

JOHN RAWLS AND THE NEW KANTIAN MORAL THEORY

First published as chapter 8 in: Thom Brooks and Fabian Freyenhagen (eds) *The Legacy of John Rawls*, Continuum, 2005, pp. 152-176. Paperback edition in 2007.

ISBN-10:

HB: 0-8264-7843-3

PB: 0-8264-9987-2

ISBN-13:

HB: 978-0-8264-7843-6

PB: 978-0-8264-9987-5

Abstract. Along this article, I argue that Rawls' reading of Kant has been a major influence on the work of some contemporary Kantian scholars. Rawls' influence on the new Kantian moral theory can be recognized in several points: a) the conception of philosophy as a "deeply practical project", which leads to the adoption of a first-person approach to ethics; b) the reception of Kant's philosophy within a pragmatic context, which leads to play down the metaphysical implications of Kant's dualisms, in favor of an interpretation which seems plausible within a political culture given in advance c) a characteristic interpretation of Kant's moral constructivism, which while stressing the primacy of the right over the good, tries to specify the ways in which the good plays a role in morals, thereby opening a way to show the relevance of the empirical in Kant's ethics d) an approach to Kant's practical reason which stresses the complementarities between the Hypothetical and the Categorical Imperative, interpreted in the light of Rawls' distinction between the Rational and the Reasonable; e) the central role played by the concept of "rational nature" in the new Kantian moral theory, which may likewise be related to Rawls' concern for clarifying the conception of the person behind his approach to practical reason.

1. Introduction

In recent years increasing attention has been paid to the new approach to Kant's ethics developed by some American scholars.¹ At first glance, what connects these authors is their attempt to offer an account of Kant's moral philosophy much closer to ordinary moral reasoning and able to challenge the usual charges of formalism and rigorism that, at least since Hegel and Schiller, have accompanied every rendering of Kant's moral philosophy. Beyond the logical differences among proponents, this approach presents itself as a correction of the conventional reading of Kant prevalent in the Anglo-American world for many years. According to the new Kantians, the conventional reading, largely focused on Kant's Groundwork, lends itself to the usual criticisms of formalism and rigorism, thereby crediting other related charges, such as Kant's alleged inability to explain moral motivation or its inherent tendency to jeopardize the ethical integrity of the human agent.²

By contrast, the new approach tends to belittle these criticisms insofar as it claims to offer a more comprehensive reading of Kant's texts, which, by expanding the deliberative aspect of Kant's practical reason, makes his theory more fit to address ordinary ethical problems. Indeed, were we to gather under a single heading most of the topics these authors emphasize, we could certainly focus on their account of practical reason and deliberation, intended to highlight the first person perspective proper to Kantian moral philosophy. As Korsgaard puts it "Moral philosophy is the extension and refinement of ordinary practical deliberation, the search for practical reasons. This makes Kant's enterprise very different from that of philosophers who talk about morality and the moral agent from the outside, third-personally, as phenomena that are in need of explanation. Kant's arguments are not about us; they are addressed to us."³

¹ See Robert B. Pippin, "On Allen Wood's Kant's Ethical Thought," in Inquiry, Vol. 43, Summer 2000. Robert B. Pippin, "A mandatory reading of Kant's Ethics?," in The Philosophical Quarterly, vol. 51, n° 204, July 2001, pp. 386-393. Regan, Donald H. "The Value of Rational Nature," in Ethics, 112 (January 2002): 267-291.

² A good account of the usual criticisms addressed to Kantian ethics can be found in Thomas Hill, Dignity and Practical Reason in Kant's Moral Theory (DPR), Ithaca: Cornell University Press, 1992; see also in Barbara Hermann's The Practice of Moral Judgment (PMJ), Cambridge, Harvard University Press, 1993.

³ Korsgaard, C. Creating the Kingdom of Ends (CKE), Cambridge University Press, 1996, xii.

It is from this perspective that we can account both for their review of the traditional versions of the Categorical Imperative, and for their development of other aspects perhaps neglected in the past. Particularly noteworthy is the emphasis on the following topics: the particular role of the Hypothetical Imperative in practical deliberation; the complementarity – rather than opposition – of the Hypothetical Imperative to the Categorical Imperative⁴; the crucial role of the Categorical Imperative in Moral Judgment; and, finally, the way in which the different formulations of the Categorical Imperative account for significant moral differences in the way we deliberate about the morality of particular actions and even provide the ground for a theory of value.⁵ Barbara Herman’s remarks, in the Preface to The Practice of Moral Judgment offers a brief overview of the shift in perspective and its implications:

It has been one of the givens of Kant’s ethics that everything there was to say about moral judgment belonged to the interpretation of the Categorical Imperative tests, and that all of the difficulties in this area were a species of problems about universalization: the difficulty of deriving content from a formal procedure and the problem of action description are the two most famous. I argue that it is much better to see the Categorical Imperative and its tests as an aspect of moral judgment –setting its terms, I would say- but needing to be placed in a framework that can explain moral perception, deliberation, and (internal) criticism. How the Categorical Imperative works cannot be understood apart from a reasoned view of the kind of results it is able to generate and of its place in the moral agent’s complex field of response and deliberation... I argue for the unusual view that Kantian moral judgment depends on the availability of an articulated conception of value –in particular, of the value of the fully embodied person.⁶

Now, at first glance, and precisely because of its emphasis on the practical dimension of the Categorical Imperative, the new approach seems to owe a great deal to Onora O’Neill’s book on the Categorical Imperative. Indeed, in a context still heavily

⁴ See especially Hill, T. “The Hypothetical Imperative,” in DPR, pp. 1-17. Korsgaard in “The Locke Lectures” has developed this topic too.

