same way. (See *Pr.R.* 69.) We obviously have no such power. Nor does using the Formula of Universal Law require us to try to predict what will contingently and empirically happen when people do make lying promises. As a matter of fact, we do know what empirically happens when people at least frequently make lying promises in the form of bad checks: The practice of check writing does not disappear, but as the use of bad checks makes commerce riskier, people become less trusting and it becomes much more difficult to use checks as currency. As we also know, ordinary prudence counsels us to weigh all the foreseeable consequences of our actions, and writing bad checks usually turns out to be an imprudent practice because we thereby can ruin our credit rating (see *Gr.* 18/402). All of this we learn from experience, and it all is completely irrelevant to the morality of lying promises (here in the form of bad checks). (See *Gr.* 20/430.)

Unfortunately, it is all too easy unwittingly to turn the Categorical Imperative into a prudential norm. Note, for example, what happens when we misuse the Formula of Universal Law to test a maxim such as "I want to become an engineer." If we were to ask, What if everyone did that? we could answer that question only by imagining the empirical possibilities and their impact on our interests.[25] And if we were to do that, we would generate an absurdity – a picture of what would happen if everyone in fact decided to try to become an engineer. Obviously, no one could either want or rationally will such a world. By misusing the Categorical Imperative in this fashion, we can generate an indefinitely large set of such conclusions, which rule out either too much or not enough or both. Rules generated in this fashion tend to be both morally absurd and to produce contradictions, such as the two maxims: "Everyone should tie the laces of their left shoe first" and "No one should do so."

There is no possibility of a nonchaotic world governed by *prudential* rules holding universally. The "laws" of such a world would be based on desires, and desires, as the source of inconsistency and conflict, cannot provide the basis for universal rules of conduct. In fact, Kant points out, it is just in those cases in which there happens to be the greatest coincidence of desires that we also tend to have the most conflicts. (See, e.g., *Pr.R.* 28.) As it turns out, the norm of universality is exactly the wrong way to assess maxims from a prudential point of view. (See *Anthr.* 277.)

So it cannot be stressed too strongly that the Categorical Imperative can function only as a *moral* criterion and then only as a *purely formal requirement of consistency*. All considerations of empirically given interests and consequences must be ignored as irrelevant. (See *Pr.R.* 69–71.)

12
The Formula of Autonomy or of Universal Law: Part I

Stated as an imperative, the Law of Autonomy commands us to "act only on that maxim through which you can at the same time will that it should become a universal law" (*Gr.* 52/421). This is also the first formula of the Categorical Imperative, the Formula of Autonomy or of Universal Law, which exhibits its origin in the logical principle of noncontradiction by obligating us to adopt and act only on maxims that are consistent with themselves when considered also as laws for everyone. Only such maxims are formally fit to serve as maxims for autonomous agents.

Kant calls this formula the "supreme principle of right" because it obligates us to recognize and respect the right and obligation of every other person to choose and to act autonomously (*M.M.* 231). Since moral rules have the characteristic of universality, what is morally forbidden to one is forbidden to all, what is morally permissible for one is equally permissible for all, and what is morally obligatory for one is equally obligatory for all. We may not claim to be exempt from obligations to which we hold others, nor may we claim permissions we are unwilling to extend to everyone else.

Kant offers some twenty variations of the first formula.[1] Some stress that we act autonomously only when we act on maxims fit to be universal laws: "I ought never to act except in such a way that I can also will that my maxim should become a universal law" (*Gr.* 17/402). Others are more explicit about what it means to say that a maxim can function as a universal law: "Maxims must be chosen as if they had to hold as universal laws of nature" (*Gr.* 80/436).[2] Kant also uses a restricted variation of the formula as the foundation for lawmaking in his political philosophy; in that form, it is the Principle of *Recht*, which commands us to "act externally in such a way that the free use of your will is compatible with the freedom of everyone according to a universal law" (*M.M.* 231; see 229–32; *Cr.J.* 295).[3]

Self-constraint

As the title I have given to it stresses, the most fundamental requirement of the first formula is that we act autonomously and respect the right and obligation of everyone else to do the same. We act autonomously, that is, freely in the positive sense, as a law unto ourselves only if we are neither constrained by our own desires for pleasure nor coerced by the will of another person. That this claim is analytically true is shown by the fact that its denial results in the self-contradictory claim that freedom can be compelled. Because the

Formula of Autonomy requires the exclusion of any determining influence from outside of our own reason, the only kind of constraint consistent with our freedom is self-constraint, self-control imposed by our own reasoning. (See, e.g., *Gr.* 73–74/432–33; *M.M.* 481.) The actual formulation of specific norms may originate with others; we each do not have to begin everything anew, as if no one before us had ever understood anything about morality.[4] But if we are to act as moral agents should act, our adoption of moral rules and our obedience to them must be based only on our own rational deliberation and assent. (See *Gr.* 70–71/431; *M.M.* 227, 380–81.)

