

## Kant's Arguments for His Formula of Universal Law

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I am delighted to discuss some of Kant's arguments in a volume that celebrates the writer of some brilliant unpublished lectures on Kant, and the most acute critic of arguments I know.

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While defining his two kinds of imperative, Kant writes:

(A) All imperatives command either *hypothetically* or *categorically*. The former represent the practical necessity of a possible action as a means for attaining something else that one wills (or might will). The categorical imperative would be one which represented an action as objectively necessary of itself, without reference to another end. (1797: 414)

In this passage, Kant declares that there are only two kinds of claim about what is practically necessary, or what we ought to do. Imperatives are *hypothetical* if they claim that we ought to do something as a means of achieving one of our ends. Imperatives are *categorical* if they claim that we ought to do something not as a means of achieving any end, but, as we can say, for its own sake only.

These are not, as Kant declares, the only two kinds of imperative. Kant's remarks involve, not one, but two distinctions, which combine to give us four possibilities. An imperative might tell us to act in some way

	wholly or partly as a means to achieving some end	not even partly as a means, but for its own sake only
if we want or will to act in this way or to achieve this end	(1)	(2)
whatever we want or will	(3)	(4)

Kant claims that all imperatives are of types (1) or (4). He ignores (2) and (3). There is little harm in ignoring imperatives of type (2), which tell us to do something for its own sake if and because that is what we want to do. It is a serious mistake, however, to ignore imperatives of type (3). Kant's categorical imperatives are unconditional, in the sense that they apply to us whatever we want or will. All such imperatives, Kant's remarks imply, tell us to act in some way for its own sake only, not as a means of achieving any other end. That is not true. Of the imperatives that apply to us whatever we want or will, some might require us to act in some way, not for its own sake only, but partly or wholly as a means of achieving some unconditionally required end.

At one point, Kant comes close to recognizing that there might be such imperatives. He writes:

What serves the will as the objective ground of its self-determination is an *end*, and this, if it is given by reason alone, must hold equally for all rational beings. . . . The subjective ground of desire is an *incentive*, the objective ground of volition is a *motive*; hence the distinction between subjective ends, which rest on incentives, and objective ends, which depend on motives, which hold for every rational being. (ibid. 427–8)

Kant here allows that, while some ends are merely subjective, there may also be *objective ends*, which reason gives to all rational beings. Since Kant draws this distinction, we would expect that, after describing imperatives which are hypothetical, because they appeal to our subjective ends, Kant would describe a corresponding class of categorical imperatives that give us objective ends. But Kant claims instead that all categorical imperatives declare some act to be necessary of itself, without reference to another end. This claim implies that there are no objective ends given by reason to all rational beings. More exactly, Kant's claim implies that there are no such ends in the ordinary sense of 'end', which refers to anything that we might try to achieve. Kant does claim that there are objective ends-in-themselves, which are not ends to be achieved, but ends only in Kant's wider sense of being 'grounds of self-determination'. But, in the *Groundwork*, Kant assumes that there are no objective ends to be achieved.

Since Kant mentions the category of objective ends to be achieved, his assumption might be that this category is empty. And he writes:

All objects of the inclinations have only a conditional worth; for, if there were no inclinations . . . their object would be without worth . . . the worth of any object to be acquired by our action is always conditional. (ibid. 428)

These remarks imply that all achievable ends must derive their value from our desires. Such a claim would apply even to our own perfection and the happiness of others. These remarks may, however, be misleading. Rather than

denying that there are any such objective ends, Kant may have failed to remember this possibility. That is suggested by Kant's claim, in passage (A), that all imperatives either *represent* some act as a necessary means to some subjective end, or represent some act as necessary in itself. This claim is about the content of possible imperatives. (A) cannot be read as claiming that, though some imperatives represent some end as objective, or categorically required, no such imperatives are true, or valid. So it seems that, in this passage and in his later arguments, Kant overlooks this kind of imperative. Given Kant's love of taxonomies, which are exhaustive, in the sense of covering every possibility, Kant's overlooking of these imperatives is a mystery.