⁵ See especially C. Korsgaard, “Kant’s Formula of Humanity,” in CKE, pp. 106-132.

⁶ Herman, B. PMJ, p. ix.

marked by utilitarianism, O' Neill's work represented one of the first attempts to make sense of Kantian moral theory in terms very similar to those of the new Kantian moral theory.⁷ Yet there is something distinctive in the new Kantian moral theory that the connection with O'Neill's work does not enable us to grasp entirely. In the case of the new Kantian moral theory, the focus on practical reason is intended both to highlight the central role of the concept of "rational nature" in Kant's moral philosophy⁸, and to make room for a more satisfactory account of the Kantian moral agent, an account that succeeds in showing the relevance of character for moral judgment. Once again, Herman's words help illustrate this aspect of the new Kantian moral theory:

A great deal of recent criticism of Kantian ethics has targeted its thin conception of the person, the inadequacy of its idea of character, its stultifying restriction on admissible moral motivation, and its mistaken views about the place of impartial moral requirement in a good human life. These criticisms live off the mistaken view of moral judgment as involving algorithmic employment of tests, and its attendant picture of the moral agent as seeking to bring her will into conformity with principles of duty. With this view of judgment out of the way, it becomes possible to see that Kant's notions of virtue and character are in no way peripheral to the understanding of moral judgment and action. We are able to consider the nature of a Kantian moral agent – what motives, feelings, thoughts, and commitments guide her deliberations and actions. There is then room to develop an account of moral personality that places moral activity within the ongoing practical commitments of a good life.⁹

Thus, while the analysis of the process of deliberation and moral judgment is at the core of the new Kantian moral theory, it is the reference to human nature, broadly understood, that better explains the distinctiveness of the new approach. Certainly, the

⁷ Thus, referring to the charges of formalism and rigorism, O'Neill wrote: "As I worked on Kant's writings, I came to believe that neither of these charges can be made to stick. The Categorical Imperative can guide action and does not lead to rigorism." *Acting on Principle: An Essay on Kantian Ethics*, New York: Columbia University Press, 1975, p. vii.

⁸ For a criticism of this aspect, though not from a Kantian perspective, see Regan, Donald H. "The Value of Rational Nature," in *Ethics*, 112 (January 2002): 267-291.

⁹ Herman, B. *PMJ*, p. x.

thesis of the centrality of the concept of “human nature” in ethics, controversial as it is when attributed to Kant, loses something of its implausibility when we take it to mean “rational nature” and come to understand the deep revision of the concept of reason effected by Kant himself. Still, such a formulation is likely to surprise more than one scholar, for at least verbally it clearly confronts the conventional reading of Kant, who repeatedly rejects any kind of reference to the particularities of human nature within ethics.

Now, if we ask for the origin of this approach to Kant’s Ethics, we would find that for many proponents a confessed common source is to be found in John Rawls’ Lectures on Ethics at Harvard¹⁰ beginning in the 1960s, lectures that O’Neill herself had the opportunity to attend.¹¹ In what follows, I have tried to explore the extent of Rawls’ influence on the development of this “new Kantian moral theory” by highlighting some aspects of Rawls’ own interpretation of Kant, and demonstrating its connection to the characteristic tone and topics raised by the new Kantians.

2. Rawls’ influence on the new Kantian moral theory

According to some of his former students, at the time when Rawls delivered his lectures on the history of ethics at Harvard, scholars rarely paid attention simultaneously to the philosophical arguments and to the history of philosophy, much less attempted to show the relevance of the history of ethics for contemporary issues. Metaethics largely dominated the academic discussion, and it was unusual to address substantive ethical problems. Against this background, Rawls’ lectures “offered reconstructions of classical arguments that reclaimed their power and their capacity to inform contemporary concerns.”¹²

¹⁰ See Herman, B. (ed.), Rawls: Lectures on the history of Moral Philosophy, Harvard University Press, 2000.

¹⁰ Thus, Thomas Hill refers to Rawls Lectures at Harvard in 1962 (Hill, DPR, p. 17); Barbara Herman refers to his Lectures in 1977 (Herman, PMJ, p. 50).

¹¹ Korsgaard, Herman, and Reath, Reclaiming the history of Ethics. Essays for John Rawls, Cambridge University Press, 1997, p. 183.

¹² Korsgaard, Herman, and Reath, Reclaiming the history of Ethics, p.1.