Because the Categorical Imperative is a norm of self-constraint, its most obvious role is to function as a negative test of possible or actual maxims of happiness. Kant repeatedly makes this point, for example, when he describes that imperative as the "supreme limiting condition of all subjective ends" (*Gr.* 70/431), and when he states:

In itself, no matter what the will's object or end may be (consequently, even happiness), duty is nothing other than the will's *limitation* to the requirements of a universal legislation that is made possible by adopting a maxim [the Law of Autonomy]; however, one completely abstracts from both happiness and from every other end that one may have. (*T&P* 280)

To conform to the Categorical Imperative, then, we must judge maxims in a *disinterested* fashion, particularly in those cases in which we happen to have the greatest interest. (See *Gr.* 2/393–94, 7–8/396–97, 103/449; *Pr.R.* 31, 34, 62; *M.M.* 213–14.)

Practical lawfulness

Since the Formula of Autonomy obligates us to adopt only maxims that are fit to serve also as objective laws, intentions formed autonomously must be not only self-legislative but also universally legislative. (See, e.g., *Gr.* 52/421.) It is therefore appropriate also to call the first formula the Formula of Universal Law.

Kant holds that we can understand how to use the abstract and purely formal Law of Autonomy only if we first know what it means to say that maxims must be fit to be *laws*. (See *Pr.R.* 67–70.) "The existence of things under laws," he argues, is just what we mean by the idea of "nature" in the most general sense of that term (*Pr.R.* 43; see *Pu.R.* A126, A216/B263, A418/B446, A546/B570, A693/B721; *Proleg.* 294; *Gr.* 36/412, 52/421, 81/437). In this regard it does not matter what kind of nature we are talking about: Genuine laws are all alike in that they all hold without exception. If they did not do so, they simply would not be laws. Moreover, laws must also be consistent with one another. A world in which things do not happen with any regularity, according to rules, or a world with laws in constant conflict with one another would be chaotic and self-destructive. (See, e.g., *Lect.* 346/123–24.) We of course already know what laws are like from our knowledge of the world of

experience. In fact, the new Newtonian science insisted that our world can be understood just because it is law governed.

Because laws considered just as laws are all alike in holding universally, or, as Kant puts it, in their *form*, he tells us to take the form of the laws of the phenomenal world as a "typic" or type or model of what *any* "nature" must be like, including a world or nature governed by laws of freedom. (See *Pr.R.* 69–70.)[5] As the procedural norm for moral judgment, the first formula prescribes that our maxims must be able to fit together coherently and with harmony (*Einstimmigkeit*) in a moral world.[6] We therefore can test the moral status of proposed maxims by asking whether they can fit together as laws in a world of freedom and morality (*Gr.* 57/424; see *Pr.R.* 27, 44, 69–70). This, Kant writes, is an exercise of our understanding (not of our imagination), for we must test maxims, not by their imagined possible consequences, but by the purely logical norm of consistency. (See *Pr.R.* 69.)

Such a world – an ideal moral world – is only an Idea of reason; it is only a possibility. But what *is* real is the unconditional command of reason: "Ask yourself whether, if the action which you propose should take place by a law of nature of which you yourself were a part, you could regard it as possible through your will" (*Pr.R.* 69).[7] In its first formula, therefore, the Categorical Imperative forbids us to act on maxims that cannot *also* be *conceived* of as laws without contradiction or that are incompatible with other lawful maxims and so cannot be *willed* as laws without contradiction. (See *Gr.* 57/424.) In either case, such maxims would not be fit to serve as laws in a possible moral world. (Even when Kant words a maxim as only giving a permission, what is universal – that maxim taken as a law – is best represented by considering the intention of everyone to act as the agent intends to act in relevantly similar circumstances.)

If we attend to the way in which ordinary people make their moral judgments, Kant believes, we shall find that this is, in effect, just the way they do so. "Even common sense judges in this way, for its most ordinary judgments . . . are always based on natural law" in the sense of assessing maxims for their fitness to serve as laws for everyone, as do the laws of the physical world. "Thus people ask: If one belonged to such an order of things . . ., would he assent of his own will to being a member?" (*Pr.R.* 69; see *Gr.* 57/424). Put in a different if still somewhat stilted way, the ultimate moral test for maxims is: Could we all rationally agree to live in a world in which everyone acted this way? As we saw in Chapter 11, addressing this issue requires some care so that we do not turn it into a prudential rather than a moral question. But using the Categorical Imperative cannot be so complex that only a professional logician can deal with it. Not, at least, if Kant is right in claiming that ordinary people can and do use it with astonishing ease.

Testing the maxim of a lying promise

To see how Kant thought we should use the first formula, let us examine his well-known discussion of a lying promise.[8] The question at issue, he writes,

is: "May I not, when I am hard pressed, make a promise with the intention of not keeping it?" (*Gr.* 18/402; see 18–20/402–3, 54–55/422, 76/434, 81/437).