To help us both to address this mystery and to assess Kant's arguments, we can next distinguish various senses in which Kant uses two of his most important terms: 'material' and 'formal'. These senses partly overlap with Kant's uses of 'hypothetical' and 'categorical'. In his most explicit definition, Kant writes:

Practical principles are *formal* when they abstract from all subjective ends; they are *material* when they are founded upon subjective ends, and hence on certain incentives. (ibid. 427–8)

Principles that 'abstract' from our 'subjective ends', in the sense of applying to us whatever we want or will, we can call *normatively formal in sense 1*. Other principles apply to us only if we have certain desires, or subjective ends. We can call such principles *normatively material in sense 1*.

If principles are in this sense normatively material, we are moved to act upon them, Kant assumes, by our desires to achieve our ends. We can call such principles *motivationally material*. Kant similarly assumes that, if some principle is normatively formal in sense 1, because it applies to us whatever our desires, our acceptance of this principle can move us to act without the help of any desire. We can call such principles *motivationally formal*.

Principles are *teleological* if they tell us to act in certain ways either partly or wholly as a means of achieving some end. Kant sometimes uses the word 'matter' to refer, not only to subjective ends, but to any end. Thus he defines the 'matter' of an action as 'what is to result from it' (ibid. 428). Since teleological principles have a 'matter' in this wider sense, we can call them *normatively material in sense 2*. Of such imperatives, some are also normatively material in sense 1, since they tell us to do what is needed to achieve some desired or subjective end. But teleological imperatives may instead be normatively formal in sense 1, requiring us, whatever our desires, to try to achieve some end. Such imperatives give us an objective end.

Consider next principles that are not teleological. Since these principles are not normatively material in sense 2, we can call them *normatively formal in sense 2*. These principles are *deontological* if they require us to act in some way

for its own sake only, rather than as a means of achieving some end. Two examples are requirements to tell the truth and to keep our promises, without regard to the effects of these acts.

The phrase 'for its own sake' can have, we should note, a different use. Our acts have moral worth, Kant claims, only when we act 'from duty', or for the sake of duty. When we act on some deontological principle, such as a requirement not to lie, we may be both acting in some way for its own sake, rather than as a means of producing some effect, and be doing our duty for its own sake. We might also act from duty on some teleological principle, such as one requiring us to benefit others. We would then do our duty for its own sake, though we believe our duty to be to act in this way, *not* for its own sake, but as a means of benefitting others.

There is another kind of non-teleological principle. These principles impose some formal constraint on our decisions and our acts. One example is Kant's Formula of Universal Law, which requires that we act only on universalizable maxims. We can call such principles *normatively formal in sense 3*. Kant uses 'formal' in this sense when he writes:

Those who, in the conception of duty, are not satisfied with the merely formal determining ground as such (conformity to law). (1793)<sup>1</sup>

Principles that are not, in this sense, normatively formal we can call *substantive*, or *normatively material in sense 3*. Deontological principles, we should note, are in this sense material, since they require us to act in certain ways. Kant claims that his formula requires 'mere conformity to law as such, without having as its basis some law determined for certain actions' (1797: 402). Deontological principles *are*, precisely, laws that are 'determined for certain actions'.

We have, then, three normative senses of 'formal' and 'material', and one motivational sense. These senses can be shown as follows:

<i>motivationally material</i>	<i>motivationally formal</i>
motivates us only with the help of some desire	motivates us all by itself
<i>normatively material-1 or hypothetical</i>	<i>normatively formal-1 or categorical</i>
applies to us only if and because there is something that we want or will	applies to us whatever we want or will
<i>normatively material-2 or teleological</i>	<i>normatively formal-2</i>
tells us to act in certain ways as a means of achieving some end	not teleological
<i>normatively material-3 or substantive</i>	<i>normatively formal-3</i>
tells us to act in certain ways	imposes only a formal constraint on our maxims or our acts

<sup>1</sup> First note in the Preface to the First Edition.

