

## MAXIMS AND THICK ETHICAL CONCEPTS

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### *Abstract*

I begin with Kant's notion of a maxim and consider the role which this notion plays in Kant's formulations of the fundamental categorical imperative. This raises the question of what a maxim is, and why there is not the same requirement for resolutions of other kinds to be universalizable. Drawing on Bernard Williams' notion of a thick ethical concept, I proffer an answer to this question which is intended neither in a spirit of simple exegesis nor as a straightforward exercise in moral philosophy but as something that is poised somewhere between the two. My aim is to provide a kind of rational reconstruction of Kant. In the final section of the essay, I argue that this reconstruction, while it manages to salvage something distinctively Kantian, also does justice to the relativism involved in what J. L. Mackie calls 'people's adherence to and participation in different ways of life'.

My starting point in this essay is Kant's notion of a maxim, as it occurs in some of the cardinal doctrines of his moral philosophy.<sup>1</sup> But the essay is neither a straightforward exercise in Kantian exegesis nor a straightforward exercise in moral philosophy. It is poised somewhere between the two. My aim is to say something about maxims which is both sufficiently plausible to be at least serviceable in a rational reconstruction of Kant and sufficiently Kantian to be at least worth taking seriously. But I shall certainly part company with Kant at various points.

The notion of a maxim is one of two that are central to this essay. The other, which I shall introduce in §3, is Williams' notion of a thick ethical concept. But I shall part company with Williams too. I intend to put his notion to work in a way in which he himself never does.

<sup>1</sup> I develop some ideas in my *Noble in Reason, Infinite in Faculty: Themes and Variations in Kant's Moral and Religious Philosophy* (London: Routledge, 2003). Some of the material in the essay is taken directly from the book, and I am very grateful to Routledge for permission to re-use this material.

## 1.

To begin, then, with Kant's notion of a maxim. A maxim, Kant tells us, is 'the subjective principle of acting . . . in accordance with which the subject *acts*', as opposed to a (practical) law, which is 'the objective principle valid for every rational being, in accordance with which he *ought to act*'.<sup>2</sup> The aim of this essay is to put some flesh on these bones.

What, first of all, is a 'principle of acting', or a 'principle' for short?<sup>3</sup> One way to broach this question is by considering the very idea of putting reason to practical use. For Kant, putting reason to practical use, if only in the formulation and implementation of hypothetical imperatives,<sup>4</sup> involves actively determining what to do on the strength of one's conative states. Actively determining what to do on the strength of one's conative states contrasts with passively succumbing to their strength.<sup>5</sup> It includes, as one vital component, adopting resolutions (however tacitly, however unselfconsciously, however retroactively, however extempore)<sup>6</sup> and then acting on those resolutions. Principles, I suggest – and therefore maxims themselves – are resolutions of a certain kind. But of what kind?

Given Kant's distinction between maxims and laws, principles need to include not only resolutions which agents actually adopt, and which can therefore be invoked to explain (if not to justify) some of the things that agents actually do, but also resolutions which agents *ought* to adopt, and which can therefore be invoked to justify (if not to explain) some of the things that agents *might*

<sup>2</sup> Immanuel Kant, *Groundwork of the Metaphysics of Morals* (hereafter *Groundwork*), trans. Mary J. Gregor, in Immanuel Kant, *Practical Philosophy*, trans. and ed. Mary J. Gregor (Cambridge: Cambridge University Press, 1996), 4:421, footnote, his emphasis. Cf. *Groundwork*, 4:401, footnote; *Critique of Practical Reason*, trans. Mary J. Gregor, in *Practical Philosophy*, 5:19; and *The Metaphysics of Morals*, trans. Mary J. Gregor, in *Practical Philosophy*, 6:225 and 389.

<sup>3</sup> For guidance from Kant himself on this question see *Critique of Practical Reason*, 5:19–20.

<sup>4</sup> For the distinction between a hypothetical imperative and a categorical imperative see *Groundwork*, 4:414.

<sup>5</sup> Of course, the suggestion that conative states are like alien forces by which we are beset is caricatural at best. It is well exposed in Simon Blackburn, *Ruling Passions: A Theory of Practical Reasoning* (Oxford: Oxford University Press, 1998), Chapter 8, esp. §3. The suggestion is there in what I have just said partly because I am providing a mere sketch of Kant at this point, though partly also because of Kant: see e.g. *Groundwork*, 4:457–458.

<sup>6</sup> For an insightful discussion of some of the complications covered by this parenthesis see Talbot Brewer, 'Maxims and Virtues', in *The Philosophical Review* 111 (2002).

do. One broadly Kantian proposal which meets this constraint is the following.

A principle is a resolution which is not just designed to encapsulate and protect the (non-rational) conative states of whomever adopts it, or might adopt it, but which at least purports to have a claim on everyone. It is a resolution of such a kind that, simply by adopting it and allowing it to guide one's behaviour, one is treating it as though it did have a claim on everyone – as though it were a resolution that everyone ought to abide by, irrespective of his or her (non-rational) conative states.<sup>7</sup> This means that any principle that does not have a claim on everyone, and that cannot even be rationally treated as though it did, is *ipso facto* defective: it fails to satisfy one of the basic norms of being a principle. (It is in this same sense that a ruler purports to be straight: any ruler that is not straight, and that is not even sufficiently close to being straight for us rationally to treat it as though it were, fails to satisfy a basic norm of being a ruler.)