At the end of the last chapter, it was stated that we need to regard maxims as analytic judgments so that the principle of noncontradiction in the form of the Categorical Imperative can function as the necessary and sufficient moral criterion. In modern propositional logic that principle is usually stated as $\sim(p \cdot \sim p)$. Notwithstanding the controversial status today of symbolizing the logic of intentions, only a primitive formal characterization should be sufficient to display how the Categorical Imperative functions. What can be said now in general terms is that, within the moral context of choosing maxims, a contradiction (*Widerspruch* is the noun Kant most often uses) consists in holding both that a practical principle should hold universally and that it "subjectively should not hold universally but should admit of exceptions" (*Gr.* 58/424). In terms of the Aristotelian "Square of Opposition," which Kant of course knew, the opposition is either between A (universal positive) and O (particular negative) judgments or between E (universal negative) and I (particular positive) judgments. It is impossible to will (*unmöglich zu wollen*) contradictories, because, given the principle of the excluded middle, they are mutually exclusive. (See *Gr.* 55/423, 56/423; *Logic* 117.)

Let us now look at Kant's example. If we symbolize an individual's maxim, such as, "I will make lying promises when I am in need and when it is advantageous to do so," as "m'," there is no way to test it by the norm of the Categorical Imperative. This is exactly why Kant holds that the Categorical Imperative requires us to "act only on that maxim through which you can *at the same time* will that it should become a universal law," or, put negatively, "Never choose except in such a way that in the same volition the maxims of your choice are *also* present as universal law" (*Gr.* 52/421 and 87/440; emphases mine). To test the original maxim, then, we must restate it as a universal law or what Kant calls a "law of nature" (which I will symbolize as "m''") and join it with the maxim of the individual to form the conjunction ($m' \cdot m''$). The Categorical Imperative then requires us to see whether *this* conjunction, ($m' \cdot m''$), generates a contradiction.[9]

In the case of Kant's example of a lying promise, we now have the following conjunction:

> I intend to make lying promises whenever it is advantageous to me to do so, and I also will a world in which everyone else makes lying promises, even to me, whenever it is advantageous for him or her to do so.

Clearly, we need commonplace knowledge of what the practice of promise making is all about. To make a promise is to engage in verbal behavior consisting in giving one's word to perform some future action, and to accept a promise means believing that the other person is telling the truth and will fulfill that promise. Kant simply presumes that we all are aware "a priori by reason" that in the absence of any contravening moral considerations, this is a morally permissible social practice. There is no conflict between an indi-

vidual's intention to engage in the practice of promise making and keeping and everyone else's intention also to do so. (See *M.M.* 224.)

We obviously can make lying promises, and it may also be that we can thereby promote our prudential interests. To test the *moral* quality of a maxim to make lying promises, however, the Categorical Imperative requires us "at the same time" to will a world in which *everyone* has adopted the same maxim. As only a little reflection shows, the logical consequence of that universal law would be that no performance could count any longer as "making a promise," for no one could rationally believe anyone else's "promises." (See *Gr.* 55/422.) So the practice of promise making would disappear, along with all practices that depend on promises. Because lying promises are parasitic on the practice of promise making, we also could no longer make lying promises. The conjunction of our maxim with that same maxim as a universal law therefore generates a practical contradiction; it necessarily "destroys itself" (*Pr.R.* 27–28; see 35, 44, 69, 87–88; *Gr.* 19/403). To put it in another but equivalent way, we generate a "contradiction in our will"; it is not rationally possible to will both our own maxim and that same maxim as a universal law of conduct. If we cannot consent to everyone's also adopting the maxim on which we want to act, our maxim is morally unacceptable.[10]

As this example indicates, morally wrong choices are typically characterized by the adoption of two different standards of conduct – one for ourselves and another for others. With regard to the lying promise, we require or expect others to follow *their* appropriate role in promising, namely, believe we will keep our promise; and at the same time, although we engage in promise-making behavior, we also intend from the start to violate our role in that social practice by not keeping our promise. If we attend to how we think in such cases, Kant explains, we find that we still will the morally acceptable law of conduct but only as a general rule, and we think of ourselves as making only a few exceptions in favor of our own particular situation. (See *Gr.* 58–59/424.) This is not so much a contradiction within reason, he explains, as a conflict between reason and our inclinations. (See *Gr.* 59/424.) As a consequence, we may not be interested in testing the morality of an action we very much want to do. But our virtue or lack of it is irrelevant to the judgment of reason about what a morally good person does and does not do.

So, as the ultimate norm of practical consistency, the first formula is a law of justice, telling us that we do not have the moral right to expect or demand that others use one principle in dealing with us while we are free to use another, incompatible, principle with them. It is immoral for us to make exceptions of ourselves on the basis of our own special interests. The Formula of Universal Law therefore can tell us which maxims are contrary to strict or narrow moral duty and so are morally forbidden. (See *Gr.* 57/424.)

The contradiction generated in Kant's example may be understood in any of three different and equally correct ways. It may be understood as a "practical contradiction," because, when made a universal law, the agent's maxim is self-defeating. It also may be interpreted as a contradiction in conception,

for practices are defined in two incompatible ways. Or it may be interpreted as a "teleological contradiction," because the agent's purpose in engaging in the social practice of promising is inconsistent with the given end of that practice.[11]

There are some cases, particularly those involving wide duties, in which an individual's maxim does not generate a contradiction in conjunction with that maxim stated as a universal law. A morally good world, however, must be a world formally defined by mutually consistent laws. So even if a maxim is consistent with itself regarded also as a universal law of conduct, it is still morally unacceptable if it contradicts *other* laws of conduct that we must adopt, which are morally obligatory. In the final section of this chapter we shall see in more detail how this test operates.

