something beyond the fact that it is possible to have religious ideas. But does this really need any sort of proof beyond the raw empirical fact that most people *do in fact* hold with religious views on God and immortality of one sort or another? Of course not. After all, even the statement "God does not exist" is a *theological* statement, not a scientific one. What is important for science is "freedom" in the *strict* form this idea takes on in the practical Standpoint of the Critical Philosophy. The rest – God and immortality – we can and must leave as matters for theology proper and to personal faith. I have my articles of faith, you have yours, it is unlikely they are the same, and science is totally unconcerned with either of what our holdings-in-faith might be. And, to speak openly and truthfully, *I* do not care in the least what your articles of faith might be; I have no intention of trying to win you over or convert you to mine, nor will I allow you to try to do so with me. In America this is called "freedom of religion," it is a keystone in the social compact of this country, and it has been since the first heretics – for as such they were viewed in England – arrived at Plymouth Rock on the *Mayflower*.

But what has "freedom" to do with "the form of will" – i.e., with Self-determination? The phenomenon of human Self-determination and the human capacity to *be* the agent of his own actions *is* a topic that falls within human Nature and, therefore, a topic of every social-natural science. Kant's moral categories aim to serve in helping to render the phenomena of human behaviors in *social situations* scientifically comprehensible. *This* task they can carry out with practical objective validity provided that an objectively valid mathematical theory of the *process* of practical Reason is obtainable. And it is. Kant sets the problem statement out for us with the following arguments:

PROBLEM I Proposition, that the mere lawgiving form of maxims is the only sufficient ground of determination of a will: To find the constitution of that will which is determinable by it [law-giving forms] alone.

Since the mere form of a law can be represented only by Reason and is therefore not an object of the senses and consequently does not belong among appearances: the representation of this [form] as the ground of determination of will is distinct from all grounds of determination of events in [physical] nature in accordance with the law of [physical] causality, because in their case the determining grounds must be appearances. But if no other ground of determination of will than this general lawgiving form can serve as a law for it, such a will must be thought as altogether independent of the natural law of appearances respectively to one another, namely the law of [physical] causality. But such independence is called *freedom* in the strictest, i.e. transcendental, sense. Therefore a will for which the mere lawgiving form of a maxim can alone serve as a law is a free will.

PROBLEM II Proposition, that a will is *free*: to find the law that alone is competent to determine it necessarily.

Since the matter of a practical law, that is, an Object of maxim, can never be given otherwise than empirically, whereas free will must find a ground of determination in the law independently of the matter of the law, nothing further is contained in it than the law-giving form. Thus the lawgiving form, so far as it is contained in the maxim, is solely that which can constitute a ground of determination of will. [*ibid.*, 5: 28-29]

There are only two ways in which one might regard a "lawgiving form." One of them, which the ontology-centered metaphysics of rationalism elects, is to imagine that "lawgiving forms" have some *Existenz a priori* and merely await having their "blanks" filled in by means of experience. But this is pure speculation about things far beyond the horizon of possible experience and utterly lacks all *ontological* objective validity. We must reject this notion of having an innate "cookie cutter set" of *a priori* law-forms.

The second option is to suppose that lawgiving forms are not innate but that *the capacity to construct them* is a pure *a priori* capacity of practical Reason. This is the conclusion that Critical metaphysics proper reaches, it is epistemology-centered, it makes predictions about actual human behaviors, and these predictions accord with empirical observations made by psychologists. The categorical imperative of pure practical Reason is the formula for that construction and is, in this context, *practical knowledge a priori of how to regulate the construction of constituted laws*. It is to be regarded as a fundamental *mathematical* principle of human mental Nature. In this regard its scientific standing is no different from that of, say, the mathematical principle of conservation of energy. Of the latter, Nobel laureate Richard Feynman said,

The conservation of energy is a little more difficult [to understand] because this time we have a number which is not changed in time, but this number does not represent any particular thing. . . . What we have discovered about energy is that we have a scheme with a sequence of rules. From each different set of rules we can calculate a number for each different kind of energy. When we add all the numbers together, from all the different forms of energy, it always gives the same total. But as far as we know there are no real units, no little ball bearings. It is abstract, purely mathematical, that there is a number such that whenever you calculate it, it does not change. I cannot interpret it any better than that. [Feynman (1965), pp. 69-70]

So, too, it is for the fundamental regulative principle of human mental Nature. We do not *explain why* energy exists or speculate about what it is regarded-as-a-thing-in-itself; we *acknowledge* its *Dasein* on the grounds of experienced natural phenomena. We do not explain *why* an Organized Being exhibits an on-going and organized central process of equilibration; we acknowledge the actuality in phenomenal experience that he does. The categorical imperative is the formula of a mathematical process that is *necessary for the possibility of experience* as human beings come to know experience.

This treatise is not the place to delve into the mathematical details of this law of human mental Nature. That topic is already treated elsewhere [Wells (2009)]. What this present treatise must deal with is the explanation of Kant's statement that the moral categories "bear upon only practical Reason in general" and in what context it is objectively valid to say that they "progress in their order from those which are as yet morally undetermined and sensuously conditioned to those which, being sensuously unconditioned, are determined only through moral law." For this we must have a *Realerklärung* for each of the twelve technical terms in figure 6.2.

It would be understandable, and even expected, if a person were to think that Kant would have provided this immediately after introducing his table in *Critique of Practical Reason*. But, rather to the exasperation of two centuries of philosophers since then, he did not. Instead he passed over it with a bland, "I add nothing further here to elucidate the present table because it is sufficiently intelligible in itself" [Kant (1788), 5: 67]. Add this to his earlier statement about why a critique of

practical Reason, rather than a critique of *pure* practical Reason, was sufficient for his purposes, and one can be forgiven for wondering if Kant really took moral theory seriously at all. His interests as a scientist, after all, were in the physical sciences and he showed not the slightest inclination to found a *science* of psychology¹⁹ in any of his works.

But, appearances notwithstanding, Kant did have explanations for these terms – scattered in various places in the to-be-published and the never-published-in-Kant's-lifetime segments of the Kantian corpus. Perhaps he really did think his twelve moral category terms would carry the same meaning for everyone. What Palmquist has called his "theocentric orientation" would probably be enough to explain this if Kant was in fact of this opinion. If he was, that would hint at an attitude of lingering adult moral realism. It would also present a quite plausible explanation for why Kant failed to resolve the numerous fatal flaws in Rousseau's version of social contract theory.

Be that as it may, it is crucial for a proper understanding of what Kant's moral categories mean to understand them in the context for which they were intended. The first thing that must be clearly understood is that Kant's moral categories are descriptive and formulaic, not *functionally* prescriptive. They are not primitives nor are they "mind laws" in a mental physics connotation. They are, instead, ideas aimed at a practicable system of ethics and moral custom (*Sittlichkeit*) rationally grounded in an applied metaphysic of morals.

It is important to understand that in this metaphysic Kant's word was *Sitten*. One connotation of this word is *morals in the context of manners, propriety and customs*, and this is the usage to which Kant puts this term. He was aiming his moral works at the goal of achieving an objective and universally acceptable formulation of a code of *civic* morality that would nonetheless recognize and take into account human Nature and the fact that human beings each make for themselves particular duties to oneself that antecede and take precedence over any duty to society in general a person might choose to assume. He was not trying so much in these works to understand human Nature as he was to understand the idea of a *just society*.

Such a just society would, in a sense, be a kind of Critical Utopia, i.e., a Utopia such as More envisioned [More (1516)] but founded on rational and universally acceptable principles. Here one could certainly not accuse Kant of setting his sights too low. This endeavor leads directly to a theory of social contracts, and, in effect, Kant was trying to Critically formulate a workable version of Rousseau's idea. That there is, as Palmquist put it, a theocentric orientation to the *undertaking itself* seems to be beyond dispute. That comes across plainly in Kant's *Opus Postumum* where he writes of "transcendental philosophy's highest standpoint: God, the world, and (man) the thinking being in the world" [Kant (1804), 21: 32]. Even so and regardless of how large the degree of Kant's theocentric motivation might have been, he still acted as a true professional philosopher should act, and his applied moral metaphysic was kept focused upon Critical principles of epistemology and maintenance of practical objective validity.

What I have just said is not the traditional manner in which philosophers have viewed Kant's moral works. For one thing, Kant neglected to explain in his published books the way in which his system was organized. After the publication of that overwhelming work, *Critique of Pure Reason*, if one feels an inclination to assume *Critique of Practical Reason* and Kant's other published works must be taken in the same perspective, that inclination is wholly understandable. To get a proper orientation for Kant's applied metaphysic of morals, it is useful to look at what he had to say about moral theory in his lectures:

Philosophic and even scientific knowledge from ideas of reason either has to do with the

¹⁹ What was called "psychology" in Kant's day was in fact theology, i.e., "soul theory." That was something he very clearly had only antipathy towards. The social science of psychology was not founded until decades after Kant's death in 1804.

form of thinking, or logic, as the formal part of philosophy, or refers to objects themselves and the laws under which they stand; the latter makes up the material part of philosophy, whose objects must reduce purely and simply to *nature* and *freedom* and their laws, and is thus divisible into

- a. The philosophy of natural laws, or physics;
- b. The philosophy of *Sittengesetze*²⁰ . . .

However, the latter is properly occupied with the development of the Idea of freedom . . . Both are based on otherwise pure notions of reason, and, hence, not only the reposing grounds of nature here but also the moral laws²¹ are built on principles *a priori*²²; whence both objects make up that part of philosophy we call metaphysics in that it assesses objects according to pure fundamental laws (independent of all experience) . . .