If we accept this proposal – if we accept that a principle, and therefore a maxim, purports to have a claim on everyone; and that abiding by a maxim means treating it as though it were a resolution that everyone ought to abide by – then 'purports to' and 'as though it were' are the operative phrases. For one thing, given the way in which the notion of a maxim is supposed to help elucidate and justify Kant's idea of a fundamental categorical imperative,<sup>8</sup> it would be question begging to suppose that anything does have this kind of claim on everyone, irrespective of his or her (non-rational) conative states.<sup>9</sup> But also, more significantly, even if we had an assurance that some principles do have this kind of claim on everyone, this would still leave room, and on Kant's own conception would need to leave room, for the possibility of principles (specifically, maxims) that nevertheless do not have any such claim – principles indeed that *could* not have any such claim, either because it would be impossible for everyone to abide by them or, more modestly, because it would be impossible for anyone to will that everyone should abide by them.<sup>10</sup>

<sup>7</sup> Cf. *Groundwork*, 4:434 and 438.

<sup>8</sup> E.g. *Groundwork*, 4:440–441.

<sup>9</sup> Cf. Kant's claim that 'if it is assumed that pure reason can contain within itself a practical ground, that is, one sufficient to determine the will, then there are practical laws; otherwise all . . . principles will be mere maxims,' *Critique of Practical Reason*, 5:19, some emphasis removed.

<sup>10</sup> *Groundwork*, 4:421–423.

This seems to connect well with the contrast that Kant draws between maxims and laws. For we can say that, whereas a maxim *purports* to have a claim on everyone, a law *does* have: to abide by a maxim is to treat it *as* a law. It also seems to connect well with what is perhaps the most famous of Kant's formulations of the fundamental categorical imperative. For if we accept that an agent who is purely rational must submit to the rule of law only where it makes sense to do so, then it seems to follow that such an agent must treat as laws only those maxims that really could be laws, compatibly with what agents in general are capable of willing. Such an agent must therefore not abide by any maxim which could not be a law, and indeed which he or she could not will to be a law. Hence the famous formulation in question:

*Act only in accordance with that maxim through which you can at the same time will that it become a universal law.*<sup>11</sup>

In summary, then, rational agents determine what to do partly by adopting resolutions (however tacitly, however unselfconsciously, however retroactively, however extempore) and acting on those resolutions. 'Principles' are resolutions that at least purport to have a claim on everyone. Of these, those that really do have a claim on everyone are laws: laws are resolutions that any rational agent *ought* to abide by. The principles that any such agent actually abides by are maxims. Some maxims may also be laws. But some are certainly not: they *merely* purport to be. This is reflected in the fact that the maxims in question *could not* be laws; or at least, if they could, the agents who adopt them could not will them to be laws. The fundamental categorical imperative is to abide only by maxims that one could also will to be laws.

## 2.

Among the countless questions raised by this account, perhaps the most urgent is this. When does a resolution purport to have a claim on everyone? That is, how are we to distinguish principles from other resolutions? Since maxims are nothing but the prin-

<sup>11</sup> *Groundwork*, 4:421, Kant's emphasis.

ciples by which agents actually abide, this is in turn a variation on that oft-posed question, 'What is a maxim?'<sup>12</sup>

Unless we can answer such questions, Kant's moral vision will be severely compromised. For there need be nothing wrong with abiding by a resolution that one cannot will to be a law, if the resolution does not even purport to have a claim on others. People regulate their lives in all sorts of ways that are tailored to their own individual conative states – their own likes, dislikes, values, goals, ambitions, and the rest – as moulded by their own particular circumstances. And it is entirely reasonable for them to do so. Thus imagine someone who resolves to dine out each Friday evening at her favourite restaurant. She has adopted a resolution which patently not everyone ought to abide by, indeed which patently not everyone *could* abide by, and which is none the worse for that. Or again, imagine someone who resolves to pay off his credit card each month.<sup>13</sup> He too has adopted a resolution which could not be a law: the institution of credit cards depends on there being people who do not do what he has resolved to do. Yet there is nothing wrong with his resolution, nor with his acting on it. If someone is criticized, on Kantian grounds, for abiding by a maxim that could not be a law, or that he could not will to be a law, what is to stop him from replying that what he is abiding by is not a *maxim* (not a principle) at all?