It was precisely this approach to the history of philosophy that would influence the future work of many of Rawls' students. This influence has now become particularly evident in the work of some prominent scholars who are advancing this new interpretation of Kant's ethics. Thomas Hill, Barbara Herman, Christine Korsgaard, and Andrews Reath all studied under Rawls and share his basic commitment to discuss the history of ethics in a way relevant to the contemporary world. Besides being specifically devoted to Kant's moral philosophy, they seem likely to echo Rawls' own approach to Kant in significant ways. As Korsgaard observes, Rawls' influence on contemporary Kantian scholarship has been both methodological and substantive, though we should not artificial separate the two aspects. While Rawls' methodological influence on contemporary Kantian scholarship lies in his conviction that textual analysis and philosophical reflection on a philosopher's work should go together, Rawls' substantive influence relates radically to his conception of Philosophy as a deeply practical project¹³, an approach that could itself be considered the development of a possibility embedded in Kant's own philosophy.

a) Philosophy as a deeply practical project

Indeed, according to the interpretation developed by Susan Neiman – also a former student of Rawls – Kant's transformation of the concept of reason would amount to a new conception of philosophy not so much as a theoretical undertaking – directed to the acquisition of knowledge – as a practical and moral one¹⁴, where the important thing becomes the possible contribution of philosophy to the fulfillment of the human vocation. Rawls' attitude toward philosophy is, in this sense, undeniably Kantian, since Rawls' own theory clearly aims at the realization of a moral ideal. From this perspective, it credits Kant's asserted "Primacy of Practical Reason."

Asserting the primacy of Practical Reason, indeed, means to orientate one's thinking according to an ideal of Reason, such that the leading question becomes this one:

¹³ See Korsgaard, C. "Rawls and Kant: On the Primacy of the Practical," in Proceedings of the Eighth International Kant Congress, Memphis, 1995, vol. I, Milwaukee: Marquette University Press, 1995, pp. 1165-1173.

¹⁴ See Neiman, S. The Unity of Reason, New York, Oxford University Press, 1994. Neiman argues that Kant transformed the concept of reason, disconnecting it from knowledge, to get a pure regulative concept.

how must we think of ourselves and of the world in order to fulfill our moral vocation – to shape a just society? Rawls doctrine meets this requirement. Yet, does this suffice to qualify a doctrine as Kantian? As Rawls himself points out, “Kant’s view is marked by a number of dualisms, in particular, the dualisms between the necessary and the contingent, form and content, reason and desire, and noumena and phenomena. To abandon these dualisms as he meant them is, for many, to abandon what is distinctive in his theory.”¹⁵ However, Rawls goes on to explain why he disagrees with this interpretation, arguing that Kant’s “moral conception has a characteristic structure that is more clearly discernible when these dualisms are not taken in the sense he gave them but reinterpreted and their moral force reformulated within the scope of an empirical theory. One of the aims of A Theory of Justice was to indicate how this might be done.”¹⁶

While we can certainly speak of similarities between Kant’s and Rawls’ conceptions of philosophy, Rawls’ comments signal the existence of a clear difference between them. This difference points at the particular twist Kant’s philosophy is likely to receive when developed against the American philosophical tradition. Actually, the text we have just quoted suggests that Rawls considers the reinterpretation of Kant’s dualisms an essential condition for making Kant’s view effective as a moral ideal – perhaps in Rawls own theory. Now, it is Rawls himself who observes that such a reinterpretation would bring his own theory closer to Dewey. Thus, in the first of his Dewey Lectures, after praising Dewey’s attempt to adapt what is valuable in Hegel’s theory “to a form of naturalism congenial to our culture,” he added: “There are a number of affinities between justice as fairness and Dewey’s moral theory which are explained by the common aim of overcoming the dualisms in Kant’s doctrine.”¹⁷

Indeed, very much in a Deweyan spirit, overcoming the Kantian dualisms amounts to assuming, as already present in the public culture, many of the requirements of a conception of justice. As Rawls asserts, “On the Kantian view that I shall present,

¹⁵ “A Kantian Conception of Equality” (1975), in Collected Papers, ed. S. Freeman, H. U. Press, Cambridge, MA, London, England, 1999, p. 264.

¹⁶ *Ibid.*

¹⁷ “Kantian Constructivism in Moral Theory” (1980), in Collected Papers, pp. 303-358, p. 304.

conditions for justifying a conception of justice hold only when a basis is established for political reasoning and understanding within a public culture.”¹⁸ That basis is specifically provided by the American political tradition:

We are not trying to find a conception of justice suitable for all societies regardless of their particular social or historical circumstances. We want to settle a fundamental disagreement over the just form of basic institutions within a democratic society under modern conditions. We look to ourselves and to our future, and reflect upon our disputes since, let’s say, the Declaration of Independence. How far the conclusions we reach are of interest in a wider context is a separate question.¹⁹

Rawls’ conception of justice therefore seeks to articulate the ideals already implicit in the common sense or the public culture of a specific democratic society. Not aiming at the universal as such, his conception is designed to satisfy the requirements of justice within a particular political tradition. For this very reason, Rawls’ attempt amounts to a justification of social institutions through a method certainly indebted to the Kant of the transcendental deductions.²⁰ It could also, however, be considered equally close to Hegel or Dewey, in that Rawls applies that justification procedure to social institutions²¹ in a way that takes a certain political tradition for granted:

What justifies a conception of justice is not its being true to an order antecedent to and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us. We can find no better basic charter for our social world.²²

¹⁸ Rawls, J. “Kantian Constructivism,” p. 305.