For now it should be added that the moral rejection of lying promises does not *of itself* also imply that there must be a practice of promise making and keeping.[12] It also does not address the question, Can situations arise in which I may break a promise I earlier made with the intention of keeping? (So it is misleading to call this a "duty of promise keeping.") Applied to the maxim of a lying promise, the Categorical Imperative is a negative norm, insisting *only* that when we do make promises, we may not make lying promises.

Kant's doctrine concerning lies

Lying promises are but a species of lies, and Kant's readers often single out his condemnation of lying to argue that his moral doctrine is excessively rigorous. It is appropriate, then, for us now to see what Kant says about lying.[13] Lies violate the duty of benevolence, Kant writes, when they unjustly injure others (e.g., *M.M.* 403, 430; *Lect.* 449/229). But not all lies wrong individuals. So, as is his custom, Kant suggests we imagine a situation in which we can reap the greatest conceivable benefits for ourselves or our friends by telling a "little lie that would harm no one" (*M.M.* 481). What, he asks, does our reason say about our doing so?

When we use the first formula to see if that maxim can serve as a law in a possible moral world, we generate the following conjunction:

> I will tell little lies that do not harm any individual and may have good consequences, and I will a world in which everyone will lie under similar circumstances.

Once again, we must have some everyday knowledge of the practice relevant to lying. Kant holds that there is a given end or "natural purposiveness" to those kinds of speech acts within which lying can occur. "The intrinsic end [*Zweck*]" of such speech acts is "the communication of one's thoughts" (*M.M.* 430 and 429; *Ed.* 489/102).[14]

In conjunction with itself as a universal law, the maxim of lying – even telling "harmless" lies for "good" reasons – contradicts itself, and therefore generates as its logical consequence the complete frustration of the given purpose of that kind of speech – the conveying of factual information, whether

in ordinary conversations or in more formal settings. Kant concludes that "it cannot hold as a universal law of nature that an assertion should have the force of evidence and yet be intentionally false" (*Pr.R.* 44). Truthful assertions cannot survive any universal violation of the essential point of such speech. Once everyone lies for what each considers a "good" reason, we can never know when any verbal behavior counts as "telling the truth." If no statements can be rationally believed to be truthful, it is also no longer possible for anyone to tell a lie.

Because its essential evil lies in the nature of lying itself rather than in any empirical consequences, a person's purpose in lying is irrelevant to the intrinsic morality of lying. (See *M.M.* 238, 403, 429–30, 481.) Within the context of a teleological, law-governed world of free agents, the Categorical Imperative functions as a necessary and sufficient test of the moral acceptability of the maxim of even frivolous "little" deceptions and shows that the maxim to allow lies generates contradictions just as does the maxim to allow lying promises. (See *M.M.* 430.) Because the commands of moral reasoning are unconditional, the prohibition against lying allows *no* exceptions. In the face of that prohibition, Kant writes, "All my inclinations must be silent. . . . I ought not to lie, no matter how great the benefits" from doing so (*M.M.* 481).

However tempted we may be to do so, we may not turn the absolute moral rule against lying into a conditional rule by making exceptions to it "whenever it seems necessary to do so." (See *M.M.* 235–36, 471–72.) Kant surely had read Niccolò Machiavelli; we know that Frederick the Great had done so. And Kant surely would have remembered that the infamous Machiavelli had recommended that the prince "should not deviate from what is good if that is possible, but he should know how to do evil, if that is necessary" (*The Prince*, XVIII). Understandably, Kant was convinced that once we accept "necessity" (*Notfall*) as a valid excuse for *any* exceptions to the moral law – and it is, of course, up to each person to decide what will count as "necessary" – there is no reason to limit that justification only to "a few" exceptions. Sooner or later it will sanction the violation of any and every moral rule, and in the end, "necessity has no law" (*M.M.* 236; see *T&P* 300n; *Lect.* 448–49/228–29; *Ed.* 490/104).

This is not all Kant had to say on the topic of lying. But what first needs to be added is something Kant himself did not explicitly say, apparently thinking it too obvious to mention: It would be a gross error for us to confuse the rule "I may never lie" with the quite different rule "I must always tell the truth."[15] As we have seen repeatedly, Kant held that (most) strict or narrow obligations arise *only negatively*. So the moral rule forbidding lying *is* an unconditional and negative law that like all other negative laws, allows no room for any legitimate exceptions. But this narrow and perfect duty never to lie does *not* entail a corresponding positive and equally strict – and obviously ridiculous – moral obligation *always* to be completely open with everyone, to tell *everything* one knows to *everyone* at *every* opportunity. (See *M.M.* 471–72.)