Kant uses ‘categorical’ to mean both ‘motivationally formal’ and ‘normatively formal’ in both senses 1 and 2. I shall use ‘categorical’ more narrowly, to mean only ‘normatively formal in sense 1’. On my use, imperatives are categorical if they are unconditional in the sense of applying to us whatever we want or will. Kant uses ‘hypothetical’ to mean both ‘motivationally material’ and ‘normatively material’ in both senses 1 and 2. I shall use ‘hypothetical’ to mean only ‘normatively material in sense 1’. Imperatives are in this sense hypothetical when they appeal to something that we want or will.

Return now to the question of why Kant overlooked the possibility of categorical teleological imperatives. One explanation may be this. Kant may have had in mind three of the distinctions I have just drawn. When considering imperatives that require us to act in some way, Kant may have seen that any such imperative

must either

motivate us only with the help of some desire	or	motivate us all by itself,
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and must either

apply to us only if we have some desire	or	apply to us whatever our desires,
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and must either

tell us to act in some way as a means of achieving some end	or	tell us to act in some way for its own sake only.
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If Kant did not distinguish clearly between these distinctions—as is suggested by the fact that he uses ‘formal’ and ‘material’ to express all three distinctions—this may explain why he misdescribes the third distinction, claiming that all imperatives tell us to act in some way either for its own sake only, or as a means of achieving some *desired* end. By importing the reference to desire from the left-hand side of the other two exhaustive distinctions, Kant may have thereby drawn a distinction which is *not* exhaustive, since it overlooks those imperatives that tell us to act in some way as a means of achieving some categorically required end.

## 2

We can now turn to Kant’s arguments for what he calls his ‘formal supreme principle of morality’, or what I shall call his *Formal Principle*. This principle can be taken to include all of Kant’s formulae, except for the Formula of Humanity, which will need a separate discussion.

One of Kant's arguments, in *Groundwork 2*, is astonishingly brief. This argument assumes the claim that we have just been discussing:

[A]ll imperatives command either hypothetically or categorically. The former represent the practical necessity of a possible action as a means for attaining something else that one wills (or might will). The categorical imperative would be one which represented an action as objectively necessary of itself, without reference to another end. (ibid. 414)

Kant writes:

We want first to enquire whether the mere concept of a categorical imperative may not also provide its formula containing the proposition which alone can be a categorical imperative. . . . When I think of a *hypothetical* imperative in general I do not know before hand what it will contain. . . . But when I think of a *categorical* imperative, I know at once what it contains. For since the imperative contains, beyond the law, only the necessity that the maxim be in conformity with this law, while the law contains no condition to which it would be limited, nothing is left with which the maxim of the action should conform but the universality of a law as such, and this conformity alone is what the imperative properly represents as necessary. Hence there is only one categorical imperative, and it is this: Act only in accordance with that maxim through which you can at the same time will that it become a universal law. (ibid. 420–1)

In these passages, Kant argues:

1. All imperatives are either *hypothetical*, telling us to take the means to some end that we have willed, or *categorical*, telling us to act in some way for its own sake only, not as a means of achieving any end.
2. Categorical imperatives impose only a formal constraint on our maxims and our acts, since they require only conformity with the universality of a law.

Therefore

3. There is only one categorical imperative, which requires us to act only on maxims that we could will to be universal laws.

This argument is both invalid and unsound. Kant's premises are false, and, even if they were true, Kant's conclusion would not follow.

Kant's first premise, as we have seen, overlooks those categorical imperatives that are teleological, since they require us to try to achieve some end.