¹⁹ Rawls, J. “Kantian Constructivism,” p. 305-6.

²⁰ On the concept of transcendental deduction, see Henrich, D. “Kant’s Notion of a Deduction and the Methodological Background of the First Critique,” in Förster, E. (ed.), Kant’s Transcendental Deductions. The Three Critiques and the ‘Opus Postumum’, Stanford University Press, Stanford, California, 1989, pp. 29-46.

²¹ See Pippin, Idealism as Modernism. Hegelian Variations, Cambridge University Press, 1997.

²² Rawls, J. “Kantian Constructivism,” pp. 306-7.

In this way, the Primacy of Practical Reason, an unequivocal Kantian feature of Rawls' political philosophy, receives a cultural specification. The transcendental philosophy is to accomplish its justifying mission within a particular political culture. Accordingly it is not surprising that Rawls rejects the charge of "formalism" usually directed against Kant since Hegel first made his case. Indeed, reading Kant from within a certain political culture – that is, reading him in a Hegelian key – overcomes that objection. All the content needed by practical reason is already present in the public culture.

It seems to me that this feature of Rawls' interpretation of Kant is also present in the new Kantian moral theory. Whenever these authors reject the traditional objection of formalism, the underlying assumption is that there is no need to read Kant in an abstract way; it is equally possible to read him from within a particular culture. On this view, the agent does not need to deprive herself of her moral experience when she is engaged in the process of moral deliberation and judgment, that is, when she is to make use of the categorical imperative. This point is particularly clear in Barbara Herman's account of moral judgment:

An agent who came to the CI procedure with no knowledge of the moral characteristics of actions would be very unlikely to describe his action in a morally appropriate way. Kant's moral agents are not morally naïve. In the examples Kant gives of the employment of the CI procedure (G422-423), the agents know the features of their proposed actions that raise moral questions before they use the CI to determine their permissibility. It is because they already realize that the actions they want to do are morally questionable that they test their permissibility.²³

Now, if we ask where this antecedent knowledge comes from, Herman's answer ultimately manifests the cultural link that distinguishes this new Kant:

It is useful to think of the moral knowledge needed by Kantian agents (prior to making moral judgments) as knowledge of a kind of moral rule. Let us call

²³ Herman, B. *PMJ*, p. 75.

them ‘rules of moral salience’. Acquired as elements in moral education, they structure an agent’s perception of his situation so that what he perceives is a world with moral features. They enable him to pick out those elements of his circumstances or of his proposed actions that require moral attention.²⁴

Of course, while Rawls’ position, as conveyed in the Dewey Lectures, could be read as implying an abandonment of the universal scope of a Theory of Justice, to focus on some problems proper to modern liberal democracies –and thus to a particular culture–, Herman’s point is a more general one, playing at a more basic level: the categorical imperative works solely on the assumption of some rules of moral salience, no matter the culture. And yet, since these rules, according to Herman, are acquired “as elements in moral education,” each individual would find those rules embedded in his/her culture. In other words: although Herman’s point, unlike Rawls’, is an universalist one, Herman’s unformalistic way of reading Kant surely has been inspired by Rawls’ own sensibility for the cultural embodiment of reason, for, after all, the rules of moral salience may be defined differently in different cultures²⁵.

Herman’s “rules of moral salience”, however, are not the only aspect of the new Kantian Moral Theory in which the cultural linkage resulting from the Kant-Dewey “marriage” becomes evident. Another aspect can be found in the frequent references to the plausibility of a theory as a decisive factor for its acceptance. “Plausibility” is, indeed, the word most often employed by these authors to describe their goal, both as Kantian scholars and moral philosophers. The new Kantians seek to offer a reconstruction of Kant’s moral philosophy that is, as Thomas Hill puts it, “as plausible as possible,”²⁶ in order to put it in

²⁴ Herman, B. PMJ, p. 77.

²⁵ Suggesting that Rawls’ sensibility for the cultural embodiment of reason may have some influence on Herman’s reading of Kant, I do not deny the existence of a more basic difference between the late Rawls and Barbara Herman. Thus, in Political Liberalism, John Rawls claims that the normative basis of our conception of justice is based on the contingent fact that we have a liberal political culture. According to Kyla Ebbels Duggan, with whom I have contrasted this point, Barbara Herman would not like to go so far. Herman would still claim –in a clear Kantian manner– that there are principles which apply to all, regardless any kind of cultural differences. I would like to thank to the anonymous referee for asking me to clarify this point.