Here is another way of putting the same concern. Kant's moral vision invites us to ask the familiar question, 'What if everyone did that?' Sometimes it is perfectly acceptable to deflect this question by responding, 'Not everyone *will* do that.' The two examples

<sup>12</sup> This question has generated a large literature. One discussion of it that relates closely to what I shall be arguing in this essay is Barbara Herman, 'The Practice of Moral Judgment', reprinted in her *The Practice of Moral Judgment* (Cambridge, MA: Harvard University Press, 1993). Other related discussions include: Henry E. Allison, *Kant's Theory of Freedom* (Cambridge: Cambridge University Press, 1990), pp. 39–40 and 86 ff.; Lewis White Beck, *A Commentary on Kant's Critique of Practical Reason* (Chicago: The University of Chicago Press, 1960), pp. 70 ff., 80 ff., and 118 ff.; Brewer, 'Maxims and Virtues', cited above in footnote 6; Richard McCarty, 'The Maxims Problem', in *The Journal of Philosophy* 99 (2002); Onora O'Neill, 'Kant After Virtue', reprinted in her *Constructions of Reason* (Cambridge: Cambridge University Press, 1989), esp. pp. 150 ff.; Ralph C. S. Walker, *Kant and the Moral Law* (London: Phoenix, 1998), pp. 33 ff.; T. C. Williams, *The Concept of the Categorical Imperative: A Study of the Place of the Categorical Imperative in Kant's Ethical Theory* (Oxford: Oxford University Press, 1968), Chapter 2; Allen W. Wood, *Kant's Moral Religion* (Ithaca, NY: Cornell University Press, 1970), pp. 44 ff.; and Allen W. Wood, *Kant's Ethical Thought* (Cambridge: Cambridge University Press, 1999), pp. 51 ff. Cf. also T. M. Scanlon, *What We Owe to Each Other* (Cambridge, MA: Harvard University Press, 1998), p. 53.

<sup>13</sup> This example is taken from Blackburn, *Ruling Passions*, p. 218.

above illustrate this. But sometimes, for instance when someone has given false information on a tax return, the question can be asked in a way that makes this response inappropriate. The sheer fact that there would be something untoward about everyone's doing the thing in question matters. Kant's vision invites us to ask the question in this second way. The concern is that we do not yet have a good sense of when this second way of asking the question is available.

The distinction between cases in which it is available and cases in which it is not – which *is* in effect the distinction between resolutions that are principles and resolutions that are not – cannot depend on how agents themselves view their resolutions. The tax fiddler who resolves never to mention any gratuities on his tax returns, and whose resolution the Kantian account should surely proscribe, precisely does not view his resolution as having a claim on others. He views it as a way of exploiting the greater honesty of others.

Is it a question of generality, then? Does the resolution never to mention gratuities on one's tax returns have a generality which means that, willy-nilly, it purports to have a claim on everyone, unlike the resolution to dine out each Friday evening at one's favourite restaurant (whose underlying principle, if there is one, may be to allow room in one's life for leisure activities)? No. The resolution to pay off one's credit card each month is at least as general as the resolution never to mention gratuities on one's tax returns.

Lurking behind these concerns is another, which is absolutely basic for the whole Kantian enterprise. Not only must there be a way of distinguishing principles from other resolutions; there must be a way of doing so which shows why it is impossible for a rational agent to escape the force of the fundamental categorical imperative by not adopting any principles (any maxims) at all. What is to prevent a rational agent, when putting reason to practical use, from adopting only resolutions that are not principles, resolutions that serve merely as private recipes for organizing his own affairs? Kant says that 'a rational being must always regard himself as lawgiving in a kingdom of ends.'<sup>14</sup> But why?<sup>15</sup>

<sup>14</sup> *Groundwork*, 4: 434.

<sup>15</sup> Cf. Bernard Williams, *Ethics and the Limits of Philosophy* (London: Fontana, 1985), pp. 61–63.

My aim in this essay is to answer such questions by providing an account of what a principle, and therefore a maxim, is.<sup>16</sup> I hope that my account will constitute a partial defence of Kant. But the word ‘partial’ is crucial. This is for two reasons. First, as I have already indicated, I do not profess to be doing simple Kantian exegesis. Secondly, there are all sorts of objections to what Kant says about maxims, particularly to what he says about them in relation to the fundamental categorical imperative, on which my account has no bearing. Moreover, among the objections on which it does have a bearing, there is one in particular on which the bearing it has is augmentative. I have in mind the following objection: that a person may sometimes quite properly abide by a maxim even though it could not be a law, in fact *because* it could not be a law, namely when she is concerned, not to satisfy her own conative states, but to subvert the institution or practice that (provisionally) makes the maxim possible. I shall return to this objection in §5.

### 3.

I turn now to Williams’ notion of a thick ethical concept. By a thick ethical concept Williams means a concept such as infidelity or blasphemy whose applicability is both ‘action-guiding’ and ‘world-guided’. To apply a thick ethical concept in a given situation, for example to accuse someone of infidelity, is, in part, to evaluate the situation, which characteristically means either condemning or commending certain courses of action; but it is also to make a judgment which is subject to correction if the situation turns out not to be a certain way, for example if it turns out that the person who has been accused of infidelity did not in fact go back on any relevant agreement.<sup>17</sup>

I want to appropriate this notion of a thick ethical concept in answering the questions raised at the end of the previous section. To this end I shall take for granted the following proposition: that anyone who embraces a thick ethical concept thereby has certain

<sup>16</sup> I shall try to provide an account which is sensitive to what might be called the ‘sociology’ of maxims – an account, in other words, which is sensitive to where maxims come from, to how they are inculcated, and to why it is absurd to imagine any given individual either dispensing with them or, conversely, conjuring them up for himself or herself in complete independence of other people.