As Kant sensibly recognizes, much of our verbal behavior has some function

other than the transmission of factual information. Gallantry and common courtesies of conduct, such as shows of affection for others, may be only role playing, but "this still does not make them deceptions, because everyone knows how to take them" (*Anthr.* 152; see 151–52; *Lect.* 445/225).[16] Moreover, the obligation to tell the truth is a positive obligation and, as we saw in Chapter 5, in the matter of (most) such duties, we are obligated only to adopt *general maxims*. We do have to act on them, but we normally have a moral title to exercise prudential judgment about exactly when and how we actually do so. (See *M.M.* 383, 389–90, 393; *Lect.* 445/225.)[17]

So it is no accident that, in his lectures on ethics, Kant prefaced his examination of the duty of truthfulness with a long discussion on the value of prudent reserve, that is, restraint in expressing one's mind. Such restraint would not be necessary, he said, if everyone were good. But because they are not, were we always scrupulously to tell the truth, we would lay ourselves open to anyone who might want to injure us or our loved ones. (See *M.M.* 471–72.) We have a moral right to a prudent reserve, a right to the privacy of our own thoughts that we also should respect in others. (See *Lect.* 446–49/226–29.) "We do not press our friends to come into our water-closet," Kant told his class, "although they know we have one just like themselves" (*Lect.* 445/225). And so, he concludes, "No man in his right senses is completely candid" (*Lect.* 445/224; see 448/228).

Discretion or "worldly wisdom" (*Weltklugheit*), as Kant explains it, is only another word for prudence (*Klugheit*) in the sense of being able to "use our fellowmen for our own ends" (*Ed.* 486/95; see *Gr.* 42n/416n). So important is discretion to our welfare that it ranks second in importance only to morality itself. And prudence advises a person "to disguise his feelings and to be reserved. . . . We have to hide our faults and keep up an outward appearance. This is not necessarily deceit . . ., although it does border closely on insincerity" (*Ed.* 486/95–96).

One of the few recorded instances when Kant gave normative moral advice to an individual can be found in a famous letter he wrote to Maria von Herbert, who had told Kant that her confession of a relatively innocent deception had cost her the love of a man who had been the center of all her affections. Undoing a deception, Kant wrote her, may be a moral duty, but it is also true that everyone keeps some things to himself, for "everyone fears that to reveal himself completely would make him despised by others." He then noted that there is a critical moral difference between discretion and deceit: "What the honest but reticent man says is true but not the whole truth. What the dishonest man says is, in contrast, something he knows to be false."[18] Elsewhere Kant points out that there are many morally acceptable ways in which we may avoid telling the truth without telling a lie. They include simple silence, mental reservations, noncommittal answers, evasions, and equivocations. (See, e.g., *M.M.* 471–72; *Lect.* 446/226, 449/229.)

In his lectures on ethics Kant also distinguishes between an untruth (a *falsiloquium*) and a lie (a *mendacium*). This distinction may seem jesuitical to some readers, and Kant admits that ordinarily we rightly ignore it. How-

ever, in a few isolated cases, it can be an important and morally useful distinction: Every lie is an untruth, but not every untruth is a lie. A *falsiloquium* occurs when (1) I intend to mislead someone or at least to hide what is on my mind (2) because the other person means only to misuse the truth, say, by stealing my money, and so (3) I act or speak in such a way that he draws the conclusion I wish him to draw. "The thief knows full well that I will not, if I can help it, tell him the truth and that he has no right to demand it of me" (*Lect.* 447/226–27). Under such circumstances, as long as I do not *say* that I am telling the truth, such a *falsiloquium* is *not* a lie. An untruth *is* a lie, Kant writes, only if we expressly give another person to understand that we *do intend* to tell the truth and then do not do so (see *Lect.* 448/228). Only the latter is always morally wrong.[19] He adds, however, that in civil law, any falsehood that violates the civil rights of another and causes unjust injury is called a lie, is litigable, and is legally punishable. (See *M.M.* 238n; *Lect.* 447–48/227–28.)

This, then, is what Kant's view about lying comes down to: We may *never* state outright that we *will* tell the truth when we have no intention of doing so. Oaths, for example, must be taken and kept with the utmost seriousness.

There also is one case in which the strict negative duty not to lie is equivalent to a positive obligation to tell the truth. This case, an instance of which we now turn to, is peculiar simply because we usually can either avoid answering or simply refuse to answer.

Kant's infamous reply to Constant

Writers who attack Kant's views on lies generally cite his 1797 work *On a Supposed Right to Lie from Altruistic Motives.*[20] Despite its brevity, this essay has had so deleterious an impact on interpretations of Kant's moral and political theory that it needs to be examined with particular care.

A Swiss-French liberal philosopher of some fame, Henri-Benjamin Constant de Rebecque (1767–1830), had argued that we should tell the truth only to those who have a right to it and then only when the truth will not injure others. "The moral principle, 'It is a duty to tell the truth,' " Kant quotes Constant as having written,

would make any society impossible if it were taken singly and unconditionally. We have proof of this in the very direct consequence which a German philosopher [presumably Kant] has drawn from this principle. This philosopher goes so far as to assert that it would be a crime to lie to a murderer who asked whether our friend who is pursued by him had taken refuge in our house.[21]

Constant then concluded that "to tell the truth is a duty, but it is a duty only toward one who has a right to the truth."[22]

Kant was convinced that civil governments are institutionally constituted to recognize and protect the freedom of their citizens only if the governments are contractarian in nature. A civil law tolerating or mandating lies would undercut all contracts and so make a just state impossible. Kant therefore

took Constant to be mounting a particularly dangerous, consequentialist attack on the possibility of a just society. However, his brief answer to Constant has been given harsh treatment by the majority of commentators. For example, H. J. Paton, usually Kant's defender, simply concedes that Kant here fell "into the rigorism with which he is so often charged," a view that has now become the standard opinion.[23] He also condescendingly suggests that Kant's reply was only the "petulant" reaction of a 73-year-old man.