²⁶ Hill, T. Human Welfare and Moral Worth. Kantian Perspectives, Clarendon Press, Oxford, 2002, p. 279.

dialogue with contemporary ethics.²⁷ Both aspects are summarized in Barbara Herman's description of her own approach to Kant's texts: an attempt to provide an interpretation "which makes sense of the text and makes the texts make sense."²⁸

Now, as Thomas Hill points out, "Kant's ethics is most plausible when seen as a less comprehensive account of morality than he thought,"²⁹ plausibility, then, demands "sympathetic reconstruction and extension of certain core Kantian ideas but also critically abandoning some of Kant's ideas on particular issues that prove to be untenable and unwarranted by Kant's more basic theory."³⁰ Hill's remark seems a clear echo of Rawls' previously-quoted justification for reinterpreting and reformulating Kant's dualisms. A remarkable example of this tendency to solve or mitigate Kant's dualisms is Korsgaard's interpretation of the phenomenon-noumenon distinction in terms of two different standpoints, an interpretation that deprives the distinction of some of those "scandalous" ontological reverberations, which, in Herman's words, make it "unacceptable to us"³¹:

This view is not, as so many have supposed, an ontological or metaphysical theory according to which we exist simultaneously in two different 'worlds', one somehow more real than the other. As I understand it, it goes like this: In one sense the world is given to us, it appears to us, and we are passive in the face of it. We must therefore think of the world as generating the appearances, as giving them to us. The world insofar as it appears to us is phenomenal; the world insofar as it generates the appearances is noumenal. We can only know the world as phenomenal, that is, insofar as it is given to sense, but we can think of it as noumenal. So there are not 'two worlds', but rather one world which must be conceived in two different ways. And all of these points apply above all to ourselves. When we view ourselves as phenomena, we regard everything about ourselves, including inner appearances such as thought and choices, as parts of the natural world, and therefore as governed by its laws.

²⁷ Thus, Thomas Hill describes his project as follows: "My own project for some time has been to see how far Kant's basic moral theory, properly understood and modified as necessary, can be made plausible as at least a candidate for serious consideration in contemporary philosophical discussions." HWMW, p. 310.

²⁸ See Herman, B. PMJ, p. viii.

²⁹ Hill, Th. HWMW, p. 309.

³⁰ Hill, Th. HWMW, p. 310.

³¹ Herman, B. PMJ, p. ix.

But insofar as we are rational, we also regard ourselves as active beings, who are the authors of our thoughts and choices”.³²

While Korsgaard’s interpretation certainly finds support in Kant’s texts,³³ her conciliatory approach does contrast with other well-known interpretations. We just need to think of Jaspers, for whom the phenomenon-noumenon distinction meant a contradiction bound to arise precisely because the philosophical idea Kant wanted to express cannot be held in any logical expression.³⁴ For Jaspers it was this tension that made Kant’s thinking “a matrix of seemingly inexhaustible possibilities.”³⁵ Indeed, one of these possibilities – but only one of them – is what we are considering right now. And as a particular interpretation among others, it will inevitably prove controversial among other Kant scholars. What I would like to highlight in regard to the new Kantian moral theory, however, is what I take to be its distinctive hallmark: namely, its explicit reference to the ordinary and common experience as hermeneutical keystone, able to develop a contemporary version of Kant’s ethics that can be put in dialogue with other contemporary ethical theories.³⁶

While the allusion to common experience could be taken as an invitation to figure out how the teleological concepts we use in ordinary life to articulate our moral experience

³² Korsgaard, C. CKE, p. xi. Generally, in Korsgaard’s interpretation it is not entirely clear whether she ascribes the distinction between phenomenon and noumenon to the distinction between understanding and reason in general, or, rather, to the distinction between theoretical and practical reason. While the text just quoted seems to support the first option, at other times Korsgaard seems inclined to ascribe the noumenal perspective merely to practical reason. Although the latter approach is in tune with Kant’s asserted primacy of practical reason, it would make it difficult to defend the unity of reason. See Neiman, S. The Unity of Reason, p. 143.

³³ See Kant’s argument in GG, III, 4: 451ff.

³⁴ “Phenomenon and thing in itself are untenable notions from the standpoint of objective knowledge, but in their failure they are indispensable. If they are taken as tangible entities, they lead to a distortion. Two worlds arise, one in the foreground, the other in the background. The two are related but each seems to have a separate existence of its own. The background world becomes a realm of phantasms, whose contents all stem from our world. But for Kant there is only one world. What is touched upon in transcending thought is not another world, but no world at all. And insofar as it exists, it exists in this nonworld. A theory of two worlds is not Kantian, but only an inevitably contradictory mode of expression.” Jaspers, K. Kant, Harcourt Brace & Co, San Diego, New York, London, 1962, p. 39.

³⁵ Jaspers, Kant, p. 19.