The metaphysic of morals [*Sitten*] is particularly occupied with the use of the freedom of human will according to rules of justice. Now here

- a. *Freedom of will* generally is the accountability or mode of human action that can be justly granted to him [the acting human being], and *morals* [*Sitten*] is the name for the use of freedom according to laws of reason.
- b. The principle of freedom is independent of all experience, because Reason imposes on man the laws of commitment-to-obligation²³.
- c. He therefore neither can nor should seek them in experience, nor should he test how far they correspond with experience. So contradiction of the latter [experience] does not displace the law of reason, nor does experience, on the other hand, make just what is actually observed and brought about following it. And hence, too,
- d. The concept of what is just, or the rational Idea of commitment-to-obligation, on which the metaphysic of morals must be erected, is grounded in reality; for since reason enjoins it unconditionally, it must be possible in itself. [Kant (1793-4), 27: 479-481]

Where Kant speaks of "laws of reason" here, he is not referring to the fundamental regulative principles by which the process of Reason governs non-autonomic acts and actions of the human being. He refers instead to the third moral category of Quantity in figure 6.2. This category, a *law*, is a *Sittengesetz* ("moral law") in the context that it is a concept of a *theoretical* imperative (in the manifold of concepts) by which the person holds-to-be-true that "I *ought to* do such-and-such" or "that *ought to* not-be-allowed" or etc. This theoretical imperative can be either a theoretically hypothetical imperative ("if *x* then I ought to *y*") or a theoretically categorical imperative ("I ought to *y*" – no ifs, ands or buts about it). It is of fundamental importance, however, that although such an imperative is tightly bound up with affective connections by reflective judgment, the mere *concept* of an imperative does not carry the irresistible *force* of a *practical* hypothetical imperative in the manifold of *rules*.

²⁰ "moral laws," but with "moral" understood in Kant's context of *Sitten*. *Sittengesetze* are manmade laws (conventions) of custom, manners and propriety but social laws that nonetheless treat man *as* man. This is to say that *Sittengesetze* are laws of civil behavior and conduct grounded in our social atom.

²¹ *Sittengesetze*. From here on out, I translate *Sittengesetze* as "moral laws."

²² Note that Kant does not say *pure* principles *a priori*. He is not referring to *homo noumenal* Nature here, but merely to a human being's ability to think of rational principles not obtainable directly from immediate experience. When he says these principles are "independent" of experience, he means they are not given in experience nor bound to it. But because all meanings are at root practical and the manifold of rules is constructed through experience, moral principles *a priori* are only *theoretically* separated, in the manifold of concepts, from actual experience. A moral principle, as he uses the term here, is an *Idea* and not a practical hypothetical imperative or a practical tenet in the manifold of *rules*.

²³ *Verpflichtung*. Kant means ideas about *officiis* arise through judgmentation as means of equilibration.

Kant's deontological applied metaphysic of *Sitten* ("morals" understood in its connotations of manners, propriety, and proper customs) is a theory for the perfection (that is, the "making more perfect") of the human use of his natural power of freedom-of-Self-determination. Moreover, it is a theory essentially concerned with the use of this power in social situations. He tells us this explicitly in the foregoing quote. It is a theory for what would constitute objectively valid *Sitten-gesetze* of the power of freedom. He goes on to say,

Now, the laws of freedom are . . . *compelling, necessitates*²⁴. These are found in man, and are objectively necessary but subjectively contingent. Man, that is, has an impulse to violate these, even when he knows them, and thus the legality and morality of his acts are merely contingent. Constraint by moral precept, to act conformably with it, is Obligation. The act itself, according to the moral precept, is *Duty*, and the theory of Duty is the founding of moral philosophy, or ethics.

The laws produce the causality in acts, i.e., the property whereby the acting being becomes the cause of the act, e.g., man when he acts according to laws of freedom. The necessity of the act according to laws of freedom constitutes Duty. . . . Nowadays we understand by ethics only the doctrine of the morality of our acts in particular, and under the theory of justice that of their legality. Cicero, on the other hand, deals, in *De Officiis*, with the whole of moral philosophy. In modern times we divide philosophy into (a) theoretical, and (b) practical philosophy, i.e., the science of the laws of things and likewise of the laws of acts. The former embraces logic, as the formal, and physics as the material part. The latter, on the other hand, is divided into

- (1) the *morally-practical*, i.e. the doctrine of duties or moral philosophy, ethics and theory of virtue, and
- (2) the *technically-practical*: the latter signifies the *teaching of skill*, including that of using natural things for our designs, but particularly covers the *technically-practical doctrine of prudence*, i.e., the skill of using free men for our intentions. This is interwoven, even by Cicero, into his morals. We might also give this subsection of practical philosophy the name of pragmatic philosophy; it includes, for example, history if we employ the latter as a means to prudence in our conduct. [Kant (1793-4), 27: 481-482]

Part of this quote was quoted earlier in this chapter, but it is worthwhile to repeat it here. I also want to repeat and emphasize something I said earlier: All of this quoted matter consists of highly and densely *technical* terminology Kant was inventing as he went. Stood next to our present day habits of thinking about the topic of ethics, it does not appear to be so. But, as I write this, we have as yet no social-natural *science* of ethics and it is for that reason we are not accustomed to thinking about the topic in technical terms. Kant, on the other hand, was working to *lay the foundations* for precisely such a science. Hence in the Vigilantius notes, and elsewhere in the Kantian corpus, one encounters minute, hairsplitting differences in how Kant phrased and worded his presentation – important differences modern translations tend to gloss over and obscure. One can no more read Kant in a light and romantic vein, or in the context of common everyday conceptions of moral theory, and hold a seriously realistic hope of understanding him than one can lightly skim Goldstein's *Classical Mechanics* with the expectation of grasping the physics without first grasping its language. Consequentialism and virtue ethics simply cannot be reconciled with the deontological theory. They lack objective validity and their foundations are illusory. I very much agree with what J.B. Schneewind said when he wrote,

²⁴ "necessitating." The word *necessitates* is not a proper Latin word, but it is possible that Vigilantius, whose notes recorded Kant's lecture, meant *necessitates* in the context of "making a duty or obligation necessary." It is also possible that *necessitates* is a typographical error in the Academy edition.

In *Vigilantius* we see how Kant expounded his mature system, including not only the main lines of thought of the *Groundwork* and the *Critique of Practical Reason* (1788) but also some anticipations of the last work he published on ethics and politics, the *Metaphysics of Morals* of 1797. Despite the name Kant gave to the course, it is not as closely related to the book as we might expect. There is much more about the foundations of morality in §§1-63 than there is anywhere in the *Metaphysics of Morals*. . . .

Kant's *Metaphysics of Morals* is not easy to understand. Because the *Vigilantius* lecture notes are expansive on many of the same topics, they provide us, despite their divergences from the book, with a substantial amount of much needed help. [Schneewind (1997), pg. xviii]

With this context firmly in hand, we can now proceed to Kant's moral categories.

5.2 The Moral Categories of Quantity. Quantity terms in the Critical Philosophy are usually the least difficult to grasp, and at first glance this would appear to be so in the case of Kant's moral categories of Quantity. He even says as much in *Kritik der praktischen Vernunft* in his light dismissal of the need to describe the moral categories further. However, closer inspection of how Kant treats a number of issues closely related to them exposes a greater contextual complexity to them than one might initially expect. Something of a tangle comes out of his usages, and this tangle shows us two things. The first is a clear demonstration that Kant's moral categories are *not* Critical primitives. The second is a clue pertaining to the effect Kant's theocentric bias had on his development of his moral theory. Out of the latter also comes the reason Kant was unable to put Rousseau's social contract theory on a firm footing. I do not mean or intend to downplay the basic importance of the categories of Quantity. They are quite important for the macroscopic level understanding of human behavior. I merely say that Kant's theory ran into issues due to them.

These issues begin to appear right away with the idea of maxims of the power of freedom. Kant tells us the *species* of maxims described as a moral category is *subjective* and that these are merely "opinions of will of the individual" (*Willensmeinungen des Individuum*). Here "will" has the connotation of *volition* in Self-determination. In his earlier work, *Laying the Ground of the Metaphysic of Morals*, Kant tells us,

Maxim is the subjective principle of acting and must be distinguished from objective principle, namely the practical *Gesetze*. [A maxim] contains the practical rule which reason determines in accordance with the condition of the Subject²⁵ (most of them are unconscious or are inclinations as well), and is thus the fundamental principle upon which the Subject takes action; however, the *Gesetz* is the objective principle valid for every rational being and the fundamental principle his *acting is obliged to follow*, i.e. an imperative. [Kant (1785a), 4: 420-421 fn]

The word *Gesetz* has two primary connotations that apply here: (1) law; (2) precept. Kant does not distinguish between these connotations here and, in fact, implies both of them in the same sentence. There really isn't a suitable English word that captures both contexts at once, and this is why I left the word as *Gesetz* in quoting Kant's nominal explanation of maxim. There is a problem, also, with Kant characterizing any Self-developed *principle* as "unconscious" because no unconscious representation can be the *parástase* of an object. But here the Self-developed principle is a *concept* and *all* concepts refer to objects. A concept cannot be the basis of any action until it is reproduced as an intuition and thereby made conscious in apperception. We have to take Kant to mean that such a maxim is "a rule that one doesn't think about too much" before putting it into action. We have here a hint of trouble to come. But this isn't the first hint of trouble to come in Kant's *Grundlegung*. That came in a footnote a few pages earlier:

²⁵ by Subject Kant means the individual human being.