Kant's second premise makes two mistakes. Kant has defined imperatives as categorical when they 'represent some act as necessary of itself, without reference to another end'. That description fits deontological principles, such as requirements to tell the truth or to keep our promises. But Kant's Formal Principle does not claim certain acts to be necessary in themselves,

since it imposes only a formal constraint. So, on Kant's definition, Kant's Principle—which he calls 'the Categorical Imperative'—is not a categorical imperative.

Kant might revise his definition, so that it covered his principle. But Kant's second premise would still be false, since deontological principles do not impose only a formal constraint.

As several writers note, Kant's conclusion involves another mistake. Kant assumes that, if some imperative imposes only a formal constraint, this imperative must be his Formal Principle, which requires us to act only on maxims that we could rationally will to be universal laws. That is not true, since there are other possible formal constraints. One example is a requirement to act only in ways in which we believe that it would be rational for everyone to act. This requirement is quite different from Kant's Principle. We might believe, for example, that it would be rational for everyone to do whatever would be best for themselves, though we could not rationally *will* it to be true that everyone acts in this way.

This mistake might be reparable. Kant might argue that, of the possible formal constraints, only his principle meets some further requirement. But this argument's premises cannot be repaired. There is no hope of showing that, if some imperative is categorical, it must impose only a formal constraint.

Why did Kant make these mistakes? He may have had in mind, but failed to distinguish, the three senses in which imperatives can be normatively formal. If Kant had distinguished these senses, he would have seen that his argument assumes that being formal in sense 1 implies being formal in sense 2, which implies being formal in sense 3. Kant could not have believed that these inferences were valid. The first inference assumes that, if some imperative applies to us whatever we want or will, it cannot tell us to act in some way as a means of achieving some required end. That is obviously false. The second inference assumes that, if some imperative does not tell us to try to achieve some end, it cannot tell us to act in certain ways, but must impose only a formal constraint. That is also obviously false. Kant's failure to notice these points may again be due to his preference for thinking at the most abstract level. Only that could explain how, in giving this argument, Kant overlooks the possibility of both teleological and deontological categorical imperatives. Kant thereby overlooks most of the moral principles that other people accept.

It may be objected that Kant himself accepted some of these other principles. Kant believed that we should keep our promises, and that we should not lie; and in his later *Metaphysics of Morals*, Kant claimed that there are two categorically required ends: our own perfection and the happiness of others. Since Kant himself accepted these other principles, it may seem not to matter

that, in the argument we have been discussing, Kant overlooks such principles.

This mistake does, I believe, matter. Kant's overlooking of these other principles undermines some of his arguments. And, when he appeals to some of these other principles, he derives them from his Formal Principle. That greatly affects both the content of Kant's view, and his influence on later thinkers.

## 3

We can turn next to *Groundwork 1*. Consider first these remarks:

[A]n action from duty has its moral worth . . . in the principle of volition in accordance with which the act is done without regard for any object of the faculty of desire. . . . For the will stands between its a priori principle, which is formal, and its a posteriori incentive, which is material, as at a crossroads; and since it must still be determined by something, it must be determined by the formal principle of volition if it does an action from duty, since every material principle has been withdrawn from it. . . . [Hence] mere conformity to law as such, without having as its basis some law determined for certain actions, is what serves the will as its principle, and must so serve it if duty is not to be everywhere an empty delusion. (ibid. 399–400)

Kant's argument here is this:

1. An act has moral worth only when the agent's motive is to do her duty.
2. Such an agent acts on a principle that is not material, since it does not appeal to any of her desires.
3. Such a principle must be formal, requiring mere conformity to law as such.

Therefore

4. This requirement is the only moral law.

In explaining his first premise, Kant compares two philanthropists. The first helps other people out of sympathy, or because he wants to make them happy. The second helps others only because he believes that to be his duty. Of these people, Kant claims, the first is lovable, and deserves praise, but only the acts of the second have moral worth.