To understand Kant's response, several introductory comments are essential:

First, Constant tacitly equated the rule, "I may not lie," with the quite different rule, "I must tell the truth." Kant did not object to this, because the case Constant proposes happens to be that unique one in which the strict, negative duty not to lie *is* equivalent to a positive obligation to tell the truth. This is a situation in which it is "given" that no other alternatives are available, so that as Kant puts it, a person "cannot avoid answering 'Yes' or 'No.'"

Second, Kant had no objection to Constant's choosing what today we would call "desert island" circumstances, involving a potential murderer seeking information about the whereabouts of his intended victim. As the "Casuistical Questions" he posed in his *Metaphysics of Morals* show, Kant *wanted* people to consider cases, however fanciful, in which "the greatest imaginable good" might be accomplished (or at least hoped for) by breaking the moral law. It is in just such instances, he thought, that we will be the most sorely tempted to say, "Here, at least, it is permissible to make an exception to the usual moral rule." That, for Kant, always signals the beginning of the death of morality. So he saw Constant's case as a litmus test for whether people understand and accept the claim that moral rules *must* be genuinely universal laws.

Nonetheless, and this is the third point, in his response Kant was *mainly* concerned with that kind of practical reasoning underlying the acceptance or rejection of possible *maxims,* for he describes Constant's proposed *maxim* as (in Greek) the "fundamental error." Kant was *not* seriously trying to do casuistry, that is, the kind of practical reasoning aimed at deciding how to act here and now (the second kind of practical reasoning examined in Chapter 5).[24] In the preface to the *Groundwork,* published twelve years earlier, Kant had warned that it could be dangerously misleading to try to draw practical principles from cases. Doing so, he wrote, awakens "a certain bias against examining and weighing [the ultimate principle of morality] in all strictness for itself without any regard to its consequences" (*Gr.* xiii/392). Constant had done just what Kant had warned against, with exactly the result Kant had predicted.

Fourth and last, Constant had argued that his maxim concerning truthfulness was necessary for the very existence of any society, including presumably, a just state. Consequently, Kant's response is primarily a political discussion of *juridical* legislation.[25] Civil lawmaking must be grounded on the Principle of *Recht,* which asks if actions according to a particular maxim will be "compatible with the freedom of everyone according to a universal

law" (*M.M.* 231). So in this article Kant is doing exactly what he did in the *Groundwork,* asking once again whether a maxim could "harmonize with itself if everyone, in every case, made it a universal law" (*M.M.* 376).

Kant focuses first on Constant's contention that the questioner has no "right" to the truth so that there can be no duty to answer him truthfully. Kant concedes that the potential murderer has no legal right to the truth, so that a lie would not do him any juridical injustice. But Kant still maintains that lying is wrong. Again, this does not mean he is so foolish as to hold that we have a duty to *volunteer* information to potential murderers. But with reference to this case, Kant does say what most readers, Paton included, have found objectionably rigorous: "Truthfulness in statements which cannot be avoided is the formal duty of an individual to everyone, however great may be the disadvantage accruing to himself or to another."[26] Kant always – not just here – held that we have a strict, negative duty not to lie. If there are no other alternatives available, then truthfulness is an unconditional duty, holding "in all circumstances" in the sense that it does not discriminate between persons "having a right" or not having a right to the truth.

Consider for a moment, Kant in effect proposes, a civil society with a public law based on Constant's maxim – a law that allows or, more strongly, legally *requires* people to tell the truth *only* to those "having a right to the truth" and then *only* when doing so does not violate a duty of benevolence. As we saw in the preceding section, Kant argues that such a law would completely undermine the credibility of all contracts and promises, thereby destroying the possibility of a just society. No one could believe anything any government officials might say, for they may have decided that they legally must lie, either because benevolence requires it or because the citizens have no right to the truth. This is the sort of maxim a benevolent tyrant could adopt, but not a just society of free citizens.

Kant reacts predictably to Constant's suggestion that a duty of veracity could have harmful consequences. It is *only* a possibility, Kant argues, and lying could just as easily lead to the intended victim's death as telling the truth. (This is always a problem if we try to make moral or political judgments on the basis of consequences, which cannot be known with any certainty in advance.)[27] Even if harm does occur, it is a confusion to regard accidental harm as a civil injustice when it is the result of lawful actions. (See also *M.M.* 228, 431; *Lect.* 289–90/58–60.)[28] But if we act lawlessly, then we "must answer for the consequences, however unforeseeable they were, and pay the penalty for them even in a civil tribunal."[29]

If Kant's claim sounds implausible and inconsistent with the judgment of ordinary reasoning, consider this example. While driving, a person scrupulously observes all appropriate traffic laws. Unfortunately, a child darts out into the road from between parked cars. The driver is unable to stop the car, and the child is killed. The driver may feel deep regret for the accident but has no reason to feel any moral guilt. Moreover, civil law does not hold the driver legally liable for the child's accidental death. By contrast, if a person drives while drunk, that person becomes criminally responsible not only for

driving unlawfully but also for any and all consequences of doing so, however unforeseen they may be.