Maxim is the subjective principle of volition; the objective principle is the practical *Gesetz* (i.e. that which would serve all rational beings also subjectively for the practical principle if reason has full dominion over appetitive power). [*ibid.*, 4: 400fn]

A *Gesetz* that "would serve all rational beings" *subjectively as well as objectively* would be a *law* in the connotation of the third category of Quantity. However, there is a problem with this nominal explanation too, and it is a big one: The process of pure practical Reason *does have full dominion over appetitive power*. The synthesis of appetitive power is *part of* the process of practical Reason. I say that right here Kant makes his mistake of failing to distinguish between theoretical imperatives and practical imperatives. I further say that here we have the first hint of his inclination to confound the categorical imperative of pure practical Reason with "the moral law within me." I say this because if the practical categorical imperative really was a moral law then there would be particular *Gesetze* that not only *could* but *would* "serve all rational beings." There would be laws by which every person *would* determine himself *regardless* of his circumstances. Yet not one single example of such a universally common law can be cited except the law of equilibration. This is something Locke had effectively argued before Kant was born:

2. There is nothing more commonly taken for granted than that there are certain principles, both speculative and practical (for they speak of both), universally agreed upon by all mankind: which, therefore, they argue, must needs be the constant impressions which the souls of men receive in their first beings, and which they bring into the world with them, as necessarily and really as they do any of their inherent faculties.

3. This argument, drawn from universal consent, has this misfortune in it, that if it were true in matter of fact, it would not prove them innate if there can be any other way shown how men may come to that universal agreement, in the things they do consent in . . .

4. But, which is worse, this argument of universal consent, which is made use of to prove innate principles, seems to me a demonstration that there are none such: because there are none to which all mankind gives universal assent. [Locke (1706), I. 1]

Locke then proceeded, page after page, to cite the principal exemplars put forth and he knocked them down one after another. Whatever other criticisms can be leveled against *An Essay Concerning Human Understanding* (and these criticisms are legion), it really should be admitted that Locke effectively demolished the notion there really were any universal principles of human conduct – particularly universal *moral* principles – to be found anywhere on Earth. Kant *knew* Locke's *Essay*, and Hume later put the nail in the coffin of innate objective ideas and principles.

Objective *reasoning* fails to have "full dominion over appetitive power" because cognition does not determine appetitive power. It is at most what Margenau called a "partial cause." Kant *knew this, too*. We know he did because he insisted that (theoretical) imperatives carried merely the force of an "ought to." What these two footnotes in *Laying the Ground* reveal is that Kant presupposed too much when he thought he did not need a critique of *pure* practical Reason prior to formulating his applied metaphysic of *Sitten*. He took the leap Bacon warned us not to take.

There is yet another problem with Kant's moral categories, this one having to do with the second idea of Quantity. The problem is his unstated supposition that *any* concept can be held-to-be-true *without* that concept *also* being judged formally expedient for the categorical imperative of practical Reason by the process of reflective judgment. This is simply not so and *all* reflective judgments *are subjective*. Here the fault lies with Kant's incomplete treatment of pure reflective judgment in *Critique of the Power of Judgment*. In that book he devoted the bulk of his efforts to the consequential appearances following from acts of reflective judgment (e.g. "the beautiful" and "the sublime") but too little effort to the Critical analysis of the process of *pure* reflective judgment and its *momenta* (e.g. "beauty," "sublimity," etc.) [Wells (2009), chapter 8]. Kant

simply did not take affectivity seriously enough or give it its due scientific weight. This would seem strange to me were it not for the fact that scientists generally made the same mistake for centuries. Not until the late twentieth century did scientists started taking "emotion" seriously. I can hardly make it plainer than to say *feelings count* in making Self-determinations.

What we can see in this is the ground for Kant's failure to be able to set Rousseau's Social Contract theory on firm social-natural grounds. He ignored the critique of pure practical Reason and inadequately critiqued pure reflective judgment. It seems to me to be likely that this is where Kant's theocentric bias played him false. It is hardly a subtlety in the Critical corpus. The obvious shortcomings ignited Santayana, who delivered a lengthy polemic against this flavoring of Kant's philosophy [Santayana (1905), pp. 94-99]. No minister ever rained fire and brimstone down on his flock with more passion than Santayana displayed in his reaction to the theocentric flavoring of Kant's *Critique of Practical Reason*. The objectively valid interpretation of Kant's moral categories required the completion of the two later Critiques and an understanding of the mental physics of the processes of *nous* [Wells (2006, 2009)].

Systematic thinker that he was, Kant nonetheless lacked the *engineering* training in the science of system theory that provides the mathematical and practical techniques that might have assisted him greatly in carrying out his project. This cannot be imputed to Kant as a fault. The science simply didn't exist in Kant's day. It did not begin to blossom into a disciplined science of generalizing scope until the early 1960s²⁶.

This still leaves us, at this point, without a Critical *Realerklärung* of the moral categories of Quantity. Kant provides the following two explanations:

Practical *fundamental principles* are tenets that contain a general determination of will, having under them several practical rules. They are subjective, or *maxims*, when, for the will of the Subject, the condition is esteemed as valid only for him; but they are objective, or practical *laws*, when recognized as objective, that is, valid for the will of every rational being. [Kant (1788), 5: 19]

There are some important things to note in this. First, these tenets are *theoretical* – concepts in the manifold of concepts. Second, by "a general determination of will" Kant only means they are tenets of the "I ought to do X" variety. These theoretical tenets, in other words, are the person's conceptualization of how he ought to respond to an *interest of Reason*²⁷ Kant described as "What should I do?" in *Critique of Pure Reason*. They are what a person thinks is the right way to respond to a state or situation in which he is experiencing a disturbance in equilibrium.

²⁶ Even today system theory is an under-recognized science, and many of its practitioners lack the needed *education* in metaphysics, philosophy and the liberal arts to exploit its full capabilities. Indeed, that lack has grown steadily worse in the decades since the 1960s. It reflects a long, alarming history of decline and disintegration across the board in the quality, content, methodology and administration of public education during the twentieth and twenty-first centuries, especially in the United States but elsewhere as well. The social situation looms today as a Toynbee-like menace to society that is accelerated by an ever-growing poverty of *scientific* knowledge of what is constitutive for good education. For effective education to survive at all, education as a discipline and a practice must be made into a social-natural science. It is not one now, it never has been, and time is running out for it to become one – if it is not indeed already too late.

²⁷ The interests of Reason are the three transcendental interests of the power of Reason in the regulation of the exercise of this power from the theoretical (understanding: "what can I know?"), judicial (reflective judgment: "what may I hope?") and practical (appetitive power: "what should I do?") Standpoints. An *interest* in general is anticipation of a satisfaction or dissatisfaction combined with a representation of the *Existenz* of some object of desire. A *transcendental interest* is the principle of a capacity of *nous* which contains the condition under which alone that capacity is exercised. The supreme transcendental interest is congruence with the formula of the *practical* categorical imperative of pure practical Reason.

It should be clear that, as theoretical tenets, these ought-to rules are *personal*. It is a great mistake to reify any such rule so as to make the object of the action, or even the action itself, the seat of whatever is "moral" in the tenet. The first is the logical subreption of consequentialist ethics. The latter is the logical subreption of virtue ethics. Every person, in a manner of speaking, "writes his own rulebook," in his manifold of concepts and the rules he writes in it are "practical" rules only inasmuch as they pertain to deciding upon actions he thinks he ought to take.

The rules so conceptualized are then made *by the person* into conditions calling for this or that action to be taken. This is where the significance of Kant's words "esteemed" (*angesehen*) and "valid" (*gültig*) come into play. The word "esteem" and the word "estimate" share the same Latin root (*æstimare*, to value, assess, reckon the worth of). The word "valid" comes from the Latin *valere* (to be strong, to have power, to have legal authority). Maxims and laws are reckoned by the individual to be concepts that are constituents of a private *legal code* embodying his notions of what is just or unjust. The theoretical notion of such a legal code is very much as Montesquieu described it:

Laws, in their most general signification, are the necessary relations arising from the nature of things. . . . But the intelligent world is far from being so well governed as the physical. For though the former has also its laws, which of their own nature are invariable, it does not conform to them so exactly as the physical world. This is because, on the one hand, particular intelligent beings are of a finite nature, and consequently liable to error; and on the other hand, their nature requires them to be free agents. Hence they do not steadily conform to their primitive laws; and even those of their own institution they frequently infringe. . . .

Law in general is human reason inasmuch as it governs all the inhabitants of the earth . . . They should have relation to the degree of liberty which the constitution will bear . . . In fine, they have relations to each other, as also to their origin, to the intent of the legislator, and to the order of things on which they are established; in all of which different lights they ought to be considered.

This is what I have undertaken to perform in the following work. These relations I shall examine, since all together constitute what I call the *Spirit of Laws*. [Montesquieu (1748), pp. 1-7]

Every person is his own legislator of his own personal "legal code." Taken only so far as this goes, there is nothing that could particularly be called "moral" about such a code other than the *esteem* the individual reckons his own maxims and laws. However, the degree to which he *values* these (and a "value" belongs to reflective judgment) imparts a *sense* of "justness or unjustness" that factors in to the manner in which the individual holds-to-be-binding this Self-erected legal system. What is "moral" is closely linked to what is "aesthetical," as Santayana pointed out:

Not only are the various satisfactions which morals are meant to secure aesthetic in the last analysis, but when the conscience is formed, and right principles acquire an immediate authority, our attitude to these principles becomes aesthetic also. Honor, truthfulness, and cleanliness are obvious examples. When the absence of these virtues causes an instinctive disgust, as it does in well-bred people, the reaction is essentially aesthetic, because it is not based on reflection and benevolence, but on constitutional sensitiveness. This aesthetic sensitiveness is, however, properly enough called moral, because it is the effect of conscientious training and is more powerful for good in society than laborious virtue because it is much more constant and catching. It is *καλοκάγαθία*, the aesthetic demand for the morally good, and perhaps the finest flower of human nature.