This may be Kant's least popular claim, damaging his reputation even more than his claim that we should not lie to prevent a murder. Kant's view about moral worth has also been well defended. But we need not consider this



defence, since Kant's argument need not appeal to his view about moral worth. His first two premises can become:

5. When we believe some act to be our duty, we believe we should act in this way whether or not this act would fulfil any of our desires.

With some qualifications, that is true.

According to this argument's third premise, if some principle does not appeal to our desires, it must require mere conformity to law. That is not true. Such a principle might require us either to try to achieve some end, or to act in certain ways. Kant's argument again overlooks all of the substantive principles that are the main alternatives to his view.

Why did Kant assume that, if some principle does not appeal to our desires, it must require mere conformity to law? He may again have been misled by his failure to distinguish between his different uses of the words 'material' and 'formal'. The will, Kant writes,

must be determined by the formal principle of volition if it does an action from duty, since every material principle has been withdrawn from it.

Kant here assumes that, if some principle is not normatively material in sense 1, because it does not appeal to our desires, this principle must be normatively formal in sense 3, imposing only a formal constraint on our acts. That is not true. Although such a principle is normatively formal in sense 1, it might not be normatively formal in either sense 3 or sense 2. Kant's use of the word 'formal' blurs these distinctions.

There is another way in which Kant may have gone astray. In the same passage, Kant writes:

[T]he purposes we may have for our actions, and their effects as ends and incentives of the will, can give no actions unconditional and moral worth. . . . In what, then, can this worth lie. . . ? It can lie nowhere else than in the principle of the will without regard for the ends that can be brought about by such an action. For the will stands between its. . . principle, which is formal, and its. . . incentive, which is material. (ibid.)

In the first sentence here, Kant's use of the word 'ends' must refer to our subjective ends, or what we are trying to achieve. His point is that an act's moral worth lies, not in the achievement of a subjective end, but in the agent's motive. But, when Kant later writes 'without regard for the ends that can be brought about by such an action', he may be shifting, without noticing this, to the wider use of 'end' that covers all possible ends, including those that are objective, or categorically required. This may be why Kant wrongly concludes

that the moral law must be formal in the sense of having no 'regard for the ends' that our acts might bring about.

*Groundwork 1* suggests another argument. Kant writes:

[A]n action from duty is to put aside entirely the influence of inclination and with it every object of the will; hence there is left for the will nothing that could determine it except objectively the law and subjectively pure respect for this practical law. . . . But what kind of law can that be, the representation of which must determine the will, even without regard for the effect expected from it . . . ? Since I have deprived the will of every impulse that could arise for it from obeying some law, nothing is left but the conformity of actions as such with universal law, which alone is to serve the will as its principle, that is: I ought never to act except in such a way that I could also will that my maxim should become a universal law. (ibid. 400–2)

Kant's argument here is this:

1. When our motive in acting is to do our duty, we must be acting on some principle whose acceptance motivates us without the help of any desire for our act's effects.
2. For some principle to have such motivating force, it must be purely formal, requiring only that our acts conform with universal law.
3. Such a principle must require that we act only on maxims that we could will to be universal laws.

Therefore

4. This requirement is the only moral law.

Kant might have accepted a stronger form of premise 1, since he might have claimed that, when we act from duty, we cannot be acting to fulfil any desire. Humeans would object that, to act from duty, we must be moved by a desire to do our duty. Kant might have answered that this motive is not really a desire. But we can ignore this disagreement. Kant's first premise claims only that, when we act from duty, we are not moved by a desire for our act's effects. That is true even if we are moved by a desire to do our duty.

Kant's second premise, though, is false. Return to Kant's philanthropist who promotes the happiness of others, not because he wants to make them happy, but from duty. Kant's argument implies that, since this person is not moved by a desire for his act's effects, he must be acting on a principle that is purely formal in sense 3, since it imposes only on a formal constraint. That is not so. This person might be acting on a principle that requires us to promote the happiness of others.