<sup>17</sup> *Ethics and the Limits of Philosophy*, pp. 129–130 and 140–142.

reasons for doing things. Call this the Basic Proposition. By way of illustration, anyone who embraces the concept of a promise thereby has a reason to keep any promise he or she has made; anyone who embraces the concept of privacy thereby has a reason to respect other people's privacy; anyone who embraces the concept of blasphemy thereby has a reason not to blaspheme. These examples ought to give some indication of what the Basic Proposition means. But further elucidation is called for. In particular, I need to provide a gloss on 'doing' something, on 'having' a 'reason', and on 'embracing' a concept.

To begin with the most straightforward of these: 'doing' something is to be understood very broadly. It is meant to include 'omissions' as well as 'acts'.<sup>18</sup> This is illustrated in the case of blasphemy: anyone who embraces the concept of blasphemy thereby has a reason *not* to blaspheme.

Next, 'having' a reason is meant to fall short of acknowledging the reason. If someone has a reason, all sorts of factors, such as insensitivity, selfishness, and simple stupidity, may prevent him from acknowledging it.<sup>19</sup>

Concerning 'reasons', as they feature in the Basic Proposition, there are two points to be emphasized. First, they are meant to be *normative*. Second, they are *not* meant to be *indefeasible*. I shall expound each of these in turn.

*Normativity*, first, contrasts with explanatoriness. Reasons can be of either kind. An explanatory reason is a matter of why someone actually does something: 'Your only reason for listening to Beethoven is that you are afraid of appearing uncultured.' A normative reason is a matter of why someone *ought* to do something: 'The beauty of Beethoven's music gives you a reason to listen to it.' (This has clear resonances, of course, in Kant's distinction between maxims and laws.) The Basic Proposition entails that anyone who embraces a thick ethical concept thereby *ought* to do certain things.

Second, a (normative) reason for doing something is *indefeasible* when it can never be overridden by a (normative) reason for

<sup>18</sup> For discussion of this distinction see Jonathan Bennett, *The Act Itself* (Oxford: Oxford University Press, 1995), *passim*; and Bernard Williams, 'Acts and Omissions, Doing and Not Doing', reprinted in his *Making Sense of Humanity and Other Philosophical Papers* (Cambridge: Cambridge University Press, 1995).

<sup>19</sup> Note: this claim is neutral as regards the question whether all reasons are 'internal' in Williams' sense: see Bernard Williams, 'Internal and External Reasons', reprinted in his *Moral Luck* (Cambridge: Cambridge University Press, 1981).



doing something else. The Basic Proposition does not require the reasons which someone has by virtue of embracing some thick ethical concept to be indefeasible. Thus even though anyone who embraces the concept of privacy thereby has a reason to respect other people's privacy, there may, in certain circumstances, be some other overriding (normative) reason not to do so, say the need to gain information about someone that will save his or her life.

Finally, I need to provide a gloss on 'embracing' a concept. This is something close to a term of art for me. To convey what I intend I need to draw a distinction. Thick ethical concepts can be grasped in two ways, an engaged way and a disengaged way.<sup>20</sup> To grasp a thick ethical concept in the disengaged way is to be able to recognize when the concept would (correctly) be applied, to be able to understand others when they apply it, and so forth. To grasp a thick ethical concept in the engaged way is not only to be able to do these things, but also to feel sufficiently at home with the concept to be prepared to apply it oneself, where being prepared to apply it oneself means being prepared to apply it not just in overt acts of communication but also in how one thinks about the world and in how one conducts one's affairs. What this requires, roughly, is sharing whatever beliefs, concerns, and values give application of the concept its point.

Take the concept of *the Sabbath*. Those who are not Jewish have no difficulty in grasping this concept in the disengaged way. A person who is not Jewish can understand perfectly well what someone means when she says that her birthday this year falls on the Sabbath. But only a Jewish person recognizing an obligation to keep the Sabbath can grasp the concept in the engaged way. We might say that such a person *lives by* the concept.

To be sure, this distinction is one of degree, not of kind. Borderline cases can readily be constructed: think of the grasp that non-orthodox Jews have on the concept of the Sabbath. Furthermore, each of the two ways of grasping a thick ethical concept itself clearly admits of degrees. Thus a non-Jewish person may understand what somebody means when she says that her birthday this year falls on the Sabbath, but not quite what she means

<sup>20</sup> This distinction is one that Williams frequently draws. See e.g. his *Ethics and the Limits of Philosophy*, pp. 141–142, and his 'Replies', in J. E. J. Altham and Ross Harrison (eds), *World, Mind, and Ethics: Essays on the Ethical Philosophy of Bernard Williams* (Cambridge: Cambridge University Press, 1995), p. 206.

when she says that she always keeps the Sabbath: his grasp of the concept, even *qua* disengaged, is imperfect. And it is important to note that someone who grasps the concept in the disengaged way may yet apply the concept ironically, or as part of playing some kind of role, or as a pretence, or even in the process of attributing certain beliefs or values to someone else, who grasps the concept in the engaged way: we might call these *vicarious* applications of the concept. But none of these complications prevents the distinction from being a relatively robust one.