But this tendency of representative principles to become independent powers and acquire intrinsic value is sometimes mischievous. It is the foundation of the conflicts between sentiment and justice, between intuitive and utilitarian morals. Every human reform is the

reassertion of the primary interests of man against the authority of general principles which have ceased to represent those interests fairly, but which still obtain the idolatrous veneration of mankind. Nor are chivalry and religion alone liable to fall into this moral superstition. It arises wherever an abstract good is substituted for its concrete equivalent. [Santayana (1896), pg. 21]

If the person thinks a tenet is right for himself but he does not hold *you* to an expectation to follow this same rule, then the tenet is a theoretical *maxim*. If you do not hold with it, he might question your intellect but he will not impugn your character. If, on the other hand, he not only holds himself as being bound by this tenet but he also expects *you* to hold yourself to be bound to it, i.e. that you *should* bind yourself to it, then he holds his maxim to be a moral *law*. If you now disappoint his expectation and violate the tenet, he *does* impugn your character. There is, he will think, "something morally wrong with you." If *you* take offense at his presumption, he is also likely to additionally impugn either your intelligence, your "barbarous lack of culture" or both because he thinks *you ought to know* that his tenet *has to be* binding on everyone (and for that reason he does not think of it as "his" tenet). The way Kant put it was,

The *maxim* of an act differs, that is, from an objective principle in this, that the latter is met with only insofar as we consider the possibility of the act on certain rational grounds, whereas the former generally covers all subjective grounds of the act whatsoever, insofar as they [the grounds] are considered to be actual.

The principle is always objective, and is called a maxim *quod subjectum*²⁸. It is understood as the rule universally recognized by reason, while the maxim is the subjectively practical principle, insofar as the Subject [the person] makes the rule by which he is to take action into the mainspring of his act as well. It is the maximum in determination of the grounds of action. [Kant (1793-4), 27: 495]

There is a delicate subtlety in the second paragraph here. Actions are always taken in the specific, and in the second paragraph Kant is talking about the specific maxim-of-the-action as the *matter* accompanying the *form* of a general rule. The *principle* (form of the rule) is a moral *law if and only if* the person acts according to it *because it is the rule* and not because of an anticipation of whatever outcome or satisfaction is to result from taking the action. This is what he means by saying the person "makes the *rule* the mainspring" and that esteem for the rule as a *law* is "the maximum in determination of the grounds of action."

In the terminology of transcendental Logic, all *maxims* are units (each is a unity) in the context that a maxim is uniquely identifiable. All *laws* are totalities, i.e., a law is the entirety of all the individual maxims that can be used to satisfy the formal principle of the law. Suppose you hold with a particular law and I hold with one, and that the ways we exhibit our particular tenets are such that disinterested third parties observing both of us would say that you and I hold *the same* tenet of law. *How* you satisfy the law, i.e. whatever particular maxim you employ in your actions, I am indifferent to. I only care that you upheld "our" law (and that the maxim you put into action is not one that violates some *other* tenet I hold-to-be-a-law; if it did, our sage judges would have spotted it and said you and I do *not* hold with the same law since you and I are discriminating folks who only pay attention to the rulings of the best and most astute judges).

This leaves for our last consideration the second moral category, the "objective according to principles." The first thing to understand is what this category does *not* represent. It is in no way to be regarded as a logical form for which a maxim stands as matter. To so regard it is a violation of the mathematical rules of Kant's transcendental Logic. It is something else than this, and Kant called this something else a *Vorschrift*. The word has two types of primary connotations in

²⁸ "with regard to the subject-matter"

English: (1) a prescript or prescription; (2) an instruction, direction, order, precept, or regulation. Taken in the context of it being a moral category, the English word *precept* adequately covers Kant's idea:

precept, *n* [L. *praeceptum*, from *praecipere*, to take beforehand; to admonish; *prae*, before, and *capere*, to take.]

1. a commandment or direction meant as a rule of action or conduct.
2. a rule of moral conduct; a maxim.
3. a rule or direction, as for doing something technical.
4. in law, a written order; a warrant; a writ.

syn. – doctrine, law, principle, instruction, injunction, maxim, rule, warrant.

On the whole we do not tend to regard precepts as moral categories other than in connotation 2 above, and connotation 2 seems to take both maxims and laws under its umbrella. Obviously, this will not do else why even have a third term in the list? What, then, does "moral precept" signify?

Somewhat to the annoyance of many people, including me, Kant more or less ignores this one; or at least it can be said that he doesn't exert himself very much to make any strenuous effort to more clearly explain his meaning. Regarded from the viewpoint of transcendental Logic, the second moral category is understood by a notion of plurality – i.e., there are many such rules, instructions, directions, etc. for how to *do* something and each one can be considered in some particular contexts as contributing to the entirety of a law. This "how to" aspect, taken by itself, can not be regarded as either moral or immoral; it is *amoral*. What, then, brings any flavoring of morality to a precept? The answer is, again, the way or manner in which the person *esteems* the rule, direction, etc. This, however, is a *subjective* judgment.

Yet Kant was quite specific in leaving out "subjective" in his statement of the second moral category of Quantity in *Critique of Practical Reason*. He tells us a precept is an *objective* principle. This sets up a riddle for us to solve, and the objectively valid solution can only be one that is epistemology-centered. The answer, perhaps not surprisingly, is that a precept has or has not moral standing *according to a context* by which it is either held-to-be *imperative* or in which it is *not-held-to-be imperative* [Kant (1785a), 4: 414-417]. Because the moral connotation is context-dependent, all precepts are theoretically hypothetical imperatives insofar as they are held-to-be-conditionally-necessary (made-necessary from a condition) in the judgment of the person.

Precepts as theoretical imperatives might or might not have a moral context:

Imperatives are only formulas expressing the relationship of objective laws of volition in general to the subjective imperfection of the will of this or that rational being . . .

All imperatives command either *hypothetically* or *categorically*. The former present the practical necessity of a possible act as a means to achieving something else which one wants (or which one may possibly want). The categorical imperative would be one which presented an act as of itself objectively necessary without regard to any other purpose. . . .

Volition according to these three principles²⁹ is plainly distinguished by the dissimilarity of the constraints of will. In order to clarify this, I believe they are most suitably ordered if one says they are either rules of skill, counsels of prudence, or commands (laws) of moral custom. . . . We could also call the first imperatives *technical* (belonging to art), the second *pragmatic* (belonging to well-being), and the third *moral* (belonging to free conduct as such, i.e. to morals³⁰). [Kant (1785a), 4: 414, 416-417]

²⁹ that is, the principles of problematic, assertoric or apodictic necessitations.

³⁰ *Sitten*

Merely technical imperatives, e.g. the proper procedure for solving some problem, rarely have any moral connotation. An imperative of prudence, on the other hand, *can* have what amounts to a "moral force" if its meaning implication happens to stimulate a practical hypothetical imperative *in the manifold of rules*. We do not generally pronounce that such an imperative is a moral custom (*Sittlichkeit*), but the fact remains that such imperatives are important instantiations of what Kant called Duties to oneself. For example, the legal codes of most societies hold that it is not-murder (unlawful taking of another person's life) if you kill another person *while defending your own life from his actions*.³¹ Kant said this of rules of prudence:

Of moral sense: The rules of prudence presuppose no special inclination and feeling, but only a special relationship of understanding to them. The rules of moral custom proceed from a special, eponymous feeling, upon which understanding is focused in this way by them. [Kant (1764-1800), 19: 93]

5.3 The Moral Categories of Quality. In comparison to the moral categories of Quantity, those of Quality are almost trivial to understand. A tenet is a **rule of commission** when: (1) it is congruent with its moral context if you take the principled action; and (2) is incongruent with it if you do not. A tenet is a **rule of omission** when it is congruent with its moral context if you do *not* take the action proscribed by the principle and is incongruent with it if you *do*. A tenet is a **rule of exception** if in some moral contexts you must take the principled action to be congruent with them while in other moral contexts congruence with the context requires you to forego taking the action. Rules of exception have delimited conceptual boundaries, within which they are moral rules and outside of which they are either *amoral* rules or not rules at all. About the only thing that can perhaps usefully be added here is that no person *ever* regards any of *his own* actions as *immoral*. However immoral you and I think Albert Anastasia³² was, Anastasia clearly did not regard murder as immoral and, according to reports from people who knew him, he *liked* to kill people. He got away with it for decades, which we can reasonably assume means he was good at it and, therefore, he knew some practically effective *technical* imperatives for how to go about murdering people without getting caught. Nobody knows exactly how many people Anastasia killed or ordered to be killed. This facet of human Nature, i.e. that no one regards his own actions as immoral³³, is important for understanding the ideas of the state-of-nature, the civil-state, and all social compacts (as we will see later).

5.4 The Moral Categories of Modality. The first two category titles, Quantity and Quality, have to do with the composition of actions that can be regarded as Duty-actions. We can regard this as the composing of a "what." The last two category titles, Relation and Modality, have to do with Duty-context in the manifold of concepts, which we can regard as addressing the "how-is-it

³¹ Kant put himself through a great deal of what I consider unnecessary bother trying to fit Duties to oneself into a framework conformable with the notion of "the moral law within me." For example, he argued that if you should attempt to kill me, it is my Duty to prevent it because if I am killed then I can no longer do good on behalf of anyone else ever again. Nonsense. I'm simply not willing to let you kill me, and if you try to do so I will use any means I deem necessary to prevent you from doing so, including killing you first. I require no specious external justification to make this a Duty to myself. Do you? If so, why?

³² Anastasia was the boss of a mafia hit squad known as "Murder, Inc."

³³ Some sociopaths, e.g. Joseph Duncan, a sexual predator who murdered four people in north Idaho a few years ago, seem to revel in their actions in part by the "shock value" of *pronouncing* them "immoral." Duncan told the jury at his trial, "You people don't have any clue yet of the true heinousness of what I've done. My intention was to kidnap and rape and kill until I was killed, preferring death easily over capture." This is nothing but playing at sophism and reveling in the horror the effect his showboating had on those who heard him say this. Duncan had no remorse over what he did, and when he was caught it was because he deliberately put himself and his last living victim on display at a Denny's Restaurant. Police reports of his capture do not report that he was the least taken aback when he was caught instead of killed there.

a Duty?" question. The Modality categories are concerned with judging how the concept places a duty in Reality, i.e., the question of "when is the action really a duty, and when is it not-really a duty?" In the synthesis of all connections of Modality there are always three classes of notions that enter into the synthesis: (1) the determinable; (2) the determination; and (3) the determining factor [Wells (2009), chapter 2]. In logic terms these notions deal, respectively, with (1) problematic determinations; (2) assertoric determinations; and (3) apodictic determinations. These are what are represented in Kant's three moral categories of Modality.