Kant's third premise, as we have seen, is also false, since a principle could be purely formal without requiring that we act on universalizable maxims.

Though this premise might be repaired, nothing can be done with premise 2. There is no hope of showing that, when our motive is to do our duty, we must be acting on some principle that is purely formal in sense 3.

Why did Kant make this assumption? When our motive is to do our duty, this motive is formal in the sense that it does not involve, or abstracts from, the content of our duty. This feature of our motive Kant may have mistakenly transferred to the principle on which we act. Jerome Schneewind writes that, on Kant's view, a moral agent acts on principle, and that

the only principle available, because she is not moved by the content of her action, must be formal. The agent of good will must therefore be moved by the bare lawfulness of the act. (1992: 325–6)

Though such a person may be, in one sense, moved by 'the bare lawfulness' of her act, that sense is only that her motive is duty. That leaves it open what she believes her duty to be. She may be acting on some principle that is *not* formal, since it requires her either to try to achieve some end, or to act in certain ways.

Kant may also again be misled by the ambiguity in his use of the word 'end'. In another summary of Kant's argument, Potter writes:

All action to which we are determined by some subjective end... is action whose maxim is without 'moral content'... So the maxim of action from duty must be a maxim which is determined by no such end... The only other thing which could determine us to action would be some 'formal' principle, i.e. a principle containing no reference to any end. (1998: 40)

As Potter fails to note, there is here a fatal slide from the claim that acts from duty must not be determined by *subjective* ends, to the claim that such acts must be determined by a principle that does not refer to *any* end, not even an objectively required end. Schneewind similarly writes:

Given Kant's claim that means–ends necessity is inadequate for morality, it is plain that he must think there is another law of rational willing, and so another kind of 'ought' or 'imperative'. The kind of 'ought' that does not depend on the agent's ends arises from the moral law... [This law,] Kant holds, can only be the form of lawfulness itself, because nothing else is left once all content has been rejected. (1992: 318)

There is here the same unnoticed slide. If some law does not depend on the agent's ends, it may still have content, requiring more than the mere form of lawfulness. This law may require the agent to pursue some end. Mary Gregor similarly writes:

[If] principles of reason based on a desire for some end are all conditioned principles, the unconditioned necessity of duty implies that the principle prescribing duty must be a merely formal principle...it follows...that this principle says nothing at all about our ends. It neither commands nor forbids the adoption of any end, but merely sets a limiting condition on our actions. (1963: 78–9)

These remarks assume that, if some principle does not appeal to our desire for some subjective end, it cannot say anything about our ends, and can neither command nor forbid the adoption of any end. That does not follow. Gregor follows Kant in ignoring the category of objective ends.

It may again be suggested that, in making these remarks, I have misinterpreted Kant's text. When Kant claims that moral principles must be purely formal, he may not mean that these principles cannot have *content*, or be *material*, in the sense of requiring us to try to achieve certain ends, or to act in certain ways. He may be making some other point. Consider, for example, these remarks in the *Second Critique*:

Since the matter of a practical law... can never be given otherwise than empirically... a free will must find a determining ground in the law but independently of the *matter* of the law. But, besides the matter of the law, nothing further is contained in it than the lawgiving form. (Kant 1788: 29)

Kant here assumes that a practical law *has* matter, by which he seems to mean what this law tells us to try to achieve. His point may seem to be that, though such a law is, in this sense, 'material', our motive in following this law—or the determining ground of our will—should be provided not by this law's matter, but by the fact that it has the form of a moral law. And this may seem to be Kant's point when he discusses his unsympathetic philanthropist. When Kant claims that, to act out of duty, we must be moved by a principle's law-giving form, he may mean only that we must be moved by our belief that our act is a duty. That could be true of Kant's philanthropist even if this person accepts a principle that has 'matter', in the sense of requiring her to promote the happiness of others.