To 'embrace' a concept is to grasp it in the engaged way. It is to enter into the spirit of the concept, to have whatever outlook gives the concept its point, to *live by* the concept as I put it above.

#### 4.

With the Basic Proposition thus clarified, I can now proceed to my account of what a principle is.

Given any thick ethical concept, let us say that the concept *requires* the practice of doing any of the things which anyone who embraces the concept thereby has a reason to do. Thus, for instance, the concept of a promise requires the practice of keeping any promise one has made. And given any resolution such that no-one could adopt that resolution (however tacitly, however unselfconsciously, however retroactively, however extempore) without embracing a certain thick ethical concept, let us say that the resolution *involves* the concept. Thus, for instance, the resolution to keep any promise one has made involves the concept of a promise.<sup>21</sup> Finally, running these two ideas together, given any resolution which involves a certain thick ethical concept which in turn requires a certain practice, let us say that the resolution *is answerable to* the practice. Thus the resolution to keep any promise one has made is answerable to the practice of keeping any promise one has made. Then my proposal is this: *a principle is a resolution to do something that either counts as observing some practice to which the resolution is answerable or, conversely, counts as violating some practice to which the resolution is answerable.*

<sup>21</sup> Equivalently, a resolution *r* involves a thick ethical concept *c* when embracing *c* is a precondition of being in a position to adopt *r*—where being in a position to adopt *r* (which falls short of actually adopting *r*, as in the original version of the definition) is understood to mean being able to adopt *r* without changing one's very outlook on the world. This version of the definition will be significant later.

The resolution to keep any promise one has made is clearly a case in point. That resolution is answerable to the practice of keeping any promise one has made. And it is a resolution to do precisely that. Hence it is a resolution to do something that counts as observing some practice to which the resolution is answerable. Hence, on my proposal, it is a principle.

The resolution to exempt oneself from keeping any promise one has made when it is in one's own interests to do so is a further case in point. That resolution likewise involves the concept of a promise.<sup>22</sup> So it is likewise answerable to the practice of keeping any promise one has made. And it is a resolution to do something that counts as violating that practice. Hence, on my proposal, it too is a principle.

On the other hand, the resolution never to make a promise to anyone whose own promises cannot be trusted is not a case in point. This resolution involves the concept of a promise,<sup>23</sup> as indeed it involves the concept of trust and the concept of a person. But it does not involve any concept that requires a practice that would be either observed or violated by acting on the resolution. Hence, on my proposal, it is not a principle.

Nor, similarly, are the resolutions considered in §2, whose seemingly unobjectionable non-universalizability prompted this discussion in the first place: the woman's resolution to dine out at her favourite restaurant each Friday evening; and the man's resolution to pay off his credit card each month.

So far, so good. Now consider the resolution to exempt oneself from keeping any promise one has made if this will save someone's life.<sup>24</sup> This is more interesting. Clearly this resolution is answerable to the practice of keeping any promise one has

<sup>22</sup> It may differ in this respect from the resolution simply to break any promise one has made when it is in one's own interests to do so (where this latter resolution makes no mention of exemption). Someone could arguably adopt this latter resolution even if his or her grasp of the concept of a promise was only disengaged. Such a person would still be able to apply the concept vicariously, and might be able to adopt such a resolution as a way of exploiting the engaged grasp that other people have of the concept. I am in fact deeply sceptical about how far this kind of pretence could go. But I mention this possibility here if only to explain why the resolution that I have specified in the main text takes the somewhat cumbersome form that it does.

<sup>23</sup> Unless, like the resolution considered at the beginning of the previous footnote (the resolution to break any promise one has made when it is in one's own interests to do so), it is a resolution that someone could adopt even if his or her grasp of the concept of a promise was only disengaged, in which case there would be even less reason to regard it as a principle.

<sup>24</sup> Cf. the case of Herod and Salome in St Mark, Ch. VI, v. 17–25.