³⁶ “Charity directs us, when interpreting a theory, to prefer readings that make it more plausible unless textual considerations to the contrary are compelling. All the more, this policy makes good sense if our aim is to develop a contemporary version of the theory in question.” Hill, T. HWMW. Kantian Perspectives, Clarendon Press, Oxford, 2002, p. 266.

can be justified within a Kantian framework,³⁷ it can also imply a more cultural claim. As one scholar recently pointed out, the allusion to common experience as the ultimate reference of philosophical reflection is quite characteristic of twentieth-century philosophy.³⁸ At the same time, however, the meaning of “common or ordinary experience” is in many ways elusive, and always open to interpretation. What seems moral common sense within a certain culture can look otherwise in a different one. There is no theoretically neutral conception of everyday life.³⁹

From this perspective, Rawls’ decision to develop his own proposal against the background of the American political tradition proved a wise methodological restriction. Indeed, it is perhaps because of the implicit particularization of his otherwise abstract discourse that Rawls’ theory has proven, in fact, to be of interest to people coming from different traditions. What the latter suggests is that Kant’s transcendental deduction works against the background of particular experiences, to the extent that we succeed in highlighting their essential features. Of course, the identification of those essential features remains in need of further explanation, but Rawls can skip this elucidation since his declared aim is practical, not epistemological. Particularly, his Political Liberalism is expressly designed to leave such epistemological and metaphysical questions aside.

We could assume that, insofar as the new Kantian moral theory follows the practical path, it can also leave those questions aside. But does the reference to “plausibility” within the context of the new Kantian moral theory have a function similar to Rawls’ reference to the American political tradition? In other words: is it backed by a similar transcendental deduction? What is it that makes a theory plausible? Actually, the only criteria of plausibility that an ethical theory should meet, according to Hill, is its compatibility with scientific knowledge.⁴⁰ Scientific knowledge, indeed, appears as a major

³⁷ Korsgaard’s references to teleology, for instance, invite us to follow this line.

³⁸ Rosen, S. The Elusiveness of the Ordinary. Studies in the possibility of philosophy, Yale University Press, New Haven & London, 2002.

³⁹ See Rosen, S. The Elusiveness of the Ordinary, p. 100. In this chapter, Rosen contrasts the underlying assumptions of Aristotle and Kant regarding everyday life.

⁴⁰ “Reflecting the ordinary sense of our moral terms, I take it, is a prima facie, but by no means decisive, consideration for including a particular conception (e.g. of conscience) in our moral theory. An entirely revisionary moral theory is unlikely even to get a hearing, but there are many possible considerations for not

feature of our contemporary world view that any plausible moral theory has to keep in mind: “Moral theory is not science, of course, but any moral theory that is worthy of contemporary support should, in my opinion, at least be compatible with empirical explanations regarded as well established in the current scientific community.”⁴¹

What counts as well established in the current scientific community is, of course, as changing a matter as what counts as current community. Given the uncertainty of scientific facts and their dependence on conventional interpretations, at least in some aspects moral theory must be open to fluctuation along with those changeable assumptions. Now, insofar as these references to our cultural and scientific practices represent a distinctive feature of the new Kantian moral theory, what this theory suggests is a revision of the role played by the empirical in Kant’s own moral theory. Such a revision is intended to make sense of the otherwise “too dry” pure moral theory, developed by Kant in the Groundwork and the Second Critique. By contrast, the so far somewhat neglected text of the Metaphysics of Morals is receiving increasing attention. The idea is not so much to blur Kant’s distinction between the pure and the empirical in ethics, but to show how both aspects interact in practice while maintaining what we could call a “Kantian framework.”

b) Kant’s moral constructivism

The distinctive features of the “Kantian framework” as assumed by the new Kantian moral theory can, once again, be traced back to Rawls’ view of Kantian moral constructivism, as opposed to “rational intuitionism.” Rawls regards “rational intuitionism” as the dominant moral theory “from Plato and Aristotle onward until it was challenged by Hobbes and Hume”; questionably he uses the same title⁴² to refer to “the view exemplified

automatically adopting current (or even persistent) ‘common sense’. For example, it may presuppose what is contrary to (not just beyond) our best scientific knowledge.” Hill, T. HWMW, p. 297-8.

⁴¹ Hill, T. HWMW, p. 287.

⁴² I think that it is at least controversial to include Aristotle along with, say, Moore, because the former did have a concept of practical reason, which puts him, in certain aspects, closer to Kant than to the other intuitionists. Perhaps the division of the history of ethics between intuitionists and constructivists is too rough to be entirely fair. It assumes that reason must be either intuitive or merely regulative. Yet for many centuries both aspects were supposed to play a role in the single faculty of reason. What the ancients understood by nous and dianoia, later called intellectus and ratio, were two dimensions of the same intellectual power. As two different dimensions of a single intellectual faculty, ancient and medieval reason finds no proper

in the English tradition by Clarke and Price, Sidgwick and Moore, and formulated in its minimum essentials by W. D. Ross.”⁴³

Rawls describes “rational intuitionism” as characterized by two features: “first, the basic moral concepts of the right and the good, and the moral worth of persons, are not analyzable in terms of nonmoral concepts (although possibly analyzable in terms of one another); and, second, first principles of morals (whether one or many), when correctly stated, are self-evident propositions about what kinds of considerations are good grounds for applying one of the three basic moral concepts, that is, for asserting that something is (intrinsically) good, or that a certain action is the right thing to do, or that a certain trait of character has moral worth.”⁴⁴