This reading is not, I think, correct. But, even if it were correct, Kant's arguments would not support his view. Kant often claims that, since the will must be determined by law-giving form, the supreme principle of morality must be his Formal Principle, which requires us to act only on maxims that we could will to be universal laws. Such claims would be obviously false if Kant's phrase 'law-giving form' meant only 'having the form of a moral law.' Consider, for example, another passage in the *Second Critique*:

The matter of a practical principle is the object of the will. This is either the determining ground of the will or it is not. If it is the determining ground of the

will, then the rule of the will is subject to an empirical condition (to the relation of the determining representation to the feeling of pleasure or displeasure), and so is not a practical law. Now if we abstract from the law everything material, that is, every object of the will (as its determining ground), all that remains is the mere *form* of giving universal law. Therefore, either a rational being cannot think of his subjectively practical principles, that is, his maxims, as being at the same time universal laws, or he must assume that their mere form, by which they are fit for a giving of universal law, of itself and alone makes them practical laws. (ibid. 27)

When Kant refers here to ‘the mere *form* of giving universal law’, he cannot mean ‘the mere form of a moral law’. His point cannot be that, if principles have the form of a moral law, that alone makes them practical laws. Kant takes this argument to show that, since we must ‘abstract from the law everything material’, his Formal Principle must be the supreme moral law. We ought to act only on maxims that we could will to be universal, because ‘they are fit for a giving of universal law’.<sup>2</sup>

In the paragraph just quoted, Kant comes close to seeing that his argument is invalid. The *Second Critique* was the fastest written of Kant’s major works, and this paragraph shows the speed with which Kant wrote. What Kant calls the ‘matter’ of a principle, or the ‘object of the will’, is the object or aim which this principle tells us to try to achieve. This object would be the will’s ‘determining ground’ if we were moved to act upon this principle by a desire to achieve this object. After saying that this object either is *or is not* the will’s determining ground, Kant claims that, if we abstract from the law every object of the will, as its determining ground, we are left only with the mere form of giving universal law. That is not so. We may be left with some object of the will which is *not* the will’s determining ground. One such object might be the happiness of others. We might be moved to try to achieve this object, not because we want to make others happy, but out of duty and a belief that the happiness of others is a categorically required end. We would not then be acting on a principle that was purely formal. So Kant’s argument again fails to support his view.

Consider next Kant’s summary of his view:

The sole principle of morality consists in independence from all matter of the law (i.e. a desired object) and in the accompanying determination of choice by the mere form of giving universal law which a maxim must be capable of having. (ibid. 33)

<sup>2</sup> Thus, after writing that only ‘lawgiving form . . . can constitute a determining ground of the will’, and commenting on that claim, Kant concludes that ‘the fundamental law’ is: ‘So act that the maxim of your will could always hold at the same time as a principle in a giving of universal law’ (1788: 29–30).

Kant here forgets the difference between his two uses of the phrase 'the matter of the law'. On Kant's narrower use, this 'matter' is a desired object. On Kant's wider use, a law's 'matter' is whatever this law tells us to try to achieve, which might be some categorically required end. Kant assumes that, if some moral principle does not have 'matter' in his narrower sense, it cannot have 'matter' in his wider sense. This leads him to conclude that, if some moral principle does not appeal to a desired object, it must require the mere form of giving universal law. That is not true. As before, Kant overlooks all substantive categorical principles.

In his other writings, Kant gives some other arguments for his Formula of Universal Law. These arguments, I believe, do not succeed. But Kant's Formula is in itself plausible. And, when revised in certain ways, this formula can provide what seems to me one of the two best versions of contractualism.<sup>3</sup>

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<sup>3</sup> I defend this claim in *Climbing the Mountain* (in preparation), S. Scheffler (ed.), Oxford: Oxford University Press. This paper is an extract from a much longer draft, 'Kant's Arguments and Assumptions'. As such an extract, this paper cannot avoid being what Wagnerians call 'a bleeding chunk'.