made. And it is a resolution to do something that counts as violating that practice. On my proposal, then, it is a principle, and straightforwardly so. But this is only part of the story. To leave the matter there would be to suggest that there is something wrong with the resolution. It would indicate that anyone who adopts the resolution and acts on it thereby does something that he or she has a (normative) reason not to do. However, here we need to recall one of the points I emphasized in the previous section: that the reasons associated with any thick ethical concept, according to the Basic Proposition, *may be defeasible*. While it is true that anyone who embraces the concept of a promise ought to keep any promise he or she has made, the 'ought' here is a *pro tanto* 'ought'. It may also be true that such a person has a (normative) reason, indeed an overriding (normative) reason, on occasion, to break some promise he or she has made. Not only that; a fuller exception-specifying reason may *itself* be one of the reasons associated with the concept of a promise. Thus we must allow for the possibility that the concept of a promise requires *both* the practice of keeping any promise one has made *and* the practice of exempting oneself from keeping any promise one has made if this will save someone's life. Whether the concept does require the latter practice as well as the former is a matter of substantive debate. But suppose, for the sake of argument, that it does. Suppose that one is not being true to the concept of a promise if one accords a greater significance to promise keeping than one does to life itself. Then the resolution to exempt oneself from keeping any promise one has made if this will save someone's life fits both ways of being a principle on my proposal. It is a resolution not only to do something that counts as violating a practice to which the resolution is answerable, but also to do something that counts as observing a practice to which the resolution is answerable. Moreover, it is a resolution of both kinds with respect to one and the same concept. There is nothing awry in this. Nor does it indicate any incoherence in the concept. It simply registers the defeasibility of one of the relevant reasons.

A concept may require two practices, then, one of which incorporates exceptions to the other. And a resolution may likewise be answerable to two practices, one of which incorporates exceptions to the other. But there is another possibility too. A resolution which is answerable to one practice may *come* to be answerable to a second practice, through suitable developments in the concepts it involves, where this second practice incorporates exceptions to

the first. This raises the question of how, and how much, a concept could develop without loss of identity; and in what sense of 'could'. For current purposes, we do not need to dwell on this question. It suffices to make two observations. First, a concept could certainly undergo *some* development without loss of identity. (Thus the concept of hearing has developed to apply to what we do to someone's voice over the telephone: it would once have counted as a conceptual truth that someone's voice cannot be heard unless he or she is within earshot. Again, the concept of democracy has developed to embrace suffrage for women: it would now count as a conceptual truth that denying women the vote is undemocratic.) Second, the relevant sense of 'could' is itself partly a conceptual matter, partly a matter of the ways of life that are open to those who embrace the concept, and partly a matter of the sociohistorical parameters within which the concept is situated.

This possibility is relevant, as we shall see, to whether my proposal meets the following basic requirement: that it represent a principle as a resolution that at least purports to have a claim on everyone. Before I attempt to show that it does, I need one more definition. Given that a principle is a resolution to do something that either counts as observing some practice to which the resolution is answerable or counts as violating some practice to which the resolution is answerable, let us say that a *law* (echoing Kant) is a resolution that qualifies as a principle in the first of these ways. In other words, *a law is a resolution to do something that counts as observing some practice to which the resolution is answerable*.

I shall now try to show that my proposal does indeed represent a principle as at least purporting to have a claim on everyone (where 'everyone' is to be understood as everyone in a position to adopt it<sup>25</sup>).

Let  $p$  be a principle. And let  $x$  be whatever  $p$  (which is also a resolution) is a resolution to do. Now either  $p$  is a law or it is not.

Suppose it is. (An example is the resolution to keep any promise one has made.) Then anyone in a position to adopt  $p$  thereby has a (normative, defeasible) reason to do  $x$ . So if the question so much as arises for any given individual  $A$  whether

<sup>25</sup> See above, footnote 21. The importance of this qualification will surface in §5.

to abide by  $p$  or not, then the answer must be yes: she ought to. (I am taking for granted, incidentally, that resolutions, just like reasons, can be defeasible. Thus it is possible both for  $A$  to abide by  $p$  – which is to say, both for  $A$  to abide by the resolution to do  $x$  – and also for  $A$  to abide by a resolution to refrain, in certain circumstances, from doing  $x$ .) So  $p$  has a claim on everyone.

Now suppose that  $p$  is not a law. Here again we must distinguish two possibilities. Either  $p$  is capable of becoming a law through suitable developments in the concepts it involves (the possibility to which I adverted above) or it is not.

Let us suppose, first of all, that it is. (A putative example is the resolution to exempt oneself from keeping any promise one has made if this will avert a serious unforeseen risk to one's own life.) If  $p$  is of this kind, then it is possible for a given individual  $A$  rationally to abide by  $p$ . If she does abide by  $p$ , she is acting in accord with her embracing of the concepts involved in  $p$  by treating them as if they had been refined in one of the many ways in which they could be refined. She is like someone who uses her discretion to apply some concept in a way that the concept neither demands nor precludes – as, for instance, when someone applies the concept of a child to a fourteen year old. In treating  $p$  in that way, she is treating it as if it were a law, and hence as if it had a claim on everyone. And it is quite rational for her to do so.

What, then, of the other possibility: that  $p$  is *not* capable of becoming a law through suitable developments in the concepts it involves? (An example is the resolution to exempt oneself from keeping any promise one has made when it is in one's own interests to do so.) In that case, it is not possible for a given individual  $A$  rationally to abide by  $p$ . If she does abide by  $p$ , then any (normative) reason that she has to do  $x$  militates against some concept  $c$  that  $p$  involves in such a way that  $c$  could not so much as survive if everyone who embraced it came thereby to have such a reason. It must be a reason that is tailored to  $A$ 's own conative states, as moulded by her own particular circumstances. This means that  $A$ 's abiding by  $p$  involves her both embracing  $c$  and not being suitably beholden to her embracing of  $c$  in circumstances in which it suits her not to be. It is like  $A$ 's possessing the concept of a husband and thinking that the woman next-door is a husband because it fits some pre-conception that she has. It is irrational.