The first category, *the permitted and unpermitted*, is straightforward:

An act is *permitted* which is not contrary to Obligation; and this freedom, which is not restricted by being set against any opposing imperative, is called an authorization . . . From this it is obvious what *forbidden* is. . . . An act that is neither required nor prohibited is merely *permitted* because there is absolutely no restraining law restricting one's freedom (authorization) with regard to it and, so too, no Duty. Such an act is called morally-indifferent [Kant (1797), 6: 222-223].

Before any action-concept is transformed into an idea of Duty + Obligation (*officium*), the person must produce the action-concept. Infants have utterly no innate ideas of Duties and toddlers have very few such ideas (and no or little non-literal understanding of those they have come to form). Here we see that the genesis of every idea of *officium* has its roots in action-concepts that are permitted on the merely subjective ground that the action is not opposed by any practical rule in the manifold of rules. These include "don't do that" actions (so-called negative actions) as much as the other kind because possible action schemes known through experience to be contrary to satisfaction of equilibrium are vetoed during the synthesis of appetition. But there is no explicit "moral" connotation in what we might call "permitted not-actions" because these are merely represented as permitted actions carrying the Quality of a rule of omission.

In their practical as well as their logical essence, duty-concepts come to be conceived in the synthesis of understanding because of root-level *negative* acts of the process of practical Reason, Reason's veto being applied either to the act as an act of commission or to it as an act of omission. In the formative stages of life, the learning experiences that lead to proactive duty-concepts owe everything to experience with actions-that-thwart that-which-thwarts the achievement of re-equilibration. Now, a theory that produces this as a consequence is at the same time making a verifiable statement that can be subjected to experimental testing. This "negative character" of the regulation of pure practical Reason has been put to the experimental test by Piaget and his coworkers. Their findings confirm the prediction. Piaget tells us,

Because the mind³⁴ spontaneously concentrates on the affirmations and positive characteristics of the objects, actions, or even operations, the negations are neglected or are constructed only secondarily and laboriously. Since they are required for every form of equilibrium, they are achieved only after multiple difficulties and their elaboration requires long periods of time. We have no need, therefore, to postulate activity to produce the existence of initial profound imbalance, as we postulate the necessity of an equilibrium by mutual conservations between differentiated elements. Nonbalance at the beginning [of life] is a fact, and since the search for coherence is another . . . we must explain the passage from the first to the second, which is the proper task of a theory of equilibration. [Piaget (1975), pg. 15]

In effect, the genesis of duty-concepts has its roots in experience-events in which the person

³⁴ By "the mind" Piaget means the phenomenon of cognition and conceptualization. He is speaking here of conceptualization that only follows *after* the formation of practical rules in the manifold of rules. Reason, you will remember, knows no objects and feels no feelings.

must deal with the disturbances and unpleasant turns he encounters in the process of living. In this context, the ancient Epicureans were not altogether wrong when they held that "abolishing pain" was at the primordial root of ethics. Of course, they were not altogether correct either, because the logical opposite ("pleasure") is an affective perception that, by Critical definition, is *not* in conflict with the fundamental law of equilibration (i.e., the formula of the categorical imperative of pure practical Reason). Hence such experience-events do not come under the veto of practical Reason, evoke no ratio-expression of re-equilibration, and therefore do not lead to the conceptualization of duty-concepts. Hence the modern heir of Epicureanism, consequentialism, is left with no grounding in human mental Nature in regard to all its "positive" pronouncements.

This same primordial root in the veto power of practical Reason also largely accounts for the general character we see time and time again, from one culture to another, of social-moral codes. By this I mean the typically prohibitive character of conceptualized moral imperatives. Santayana noted,

The relation between æsthetic and moral judgments, between the spheres of the beautiful and the good, is close, but the distinction between them is important. One factor of this distinction is that while æsthetic judgments are mainly positive, that is, perceptions of good, moral judgments are mainly and fundamentally negative, or perceptions of evil. Another factor of the distinction is that whereas, in the perception of beauty, our judgment is necessarily intrinsic and based on the character of the immediate experience, and never consciously on the idea of an eventual utility in the object, judgments about moral worth, on the contrary, are always based, when they are positive, upon the consciousness of benefits probably involved. . . .

The truth is that morality is not mainly concerned with the attainment of pleasure; it is rather concerned, in all its deeper and more authoritative maxims, with the prevention of suffering. There is something artificial in the deliberate pursuit of pleasure . . . We feel no duty in that direction; we take to enjoyments naturally enough after the work of life is done, and the freedom and spontaneity of our pleasures is what is most essential to them.

The sad business of life is rather to escape certain dreadful evils to which our nature exposes us – death, hunger, disease, weariness, isolation and contempt. By the awful authority of these things, which stand like specters behind every moral injunction, conscience in reality speaks . . . The moment, however, that society emerges from the early pressure of the environment and is tolerably secure against primary evils, morality grows lax. The forms that life will farther assume are not to be imposed by moral authority, but are determined by the genius of the race, the opportunities of the moment, and the tastes and resources of individual minds. The reign of duty gives place to the reign of freedom, and the law and the covenant to the dispensation of grace. [Santayana (1896), pp. 16-17]

The moral category of the determination is called *Duty and contrary to Duty*. We have already discussed the ideas of Duty and Obligation with respect to their meaning implications. But this is not what the moral category of determination means. Let us look again at something Kant had to say in regard to Duty:

Duty is that action to which someone is bound. It is therefore the matter of Obligation, and it can be one and the same Duty although we can be bound to it in different ways. [Kant (1797), 6: 222]

The moral category of determination categorizes what is assertoric within the *context* of duty-concepts such that the person's concept of a duty and an obligation *cohere* in his life-experience. This is to say the category speaks to *how one is Self-bound* by his own concepts of duty and obligation. Every concept of duty-and-obligation signifies a *meaning implication*, and so the idea of the moral category of the determination is the idea of *what the practical meaning of the*

concept is. What does the concept of the duty assert and under what conditions does it assert it? The objective details of this are, of course, the what-and-how represented in the other three heads of Quantity, Quality, and Relation. Modality is the notion that *something is asserted*, i.e. that the duty-and-obligation concept is a concept about something that is *morally real*. That human beings actually do come to hold duties as being "something real" is amply demonstrated by the empirical psychology of the phenomenon of moral realism we discussed earlier.

Kant in fact wrote or said relatively little about these first two moral categories. The appearance he bequeathed to us, namely that he thought these notions were abundantly clear enough to any civilized person already, seems to be borne out by this brevity. He was less brief, although decidedly far from verbose, when it came to the apodictic category, *perfect and imperfect Duty*. This category deals with the manner and degree to which one is *certain* that a duty-and-obligation concept *applies* in a specific situation. By this one must not understand that the factor of certainty has to do with the objective constitution of the duty itself. That is a *mis*-understanding of the category. It has to do with *knowing the manner in which* a duty is *necessitated* by meaning implication in making particular choices. Kant tells us,

Our Obligations are twofold: (1) those to whose observance we may justly be compelled; (2) those to which we should not be compelled externally. The first are legal Duties (culpable Duties), the others Duties of virtue. The first are also called, in a strict sense, perfect, the latter imperfect, Duties. In the system of morals, Duties to oneself are held to be imperfect; but they are no less perfect Duties than those that we have towards others. This comes about, however, because compulsory Duties and perfect Duties are taken for one another. We can grant latitude to a law when it has exceptions. Thus the law of beneficence has latitude because before my culpable-obligation I must have grounds to do someone well. The legal Duty is a strict one because here there are no exceptions.

Our acts are twofold: either (1) they relate merely to ourselves; or (2) to others. Concerning Duties to oneself, the question here is not whether we can be forced [to comply] with it because, since we have no external Obligation thereto from within us, we cannot be forced to it either from without. But in regard to Duties to others, there are some to which we can be forced [to comply], and also others to which we cannot be. The Duties towards others rest on two principles, namely either upon the other's freedom or upon his particular purposes. We may now say: the necessity of an act, under the condition by which alone a universal freedom can subsist, is called a strict Duty. The necessity in the act, by which alone the universal end, or happiness, can be reached, is imperfect Duty or Duty of beneficence. The congruence of an act with the freedom of another is necessary; but since these acts also concur with other purposes it is likewise restricted Duty, though imperfect. The compulsion subsists in this, that everyone can take action according to his own will without being compelled to take action according to the will of another. The idea of justice rests solely on the idea of freedom. [Kant (1785b), 29: 617-618]

The distinction between perfect Duties and imperfect Duties is the point at which a crisp mark is set down between the private moral code of an individual and civic moral codes and moral customs in a society. The *determining factor* comes down to just this: Is the duty-concept a concept of a duty-to-oneself or is it a concept of *reciprocal duty* mutually agreed-to by two (or more) people? A duty-concept is held-to-represent an *imperfect Duty* if the only obligation involved in the situation is an obligation one makes solely to oneself and, therefore, no other person can *justly* compel one to obey one's own maxim. It refers to duties-of-strictly-private-matters. A *perfect Duty* is one that involves a *social compact* of some sort in which the compacting parties have exchanged some sort of pledges of mutual obligations and, by virtue of this exchange, each has *granted* the other a *right* to compel compliance with the social compact. Every notion of justice, of legal systems, of civil rights, and of civil liberties rests upon this moral category of perfect Duty. This moral category is a deontological ground of the Idea of the Social

Contract.