It therefore is plausible to argue that Kant's response to Constant is not merely what Paton called "a temporary aberration" of a cantankerous old philosopher but is perfectly consistent with the rest of his moral and political theory. By the criterion of the first formula, Constant's maxim simply cannot function as a law in a just society. This contention has given rise to the suggestion that "one of the great difficulties with Kant's moral philosophy is that it seems to imply that our moral obligations leave us powerless in the face of evil. . . . It is not feasible always to live up to the ideal set by the Categorical Imperative," especially in those circumstances in which "the attempt to live up to it would make you a tool of evil."[30] We need a "two-tiered" moral theory to take care of those instances in which others are already acting immorally toward us.

How might Kant have responded to this criticism? He could have offered at least five different objections to any such "reconstruction." First, he could have argued that we seldom, if ever, find ourselves in a situation in which we are *not* confronted by evil, both in ourselves and in others. Living in an ethical state of nature is not an extraordinary situation but, rather, our *normal* moral condition, and we often can act rightly only at considerable consequential cost. Second, another person's immorality clearly does not provide a *moral* justification for our emulating his or her unethical standards. Kant might very well have quoted Saint Paul here: "Do not return evil for evil." Third, as we have already seen, any argument based on any "necessity" but moral necessity inevitably starts us on the slippery slope toward the complete abandonment of morality. Fourth, moral necessity is defined by a purely formal – not a consequential – norm. And finally, all moral laws must be genuine universals. So integral is this last claim to Kant's thought that its rejection amounts to rejecting most of his analysis of both morality and politics.

Nonetheless, the most telling evidence against Kant here is that virtually no one thinks his position tenable, even when he points out that "truthfulness is a duty which must be regarded as the ground of all duties based on contract."[31] If something has gone drastically wrong here, exactly what is it? Let me suggest that this is an extreme case of what Kant typically did in his polemical writings: present only a very one-sided view of the matter under consideration.

How else might Kant have answered Constant? It would have been helpful had he distinguished clearly between the kind of deliberation that precedes the adoption or rejection of a maxim and the deliberation preceding a decision on how to act in a particular instance. But as we have seen several times, Kant simply failed to make this distinction clearly anywhere in his moral writings, even though he presumed its correctness. In this matter he can be faulted for lack of clarity. Had he separated these two types of deliberations, he could still have argued that Constant's rule is unacceptable as a public juridical norm. The arguments Kant gave against a civil law mandating the policy Constant proposed are not obviously absurd.

Once having made that point, Kant could (and should) then have turned his attention to the case itself. He could have begun by pointing out that Constant's is an extraordinary case, that we rarely face a situation in which we *must* answer a question, and that in the vast majority of cases not lying is not equivalent to telling the truth. He might then have irenically conceded that the case could be interpreted as a conflict between rules, to be settled by judging where the stronger ground of obligation lay. As we saw in Chapter 6, under less polemical circumstances Kant freely admitted that there can be conflicts between moral rules. In this particular case, however, the conflict would not be between two rules against lying, one allowing exceptions and the other not allowing exceptions. Instead, one rule would be the prohibition of lying and the other rule would presumably be a positive rule of benevolence, of contributing to the welfare of others, particularly that of a friend.

Kant is often taken to imply that we should always choose a negative (narrow) obligation over a positive (wide) one. In fact, however, in his discussion of conflicting rules, he rather seems to deny that claim, for he holds that since *all* moral obligations are absolute, we should *not* say that one obligation is more binding than another. Instead, the stronger *ground* of obligation should prevail. (See *M.M.* 224.) And then the other rule is regarded as not actually obligating the person here and now. In fact, Kant believed that acting then on the other rule "is even contrary to duty" (*M.M.* 224). Given a virtually unanimous adverse reaction to what are usually understood to be the implications of his article, it seems reasonable to conclude that in Kant's own terminology, ordinary moral reason judges that here, protecting another person's life provides the stronger ground of obligation so that *in this case* following the rule against lying would in fact be "contrary to our duty."

Since all of this can be maintained within his own theory, why did not Kant respond in this manner? Surely at least in part because he was so intent on protecting the purity of the moral law that he simply refused to introduce *any* considerations that might even *look* like he was compromising on what must not be compromised. Perhaps there is some merit after all in the accusation that here he was being cantankerous!

A last note on one way to check claims like Kant's about what is or is not logically possible or necessary: Simply look at what is the case, for what actually *is* the case obviously is also logically possible. What *is* the case in the matter under discussion can be explained in various ways. If we prefer Aristotle's theory, for example, we may say that morally good people in fact follow Aristotle's view of *epieikeia* (or "equity") by at least tacitly approving exceptions to their normal moral and civil rules in extraordinary cases. If we think Kant has the better theory, we can say that in those cases in which two moral rules conflict, we must judge where the stronger ground of obligation lies, and then the rule with the weaker ground simply does not obligate us. Both alternatives involve the exercise of moral judgment, and both obviously can be abused. But in neither is obedience to our usual rules in normal situations necessarily or obviously undermined, nor is the possibility of a just state seriously jeopardized.