But following resolutions is one hallmark of putting reason to practical use. A resolution that cannot be followed rationally fails to satisfy a basic norm of being a resolution. More particularly, a principle that cannot be followed rationally fails to satisfy a basic norm of being a principle. Hence  $p$  fails to satisfy a basic norm of being a principle if it is of this last kind. That is,  $p$  fails to satisfy a basic norm of being a principle if it not only does not have a claim on everyone but cannot even be rationally treated as though it did. But that is just to say that  $p$  at least purports to have a claim on everyone.

That completes the argument. We can now graft this account back into Kant's own conception. For suppose that some person  $A$  abides by some principle  $p$  – which is *eo ipso* one of  $A$ 's maxims. Then, given the account above, if  $A$  is being rational,  $p$  must either already be a law or be capable of becoming a law through suitable developments in the concepts it involves. But given the way in which the capacity to become a law is being understood here, as involving both conceptual and anthropological elements, this is at least akin to saying that, if  $A$  is being rational, then it must be possible for  $A$  (along with everyone else who embraces the relevant concepts) to will that  $p$  become a law. Here, then, is my reconstruction of Kant.

Practical reasoning, on this reconstruction, includes a pure element: keeping faith with concepts. Theoretical reasoning also includes keeping faith with concepts. What makes it possible for keeping faith with concepts to have a practical dimension as well as its more familiar theoretical dimension is, ultimately, the fact that some concepts – thick ethical concepts – equip those who embrace them with certain reasons for doing things. And that just is the Basic Proposition, whose importance to this discussion ought now to be clear.

## 5.

How much of a vindication of Kant is this? Does it do anything to substantiate the idea of a fundamental categorical imperative? Does it, for that matter, do anything to substantiate the idea of a maxim whose adoption is a requirement of reason?

It substantiates the idea of a maxim whose adoption is in accord with reason. But that is a weaker idea. Any maxim which is not

itself a law but which is capable of becoming a law through suitable developments in the concepts it involves – the putative example given above was the maxim to exempt oneself from keeping any promise one has made if this will avert a serious unforeseen risk to one's own life – is a case in point. The adoption of any such maxim is, on this account, in accord with reason. But its rejection would be in accord with reason too. Precisely what the account provides for in such a case is the possibility of rational discretion.

Very well, then; what about a maxim which is already a law, say the maxim to keep any promise one has made? Is *that* an example of a maxim whose adoption is a requirement of reason on this account?

Not if this means that any rational person is bound to adopt it. The most that can be said of the maxim, on this account, is that any rational person is bound to adopt it *if he or she embraces the thick ethical concepts required to do so*. (Recall that 'everyone', in the argument above, was to be understood as everyone in a position to adopt whatever principle was in question.<sup>26</sup>) This leaves open the possibility of a rational person who rejects the maxim by rejecting the concepts themselves. I shall return to this possibility shortly.

What the account does substantiate is the idea of a maxim whose adoption is *contrary* to reason, say the resolution to exempt oneself from keeping any promise one has made when it is in one's own interests to do so. And that, arguably, is as much as Kant's fundamental categorical imperative requires. (The famous formulation of this imperative considered in §1 specifies a necessary condition for abiding by a maxim, not a sufficient condition.) It is also, again arguably, as much as is available at the theoretical level. (It is not the case, for example, that anyone who is rational is bound to accept that all husbands are male: it would be possible for someone to be rational yet not to accept this, because he or she abhorred the institution of marriage, say, and accordingly repudiated the very concept of a husband.)

In light of this, we can see how my reconstruction of Kant might in fact be said to substantiate the idea of a fundamental categorical imperative. For, inasmuch as this reconstruction grounds the ethical 'must' in a requirement to keep faith with whatever concepts one embraces, it assimilates that 'must' to the logical 'must'.

<sup>26</sup> And see again footnote 21.



The reason why I must not act on a maxim to exempt myself from keeping any promise I have made when it is in my own interests to do so is of a piece with the reason why I must not accept that the person next-door is both a woman and a husband. The alternative, in each case, would be to flout concepts to which I am committed.