5.5 The Moral Categories of Relation. We still have much to discuss concerning the nature of Obligation, perfect and imperfect Duties, and their relationship with civic moral codes. We will begin to take up this task in the next section. But before we can do this, we must complete Kant's table and understand the *Realerklärung* of the moral categories of Relation.

Kant's most comprehensive and detailed treatment of the idea of *officium*, the relationship of his metaphysic of *Sitten* to the social-ethical theories of Rousseau, Hobbes and Cicero, and of his moral categories of Relation is found in [Kant (1793-4), 27: 576-594]. Also found there is a clear exhibition of Kant's Critical error in his analysis, namely the error that, presumably, was introduced by his theocentric bias in how he looked at the topic of moral theory. The result is a co-mingling of objectively valid deontological theory and non-valid ontology-centered error in the analysis. I will deal with the error first, then move on to the correct Critical analysis.

Kant thought it was necessary, in order to firmly ground a metaphysic of moral theory, to establish a universal standard or norm against which moral-ethical judgments could be evaluated. In point of fact, this is necessary only if one presupposes the categorical imperative of practical Reason is identical to a "moral law within me." This is, of course, the root of Kant's error. Kant sought this in a specious *noumenal* Object that he called "humanity" and that he set up as a genus that understands all individual people. He said,

To make a rule for oneself presupposes that we set our intelligible self, i.e., humanity in our own person, over against our sensible being, i.e., man in our own person, and thus contrast man as the actor with humanity as the law-giving party. Hence we get right of humanity in our own person, and towards others, and virtue as purpose of humanity towards oneself and others. All this turns us into obligated Objects and puts our self in a relationship vis-a-vis humanity. . . . Humanity is the aforementioned *noumenon*, and thus thought of as pure intelligence in regard to the capacity for freedom and the accountability implanted in man. Man, on the other hand, is humanity in appearance, and thus subordinated to humanity as genus. As men we have a relationship to others, but rights and Duties themselves are determined by humanity [Kant (1793-4), 27: 579].

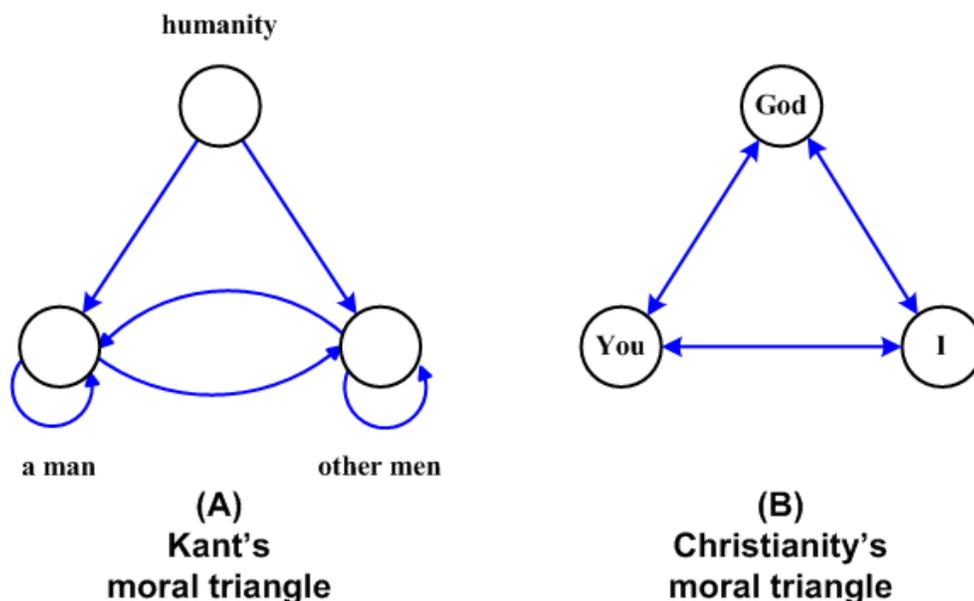


Figure 6.3: Comparison of Kant's theocentric moral triangle with Christianity's standard moral triangle.

The speciousness of this argument is rather obvious. Kant is setting up a triangle of moral-ethical relationships almost identical to the usual one set up in Christian moral-ethical theory. Figure 6.3 compares Kant's triangle with the usual Christian moral triangle. The only differences in detail are that: (1) Kant's triangle puts "humanity" at the apex, while the theological triangle reserves that place for God; (2) Kant's triangle contains obliging relationships of Duties to oneself that Christian theology usually omits; (3) it specifically denotes that one's legal obligations to others and their reciprocal legal obligations are usually distinguishable (e.g., you pay me a sum of money and I paint your house for you); and (4) Kant provides for no prayers to humanity.

Once this specious Ideal, humanity as pure intellect that all men share in common, is put in place, Kant's rather lengthy list of the usual and standard Christian theological moral precepts – prohibition of suicide, prohibition of greed, sloth, and the other "seven deadly sins," & etc. – follow with more or less logical predictability. The simple fact that these are *not* universal moral precepts found in all cultures is, by itself, sufficient evidence to demonstrate the fallacy of Kant's Ideal of humanity. The speciousness of the humanity-as-genus argument, even in Kant (1788) and (1797), was quite evident to many later scholars. Santayana, for one, metaphorically burst into flames of moral umbrage over it:

Kant, like Berkeley, had a private mysticism in reserve to raise upon the ruins of science and common-sense. Knowledge was to be removed to make way for faith. This task is ambiguous, and the equivocation involved in it is perhaps the deepest of those confusions with which German metaphysics has since struggled, and which have made it waver between the deepest introspection and the dreariest mythology. . . . Had Kant proposed to humble and concentrate into a practical faith *the same natural ideas* which had previously been taken for absolute knowledge, his intention would have been innocent, his conclusions wise, and his analysis free from venom . . . Faith would have meant faith in the intellect, a faith naturally expressing man's practical and ideal nature, and the only faith sanctioned by its fruits. Side by side with this reinstatement of reason, however, which was not absent from Kant's system in its critical phase and in its application to science, there lurked in his substitution of faith for knowledge another and sinister intention. . . . The "categorical imperative" was a shadow of the ten commandments; the postulates of practical reason were the minimal tenets of the most abstract Protestantism. These fossils, found unaccountably imbedded in the old man's mind, he regarded as the evidence of an inward but supernatural revelation. [Santayana (1905), pp. 94-97]

I wouldn't go so far as to call Kant's intention "sinister." But Santayana was not wrong to liken Kant's theocentric bias to supernatural revelation. The dreariest of the dreary mystics to whom he referred was, of course, none other than Hegel. Hegel did not hesitate to put God back up at the apex of Kant's triangle and to pursue this ontology-centered illusion out into the black fog of his Absolute Mind and Absolute Spirit, which was to be, of course, God. Hegel called this mythology of logic by the name "science." Scientists did not forgive him for that.

Kant was not the only moral theorist who thought it was necessary to establish some sort of absolute standard or norm for judging moral-ethical rules and laws. In point of fact, *every* moral theorist with a claim to some degree of enduring fame has done this. It is the most common error made in moral theory. The reasoning behind it is not obscure. Mill, for example, presented the argument for its pseudo-necessity this way:

The question is often asked, and properly so, in regard to any supposed moral standard, What is its sanction?, what are the motives to obey it?, or, more specifically, what is the source of its obligation?, whence does it derive its binding force? It is a necessary part of moral philosophy to provide the answer to this question . . . It arises, in fact, whenever a person is called on to *adopt* a standard, or refer morality to any basis on which he has not been accustomed to rest it. [Mill (1871), pg. 49]

Why? I can acknowledge that if it were possible for all mankind to agree on one grand and identical moral-ethical standard this might be a fine and noble thing. If that was possible, I wouldn't rock the boat. But is there any objectively valid reason whatsoever to think this noble *noumenon* has any practical possibility whatsoever? I don't think so. But more essentially, I don't see one grand unified moral code as being necessary in any way. Not one of us will ever meet, much less live in company with, every other person on earth. And what possible universal moral code do you suppose you could agree to in bosom company with Joseph Duncan, Adolf Hitler, Artaxerxes and Menon the Thessalian? Leave them out of it and the compact is not universal. Of course, you could try to *make* it universal simply by killing everyone who doesn't go along with you. But I don't think you'd succeed and, if you were to try, you and I would become enemies and our relationship would be of the most savage sort in the state of nature. In the state of nature there is no such thing as a crime – not even killing people – because the idea of a crime has no context outside of a social compact. In the state of nature there is no social compact. In the state of nature, crime is non-real. You do not agree? Then what is your answer to what Sandburg wrote?

"Get off this estate."
 "What for?"
 "Because it's mine."
 "Where did you get it?"
 "From my father."
 "Where did he get it?"
 "From his father."
 "And where did he get it?"
 "He fought for it."
 "Well, I'll fight you for it."

– Sandburg (1936), pg. 75

It is not the aim of a social-natural science of deontological ethics to erect phantasms or idols. It is to understand the human Nature of the *Sittlichkeit* (moral customs) of human intercourse in human social situations and environments. It is, in other words, to understand the human Nature of social compacts, the reasons for their coming into being, the reasons for their disintegration, the conditions under which people will live in state of nature mutual relationships, and the conditions under which they will live in states of civic relationships. Anything beyond that is the proper topic of derivative applied social-natural sciences such as social-natural political science, social-natural economics, social-natural sociology, and so on.