By contrast, Kant’s moral theory requires “that there is no such order of given objects determining the first principles of right and justice among free and equal moral persons.”⁴⁵ Otherwise the ethical principle would be heteronomous, while for Kant the ethical principle must be autonomous. At this point, however, two clarifications are needed:

In the first place, Rawls observes that “a Kantian doctrine of autonomy need not deny that the procedures by which first principles are selected are synthetic a priori,” provided that such procedures be “suitably founded on practical reason, or, more exactly, on notions which characterize persons as reasonable and rational.”⁴⁶ In other words: we must distinguish between the first principles and the procedures to select them: while the first are entirely a priori, the second can be synthetic a priori, thereby including some appeal to experience.

equivalent in the modern theory of knowledge; as a result, in ethical matters either one favors an intuitionist approach, or a constructivist one. But this either/or was not as clear in pre-modern ethics.

⁴³ Rawls, J. “Kantian Constructivism,” in Collected Papers, p. 343.

⁴⁴ Rawls, J. “Kantian Constructivism,” p. 343-4.

⁴⁵ Rawls, J. “Kantian Constructivism,” p. 345.

⁴⁶ Rawls, J. “Kantian Constructivism,” p. 346.

A further clarification regards the so-called “moral facts”: to call a moral doctrine “constructivist” does not mean to consider that “moral facts, much less all facts, are constructed. Rather, a constructivist procedure provides principles and precepts that specify which facts about persons, institutions, and actions, and the world generally, are relevant in moral deliberation. Those norms specify which facts are to count as reasons,”⁴⁷ but the facts themselves are already “available in our everyday experience or identified by theoretical reason.”⁴⁸

While we may once again recognize in those words the claim that moral theory is not supposed to replace everyday moral experience but rather to give an account of it, we could nevertheless still ask how we come to qualify a fact as a “moral fact,” in the absence of any kind of “moral intuition.” Barbara Herman’s notion of “rules of moral salience,” to which I referred above, could provide a provisional answer to this problem. But if we ask whence the rules of moral salience come, we have but two options left: either admitting a kind of moral intuition, or else developing a more or less sophisticated naturalistic account. In her article “Making Room for Character,” Barbara Herman explores this latter path⁴⁹, developing a complex account of the origin of those rules that connects them with the natural history of desire. While the account as such may not easily be classified as Kantian, it certainly manages to be very plausible.

Without entering in this problem himself, Rawls did argue that Kant’s moral doctrine can be described as constructivist because the content of the moral law, and the relevance of whatever moral facts we find in our ordinary experience, is to be determined

⁴⁷ Rawls, J. “Themes in Kant’s Moral Philosophy,” in Förster, E. (ed.), Kant’s Transcendental Deductions, p. 101.

⁴⁸ Rawls, J. “Themes,” p. 101.

⁴⁹ “Much of the work of moral judgment takes place prior to any possible application of rules in the eliciting of the relevant moral facts from particular circumstances... The central difficulty for Kantian theory comes from the identification of the aspect of character that makes moral judgment possible with a capacity that involves, or requires for its development, the nonrational faculties. But if we are ever to have a Kantian ethics liberated from its noumenal baggage, this is just the sort of fact that must be accommodated... I believe that the key to getting this right involves rethinking the basic relation between desire and motive: the way desires are or can be the occasion for motives and the way rational motives in turn affect the structure of natural history of desire.” Herman, B. “Making Room for Character,” in Stephen Engstrom & Jennifer Whiting (eds.), Aristotle, Kant, and the Stoics. Rethinking Happiness and Duty, Cambridge University Press, 1996, pp. 36, 37.

as a result of applying the Categorical Imperative procedure. Rawls sees this procedure as working in four steps:

First of all, “we have the agent’s maxim, which is, by assumption, rational from the agent’s point of view;” he specifies further that “the maxim is also assumed to be sincere” and its form is that of a particular hypothetical imperative: “I am to do X in circumstances C in order to bring about Y.”

The second step would be the generalization of the maxim to get: “Everyone is to do X in circumstances C in order to bring about Y.”

The third step introduces the reference to a law of nature: “everyone always does X in circumstances C in order to bring about Y (as if by a law of nature).”

And finally, Rawls says, we would be required to add the law of nature we ourselves have imagined to the existing laws of nature, in order to see what kind of world would arise.

At this point the test would consist in asking ourselves two things: a) Would I really be able to act on my maxim within the perturbed social world? b) Would I possibly be willing to act on my maxim in the perturbed social world?⁵⁰

Now, in order to overcome some difficulties arising from the analysis of Kant’s own examples, Rawls suggests introducing two ideas: the notion of “true human needs,” along with that of “two limits of information.”⁵¹ Taken together, argues Rawls, these conditions require that we “see ourselves as proposing the public moral law for an ongoing social world enduring over time.”⁵² Now, while the introduction of the notion of “true human needs” is intended to avoid formalism⁵³, the requirement of limiting the information,

⁵⁰ See Rawls, J. “Themes,” pp. 82-84.