The fact remains that there is a significant element of hypotheticality in this categoricity. For there are all manner of questions, many of which are themselves ethical, about whether I do well to embrace the concepts I do. It would certainly be possible for someone who is rational, but who does not embrace the concept of a promise, not to acknowledge any value in promise keeping – and not just because he or she is incapable of even thinking in those terms; for it would be possible, more specifically, for someone who is rational, *but who grasps the concept of a promise in the disengaged way*, not to acknowledge any value in promise keeping. Such a person may think that the concept itself, and with it the whole institution of promising, is an anathema of some sort, a concept that we are better off not embracing. (Jesus thought this.<sup>27</sup>) This echoes a very old concern about Kant's own conception that goes back at least as far as Hegel.<sup>28</sup>

The matter is made yet more complex by the fact that someone can both embrace a concept and, perfectly reasonably, want to be rid of it. She may have decided that there is something petty or degrading or pernicious about thinking in terms in which she herself still naturally thinks, and about conducting her affairs in ways in which she herself still naturally conducts them. She has not yet reached the detachment to which she aspires. And the best way to try to reach that detachment, and to try to get others to reach it too, may well be by adopting a tactic to which I adverted at the end of §2, namely the tactic of being *subversive* – abiding by maxims which involve the concept but which, by design and without relevant extenuation, flout practices that the concept requires, maxims which therefore cannot be laws. A simple model of this would be someone's resolving to shock people as often as possible by violating some taboo, with the aim of subverting the

<sup>27</sup> St Matthew, Ch. V, vv. 33–37. Jesus also had misgivings about traditional conceptions of the Sabbath, though these were not, I think, misgivings about the concept itself. It would not be too Procrustean, in my view, to say that what Jesus was urging was suitable development in the concept: see St Luke, Ch. XIII, vv. 10–17.

<sup>28</sup> See G. W. F. Hegel, *Philosophy of Right*, trans. T. M. Knox (Oxford: Oxford University Press, 1942), §135. And cf. Blackburn, *Ruling Passions*, p. 222.

taboo and ultimately of depriving its violations of any capacity to shock. It is as if some local irrationality is being put to the service of some more global rationality, rather as an isolated dissonance in music can be put to the service of some more complete harmony, or again, rather as an inoculation in medicine can be put to the service of someone's greater health.

That there is this element of hypotheticality in the categoricity afforded by my reconstruction of Kant does not in itself prevent that reconstruction from being reasonably faithful to Kant, for reasons that I have already indicated. (I am thinking once again about the fact that the famous formulation of Kant's own fundamental categorical imperative specifies a necessary condition for abiding by a maxim, not a sufficient condition.) But in any case, it wreaks less damage to the idea of a convergence between the ethical and the rational than it may appear to. I shall close this essay by giving a very brief indication of what I have in mind.

What the element of hypotheticality signals is that there are issues about what concepts we are to embrace which are no less the concern of ethics than any issues about what maxims we are to adopt. But how are we to broach issues of the former kind? Clearly, what concepts we are to embrace depends on what concepts we are capable of embracing. And what concepts we are capable of embracing is partly a sociological matter, partly a political matter, partly a psychological matter, partly a biological matter, partly indeed a technological matter – and partly a matter of what concepts we already embrace (for we patently cannot come to have an outlook on the world that is not suitably accessible from the outlook that we already have on it). In order to broach such issues, we therefore need to exercise our imaginations within the various constraints set by each of these. We need to address questions of the form, 'Would this work?', 'Could we live with that?', 'At what cost?', 'With what gain?', 'How can we get from here to there?'. We need to think about how the concepts that we currently embrace may yet develop, or evolve into others, or yield to others.

*That*, however, is precisely the kind of thing which, on my reconstruction of Kant, we need to do when we broach issues about what maxims we are to adopt. For when we broach issues about what maxims we are to adopt, we need to think about whether various candidates are capable of becoming laws. And when we think about whether these candidates are capable of becoming laws, we need to think about whether the concepts

involved in them could so develop that the maxims counted as observing practices to which they were answerable.

Assessing our concepts is of a piece with assessing our maxims, then. They are both ways of trying to make sense. Or to put it another way, they are both ways of trying to be rational. It does not follow, of course, that Kant's own original conception has been fully vindicated; nor even that it has been largely vindicated. But it does follow, I think, that Kant's own original conception has been somewhat rehabilitated. In particular, we are now in a position to see how that conception can be stripped of some of its less appealing universalist garb without losing its fundamental message. A Kantian conception can acknowledge the diversity of thick ethical concepts that people embrace; it can understand such diversity as a reflection of what Mackie calls 'people's adherence to and participation in different ways of life';<sup>29</sup> and it can understand this in a way that absolves anyone of any kind of error.<sup>30</sup> Where it will remain distinctively Kantian is in recognizing a non-relative requirement, within such diversity, for people's adherence to and participation in different ways of life to make maximum possible sense.<sup>31</sup>

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<sup>29</sup> J. L. Mackie, *Ethics: Inventing Right and Wrong* (Harmondsworth: Penguin, 1977), p. 36.

<sup>30</sup> Cf. Williams, *Ethics and the Limits of Philosophy*, Ch. 9. For an expression of a related relativism from a perhaps unlikely source see St Paul's letter to the Romans, Ch. XIV. Cf. also David Hume, 'A Dialogue', in his *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*, ed. L. A. Selby-Bigge, revised P. H. Nidditch, 3rd edn (Oxford: Oxford University Press, 1975), esp. p. 333.

<sup>31</sup> I should like to thank Myles Burnyeat for his comments on an earlier draft of this essay.