Having dispensed with Kant's error (I hope), let us examine what he did get right. Of the three moral categories of Relation he said,

The objects of the right of man in his own person can be defined like the three categories of Relation (in metaphysics):

I. In regard to his substance, or in consideration of the right to the disposition over his body as body. . . .

II. In regard to causality, or the personal capacity and power of a man to bring about effects. . . .

III. In regard to the *commercium*³⁵ with others, or in regard to the relationship of men to one another in community. [Kant (1793-4), 27: 593-594]

In the first moral category, Relation to personality, it seems at first very curious that Kant, of

³⁵ reciprocal combination or action

all people, would lay stress upon "disposition of one's body" but leave out "disposition of one's mind." However, we see the error he made at once as soon as we remember that Kant has carried away the "mind" of the person and tucked it in his "humanity" idol. This is Kant's Cartesian error. The Critical notion of the *substance* of a human being understands mind-body as a real unity. Even a merely *logical* division such as Kant implicitly used here can only be objectively valid if "the moral law with me" is the very same in every way as "the moral law within you." Well, it isn't. Every person constructs his own personal manifold of rules, and this practical manifold defines, among other things, the individual's *private* moral code. Science requires us, in a manner of speaking, to "level the field" and remove the apex of Kant's moral triangle. What is left is better depicted by Weaver's interpersonal model, repeated in figure 6.4 below for convenience of reference.

What *is* objectively valid, and the proper statement of Relation to personality, is Kant's remark modified to state that this Relation pertains to *consideration of the right to the person's Self-disposition*. The word Kant used that is translated here as "consideration" was *Rücksicht*, and we must examine the explanation of this term. *Rücksicht* is *the act of taking into consideration an Object as a matter of importance or a matter of respect*. What, though, is "respect"? Webster's Dictionary lists nine definitions for this word, of which (1) and (8) are pertinent for our context:

respect, *n.* [L. *respectus*, a looking at, regard, from *respicere*, to look at.]

1. the act of respecting or noticing with attention; the looking toward; attention.
2. the act of holding in high estimation, deference or honor; a feeling of esteem; regard.
3. a state of being held in honor or esteem.
4. consideration; courteous regard; as, one must have *respect* for the feeling of others.
5. [*pl.*] courteous expressions of respect; regards; as, he paid his *respects* to the mayor.
6. a particular point or detail; as, in this *respect* you are wrong.
7. partiality; undue bias to the prejudice of justice.
8. consideration; motive in reference to something. [now Rare.]
9. relation; regard; reference; as, with *respect* to your problem.

What, now, is the nature of a consideration of respect for one's Self-disposition as a "right"?

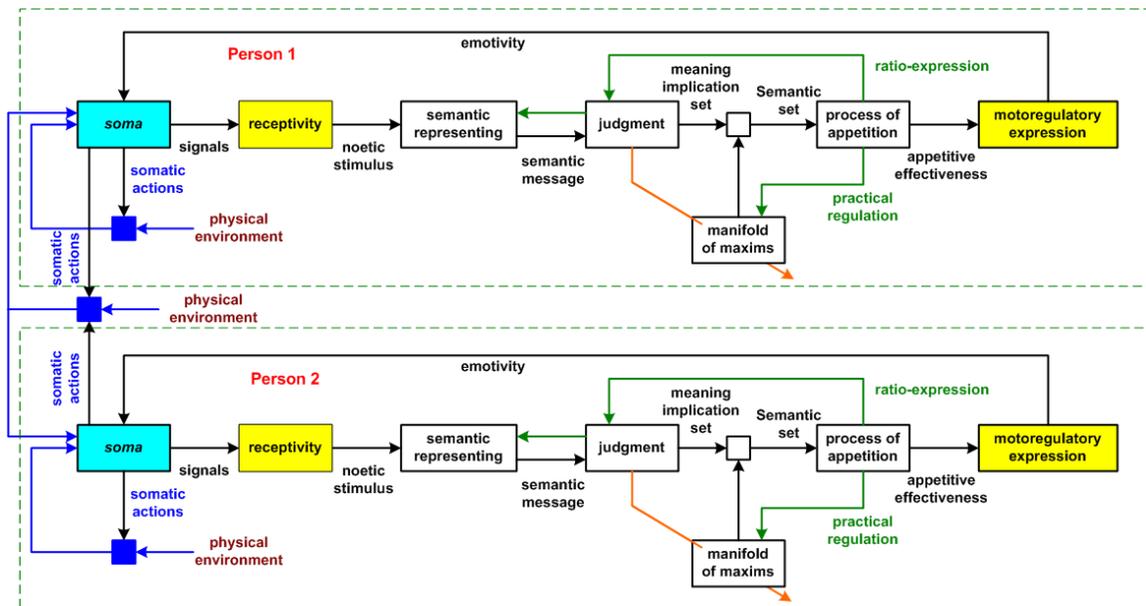


Figure 6.4: Weaver's interpersonal interaction model for two people.

The first thing we must remember here is that a *person* is that subject of a judgment who can be regarded with practical objective validity as the agent of his own actions and to whom these actions can be attributed. A person's *right of Self-disposition* means nothing more and nothing less than *the real capacity of a person to make himself be as he chooses to be*. Each and every one of us *is* the person *he made himself to be* and each and every one of us *becomes the person he chooses to make himself become*. Neither the devil nor Daniel Webster made you the person you are. You did that yourself. So it is with every one of us. This idea is foundational to the very notion of "morals" and "morality" because without this ground no person could ever justly be held either responsible or culpable for any of his actions. Martin Luther's dictum,

The human will is like a beast of burden. If God mounts it, it wishes and goes as God wills; if Satan mounts it, it wishes and goes as Satan wills. Nor can it choose its rider . . . The riders contend for its possession . . . God foresees, foreordains, and accomplishes all things by an unchanging, eternal and efficacious will. By this thunderbolt free will sinks shattered in the dust. [Luther (1525)]

could not be more destructive to objective validity in morality, justice or law. The dictum might be a handy way to excuse leading a revolt against a Pope, but it is wholly antithetical to any notion of ethics, nor could it be any more in contradiction with human mental-Nature. Luther's (and others') usual circumlocutions for this (or similar) dicta typically were taken from one or another selected Biblical passage, e.g., "For He saith to Moses, I will have mercy on whom I will have mercy and I will have compassion on whom I will have compassion" [Romans, ix. 15], but one should note that nothing is said here about denying you or me the same power. And for each such selected quote from the Bible, theologians from other sects have never had any difficulty finding other Biblical passages to refute Luther's interpretation. If you think Joseph Duncan is a scumbag, you are also correct if you think he *himself* chose to become one.

One's *moral personality* is the categorical Relation to Duty by which a person respects himself as an individual and sets for himself terms by which he is willing to pledge obligations and bind himself to duties. The *consideration* he makes therefore pertains to what he chooses as matters of respect. This is something that Kant's "humanity" notion has problems with, but which he seems to have clearly grasped when his thinking was focused on Critical metaphysics:

Consciousness is the intuition of oneself. It would not be consciousness if it were sensation. In it lies all knowledge, whatever it might concern. It is logical, not practical personality. The latter is the capacity for freedom, by the power of which one can be a cause on one's own without being externally determined. Moral personality is the faculty for motives of mere reason, by power of which a being is capable of laws and thus also of imputation. [Kant (1776-1795), 28: 73]

Thus, the moral category of *Relation to personality* is the *nexus of tenets of action pertaining to the person's Self-respect*. This Relation grounds the nature of what the person makes of himself insofar as his willingness to accept duties and obligations is concerned. As Kant put it,

The purpose of humanity in my own person is my perfection and the Duty relating thereto, to develop establishment of all I find in me. [Kant (1793-4), 27: 543]

While the first moral category pertains to what the person does for himself in regard to his inner circumstances, the second pertains to what he does in regard to outer circumstances. This one is perhaps the most straightforward of the three. The moral category of *Relation to the situation of the person* is the *nexus of tenets of action pertaining to how the person deals with the contingencies of external Nature so far as these contingencies affect his own well-being*.

The first two moral categories of Relation pertain entirely to the Duties a person sets up as his Duties to himself. These are, in fact, the first sorts of Duty Relations the human being establishes during childhood and are demonstrated by what Piaget called the radical egocentrism of the child. In and of themselves, they have no immediate relationship to socialization or community. They are, however, not amoral because some of the Duties of this type lead directly to the assumption of Duties and Obligations almost all of us recognize in terms of traditional moral concepts. In this context, the third moral category is to be regarded as a synthesis of the first two.

To put this another way, a person accepts duties and obligations to other people *because by doing so he serves his Duties to himself*. **This Relation is the foundation of all social compacts.** To put it rather bluntly, no person accepts obligations to others in order to "serve humanity." At the Critical foundations, *he does so because by doing so he also serves himself*. This is not to say that people do not form highly idealistic and altruistic ideas; they do. But these ideas and ideals are weak constructs compared to the unromantic but nonetheless pragmatically correct practical reasons a person recognizes when he decides to enter into fellowship with others. Furthermore, the equilibrium condition for Duties of *commercium* only becomes a robust equilibrium when the person recognizes that: for every civil right *others grant to him* by the social compact between them, he in his turn *agrees to take upon himself civic obligations and duties*. Thus, this Relation involves both **terms** – the benefits the person requires or expects to realize (make actual) by consenting to particular obligations – and **conditions** – what he recognizes he must do in order to actualize these benefits. The moral category of **Relation reciprocally of one person to the situation of others** is the *nexus of tenets held-to-be-binding in the context of a social compact*.

§ 6. Summary of Kant's Moral Categories

The previous section is a long one and it is worthwhile to gather up all that was covered there in a concise list. The *Realerklärung* of Kant's system of moral categories is as follows.

6.1 The moral categories of Quantity:

- **maxim:** A moral maxim is a tenet a person holds to as a private theoretical rule of action, but which he does not hold others as bound to.
- **precept (*Vorschrift*):** A theoretically hypothetical imperative a person deems to be binding for every person according to his condition or situation.
- **law (*Gesetz*):** A theoretically categorical imperative a person deems to be binding for every person unconditionally in and for itself.

6.2 The moral categories of Quality:

- **rule of commission:** The Quality of a moral maxim, precept or law holding that it is congruent with its moral context if the action is effected and incongruent with the context if it is not.
- **rule of omission:** The Quality of a moral maxim, precept or law holding that congruence with its moral context subsists in not taking the action, and incongruence subsists in taking it.
- **rule of exception:** The Quality of a moral maxim, precept or law whereby in some contexts congruence of the principle with the moral context subsists in an act of commission, while in others congruence subsists in an act of omission.