Consistency with other maxims

A maxim that fails the first test of consistency is thereby shown to be contrary to strict or narrow duty and so is morally forbidden. But if we attend to the judgments of ordinary moral consciousness, Kant maintains, we find that this use of the first formula is not of itself a sufficient test, for it does not rule out *all* immoral maxims. Not every maxim that is internally consistent with itself as a universal law is thereby morally acceptable. Nor does the first test tell us whether we have any positive moral obligations or what they are – which the Categorical Imperative must be able to do as our necessary and sufficient moral norm. So we need to apply the first formula in somewhat different fashion to test some problematic maxims, particularly those concerning our positive and wide duties.

The second way in which the Categorical Imperative acts as a test of prudential maxims also follows from Kant's analysis of the requirements for laws in a possible moral world of human beings. The laws of that world must be laws we can rationally will. We cannot rationally will a maxim that when also made a law, contradicts another law (or a system of other laws) we *must* rationally adopt.[32]

We have already seen the rationale for this second test. If we follow Kant in thinking of the form of the laws of the natural world as a prototype of the laws of a moral world, it is clear that the physical world is an enormously complex whole with many different but compatible laws. Since the moral law is a law of practical consistency, it requires not only consistency within an individual's willing but also a formal universal harmony among the rational wills of all those inhabiting a moral world. (See, e.g., *Lect.* 257/17.) Without compatibility *among* its laws, a possible moral world of rational agents would be so full of conflict as to frustrate completely whatever ends such agents might rationally set for themselves. Since rational actions are all teleological, to say that the laws of the moral world must be consistent with each other is also to say that the ends of such laws must be consistent with each other. Therefore, both an individual's moral way of life and the moral world itself must be characterized by a complex wholeness; neither can consist of an incoherent and lawless concatenation of conflicting laws or ends.

It was this second test that Kant had in mind in his fourth example in the *Groundwork*, of a person who, when his life is flourishing, adopts the maxim of simply ignoring everyone else. He will neither contribute to nor detract from their welfare, and he is willing to have everyone else treat him in exactly the same fashion. (See *Gr.* 56–57/423.) Such a maxim would not be inconsistent with itself as a universal law. "It is possible that a universal law of nature could subsist in harmony with this maxim. . . . If such an attitude were a universal law of nature [$m^t \cdot m^u$], mankind could get on perfectly well," certainly better than in an ethical state of nature in which people treat each other antagonistically and unsociably. (See *Gr.* 56/423.)[33] But Kant still denies that it is possible for us rationally to *will* that such a principle hold as a law. (Once again, to "will" such a law is not the same as to *want* such

a law. Kant always suspects that in such cases we always would prefer to have others help us without our being obligated to help them in return.)

If we are to make rational practical decisions, we obviously must take into account the fact that we are finite agents with needs constantly to be met.[34] And we have seen, it also is clearly rational for us to will the means to our goals. (See *Gr.* 46/417–18; *M.M.* 393, 451, 453.) We therefore cannot reasonably make the universal claim that we can continue always to be independent of everyone else's benevolence and beneficence. When everything is going well and our needs are all met, we may abjure dependence on others. But we know that there will come times in the future when, because we are by nature creatures of constant needs, we *must* rely on others. We will need their help both to promote our natural welfare and happiness (which we cannot totally renounce) and to help us fulfill our moral obligations to develop and sustain ourselves *as* rational agents with a non–self-sufficient nature, for example, by caring for our health and enhancing our abilities. Eventually we all would (or should) have to contradict the maxim under examination by *having* to ask for the help of others.

Even if, *per impossibile*, that did not turn out to be true, Kant also argues that according to the requirement of universality, we are morally entitled to pursue our own otherwise morally permissible happiness only if we recognize the moral right of others to pursue their happiness as well. As we shall see, their right involves a corresponding obligation on our part to empathize with and contribute to their pursuit of happiness insofar as we can do so. (See *Gr.* 60n/430n, 89/441; *Pr.R.* 26–27, 34.)[35] Since we all *necessarily* seek our own happiness, we cannot will that such a maxim of never helping anyone be a permissive law for *all* rational agents. (See *Gr.* 56–57/423; *Pr.R.* 19, 44, 69–70; *M.M.* 393, 453.) In this way, then, the Formula of Universal Law can and does generate positive as well as negative obligations – here the obligation to help others.

Special features of positive duties will be examined in Chapters 13–15. That we may need the help of others, for example, does not mean they always will be able to give it to us or that we always and necessarily have a strict entitlement to their help to get what it is we need or want.[36] Likewise, there are morally legitimate limits on how much help we are obligated to give others, and there is also a good deal of discretionary room in our decisions about exactly whom to help and when. This is why Kant describes positive duties as "wide"; a decision not to act on the maxim of helping others in any particular instance is in itself neither an exception to nor a violation of that obligation.