6.3 The moral categories of Relation:

- **Relation to personality:** The *nexus* of tenets of action pertaining to the person's Self-respect.
- **Relation to the situation of the person:** The *nexus* of tenets of action

pertaining to how the person deals with the contingencies of external Nature so far as these contingencies affect his well-being.

- **Relation reciprocally of one person to the situation of others:** The *nexus* of tenets of action held-to-be-binding in the context of a social compact.

6.4 The moral categories of Modality:

- **permitted and unpermitted:** An act is permitted if it is not proscribed by a moral maxim, precept or law; it is unpermitted if it is proscribed by such a rule.
- **Duty and contrary to Duty:** The contextual determination of what a concept of a duty asserts and does not assert in its meaning implications.
- **perfect and imperfect Duty:** The determining factor representing a Duty as either involving a social Obligation (perfect Duty) or a private Obligation to oneself (imperfect Duty).

§ 7. Obligation and Social Compacting

You perhaps noticed in the foregoing how often the idea of Obligation enters into the major considerations we have covered so far. We must examine the idea of Obligation in more detail and understand how Obligation stands in relationship to public codes of social intercourse. These details speak to the terms and conditions of all social compacts. We will see that the foundation of every social compact is some sort of *public* moral code, and that all such public moral codes themselves stand upon a foundation of cooperation congruent with *private* moral codes.

There are two distinguishable classes of Obligation, private ones and public ones. The latter are those Obligations to which one has made a commitment to others and the assumption of such Obligations is the basis for life in the civil state. These are also the Obligations that societies everywhere are regarded as having the *right* to compel the people who live in them to fulfill. They are at the foundations of manmade legislation and the publicly conceded right of their government to enforce such legislation.

But what is meant by the idea of a "right" in general? How does a "right" differ from a "liberty"? Do "right" and "liberty" mean the same thing in the civil state as in the state of Nature? What is the difference between a "public right" and a "civil right"? What is the difference, if any, between a "public liberty" and a "civil liberty"? What is the difference between a "natural liberty" and a "civil liberty"? What is the difference between an "inalienable right" and an "alienable right"? What is the difference between an "inalienable right" and an "unalienable right"?

The answers to these and to some other important questions as well depend on the specific nature of Obligations, i.e., upon specified or specifiable *forms* of obligation. These, in turn, descend from the formal moral categories, i.e. the Relation and Modality ideas of Kant's moral categories as these were explained in the previous sections. The answers also depend on whether or not some sort of social compact has been set up and on how this social compact is understood by those people who have agreed to abide by it. It is in this context that *all social compacts are grounded in moral codes*.

That this is no more and no less than a fact of human Nature is something that was once comprehended by most important theorists of political science in the days when political science was a social-natural science. The differences of opinion among these scholars – and there were some serious differences of opinions among them – largely turned on whether particular theorists adopt a Plato-like orientation or a more Aristotle-like orientation³⁶. A pure orientation to either of

³⁶ Some philosophers might object that my analysis here leaves out a third class of ancient metaphysicians, namely those represented in the views of the Greek atomists, most notably Democritus and, later, Lucretius.

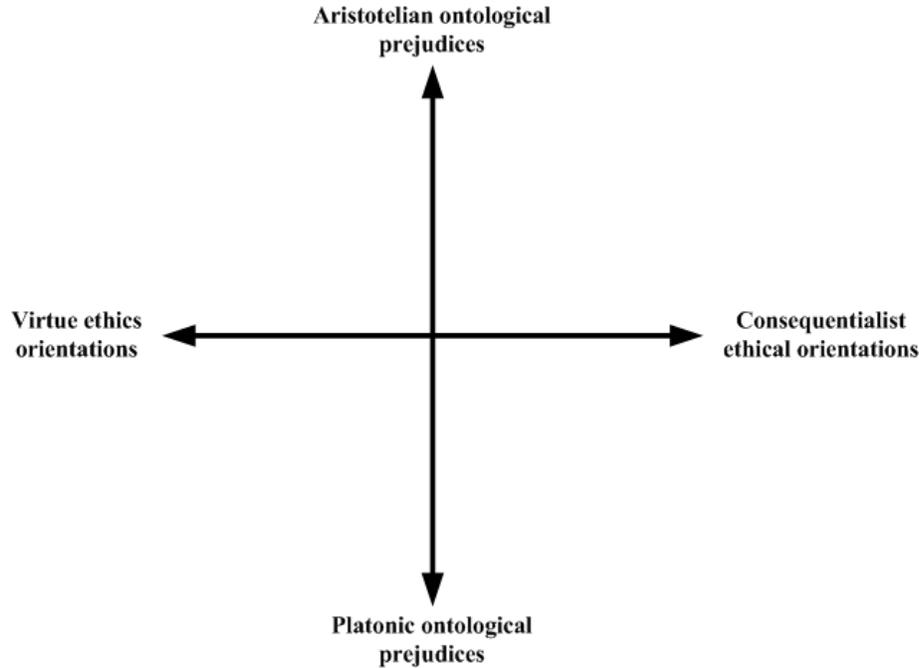


Figure 6.5: Two-factor representation of Uncritical social compact theories.

of these has never been ultimately successful, and as a result different political science theories differed in one main factor by how they went about trying to blend a little Aristotelianism into a largely Platonic base or a little Platonism into a largely Aristotelian base. They also differed in a second main factor by whether the theory was oriented towards some blend of Platonic-Aristotelian-Stoic ideas of ethics (which leads to virtue ethics) or towards the more pragmatic and empirical ideas of ethics espoused by the Epicureans (which leads to the various forms of consequentialist ethics). Again, neither of these orientations in pure form ultimately proved to be successful and as a result different specific theories differed in the degree to which attempts were made to blend the two and which orientation was foundational in the greater degree.

All political theories can be regarded as representations of social compacting. Uncritical approaches to political science, and to theories of social compacts, can be characterized in the rough by a two-factor analysis of the sort I have just described and which figure 6.5 illustrates. Blending efforts, pragmatically speaking, are efforts to locate a social contract point in this graph.

Even so, these efforts all prove futile because the pseudo-metaphysical bases are themselves fatally flawed and incapable of ever yielding up a *proper* social-natural science. The systems are Uncritical, and this by itself guarantees their failure. This leads us to the next logical question, "Then why did *Kant* not succeed in solving the problem?" This is indeed a first-blush surprise. But it is not particularly mysterious because the answer leaps out of the pages at us from *Metaphysik der Sitten Vigilantius*, specifically [Kant (1793-4), 27: 589-594]. Its root is Kant's unquestioned acceptance of the presumption that it is necessary to set up some one universal

Or, to put a broader view on it, early materialism. But as a philosophical system, the atomists' views did not hang together very consistently and, in fact, did not have that great an influence in ancient times. Their influence was greater in the somewhat interesting commonalities it shared in the ethical realm with the Epicureans. The views of the ancient materialists contributed nothing to political or social theory per se.

standard or norm for the judgment of moral principles. From this comes his specious construct of "humanity" as the transcendent *noumenon* in which this standard is to be vested. In most aspects of his philosophy, Kant was decidedly non-Platonic and, indeed, it is far easier to apply Kant's Copernican turn to Aristotle's philosophy than it is to Plato's. But on this point, Kant slipped almost unnoticeably into Platonism and, as he did, his theory lost its objectively valid grounding. All which followed that was grounded in Kant's idea of "humanity" is Uncritical. In something of an irony, this was one mistake Rousseau did *not* make. He made plenty of others, but this was not one of them³⁷. It is a mistake we will not repeat.

Theorists from Aristotle and Plato, to Montesquieu and Rousseau, to John Adams, Alexander Hamilton and James Madison, to John Stuart Mill all recognized the essential connection between social-natural political science and human Nature. When political science finally succumbed to positivism, it lost this foundational connection. By doing so, it turned away from being a developing social-natural science. It did not turn into an unnatural science, because there is no such thing, but rather it ceased to be a science at all. Under the most generous label I can give it, it devolved into being only a tradesman's craft. This is not to say that all political scientists are ignorant at the intuitive level of the necessity of staying connected with some notion of morality. Some of them deny any such connection, true enough, but not all of them do. Bloom wrote,

Political science has always been the least attractive and the least impressive of the social sciences, spanning as it does old and new visions of man and the human sciences. It has a polyglot character. Part of it has joined joyfully in the effort to dismantle the political order seen as a comprehensive order and to understand it as a result of subpolitical causes. Economics, psychology and sociology as well as all kinds of methodological diagnosticians have been welcome guests. But there are irrepressible, putatively unscientific parts of political science. The practitioners of these parts of the discipline are unable to overcome their unexplained and unexplainable political instincts – their awareness that politics is the authoritative arena of effective good and evil. They therefore engage in policy studies whose end, whether it is stated or not, is action. Defense of freedom, avoidance of war, the furthering of equality – various aspects of justice in action – are hot subjects of study. The good regime has to be the theme of such political scientists, if only undercover, and they are informed by the question "What is to be done?" [Bloom (1987), pg. 365]

Bloom is incorrect about what he called the "putatively unscientific parts of political science" being unscientific. These parts are precisely where a social-natural political *science* is to be found. He is incorrect about the practitioners' political instincts being "unexplainable" (although he is correct about them being "unexplained"). He is, however, right on target in saying that political science is "the authoritative arena of effective good and evil." And this, of course, is none other than the arena of *Sittlichkeit*, moral custom, and the arena of the Social Contract.

To attain to a scientific understanding of these things – to understand as a social-natural science – we must examine the process of the phenomena that collectively co-cause the phenomena of social compacts and moral customs. This is to say we must understand the mental physics of moral coding and Obligation. And with this we have our segue point into the next chapter.

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³⁷ See Rousseau (1762), chapter 8.

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