⁵¹ “The first limit is that we are to ignore the more particular features of persons, including ourselves, as well as the specific content of their and our final ends and desires (4:433). The second limit is that when we ask ourselves whether we can will the perturbed social world associated with our maxim, we are to reason as if we do not know which place we may have in the world.” Rawls, J. “Themes,” p. 86.

⁵² Rawls, J. *Themes*, p. 86. Herman has criticized the requirement of publicity. She argues that it introduces “a new locale of moral opacity.” And asks: “Why should publicity be determinative? What reason do we have for thinking that in satisfying publicity under universalization a maxim has universal form?” Herman, B. “Leaving Deontology Behind,” in *PMJ*, p. 227. In her view, “the publicity requirement is an expression of a more basic value claim.”

⁵³ “Of course for this idea to work, we require an account for those needs. And here certain moral conceptions, rooted in our shared moral sensibility, may be involved.” Rawls, J. “Themes,” p. 86.

which immediately suggests Rawls' own "veil of ignorance," is intended to "enable us to see what Kant means when he says that the moral law discloses our freedom to us."⁵⁴

The disclosure of freedom takes place precisely to the extent that we maintain the priority of pure practical reason over empirical practical reason. Thus, while empirical practical reason is at work when the agent formulates his or her maxim, the imposition of restrictions on empirical practical reason by introducing the universalization requirement discloses an essential feature of the human agent: he is not merely a rational agent, able to formulate hypothetical imperatives, but a reasonable agent, able to subject himself to a universal law. Accordingly, we can imagine a particular agent coming to the CI-procedure with a particular set of inclinations, desires and ends that he would want to realize, deliberating about the best possible means to realize those ends according to "The Hypothetical Imperative," and, as a result, generating a particular maxim in the form of a hypothetical imperative. Now, this is the maxim, which, once subjected to the universalization requirement, brings about the moral content, in terms of permissibility or impermissibility of the particular action. Beyond this, what the whole procedure shows is that the human agent is endowed with two different powers – the rational and the reasonable – which reveal the underlying conception of the human person: namely, "the conception of free and equal persons as reasonable and rational, a conception that is mirrored in the procedure."⁵⁵

Rawls insists that this conception of the person is not constructed, but rather is mirrored in the CI-procedure, which is not constructed either. Indeed, according to him, the CI-procedure is merely laid out, since we must take it as implicit in everyday moral reasoning. This is something affirmed by Kant himself in several places, most noticeably in the Second Critique, when he speaks of the "Typic of Moral Judgment."⁵⁶ Thus, both the

⁵⁴ Rawls, J. "Themes," p. 86.

⁵⁵ Rawls, J. "Themes," p. 99.

⁵⁶ According to Kant, "this is how even the most common understanding judges" (5: 70), and he explains further: "for the law of nature always lies at the basis of its most ordinary judgments, even those of experience. Thus it has the law of nature always at hand, only that in cases where causality from freedom is to be appraised it makes that law of nature merely the type of a law of freedom, because without having at hand something which it could make an example in a case of experience, it could not provide use in application for the law of a pure practical reason" (5: 70).

CI-procedure and the conception of the person it mirrors – along with the conception of a society of such persons – are at the basis of Kant’s moral constructivism.⁵⁷

For Rawls, then, Kant’s moral constructivism follows straightforwardly from his demand for autonomy, and thereby from a conception of the person whose defining characteristics are freedom and equality. Both features become particularly evident in the third formulation of the Categorical Imperative, the Kingdom of Ends, which most properly represents the moral ideal elicited from Kant’s moral theory.⁵⁸ But while freedom and equality, as defining characteristics of persons, are fully disclosed in Kant’s explanation of the Kingdom of Ends, the basic features of the person as reasonable and rational, capable of an effective sense of justice and of pursuing a conception of the good, are already present in the formula of Universal Law. “Moral personality” is the term Rawls employs to refer to these moral powers: “The first power is the capacity for an effective sense of justice, that is, the capacity to understand, to apply and to act from (and not merely in accordance with) the principles of justice. The second moral power is the capacity to form, to revise, and rationally to pursue a conception of the good.”⁵⁹

Unlike the capacity for justice, the idea of “pursuing a conception of the good” could sound not entirely Kantian. Yet in his article, “Themes in Kant’s Moral Philosophy,” after showing how the Categorical Imperative works, Rawls suggests the several ways in which the concept of good finds a proper place in Kant’s moral theory: 1) the conception of happiness as organized by The (as opposed to a particular) Hypothetical Imperative; 2) the

⁵⁷ Rawls, J. “Themes,” p. 99.

⁵⁸ “By a kingdom I understand a systematic union of various rational beings through common laws. Now since laws determine ends in terms of their universal validity, if we abstract from the personal differences of rational beings as well as from all the content of their private ends we shall be able to think of a whole of all ends in systematic connection (a whole both of rational beings as ends in themselves and of the ends of his own that each may set himself), that is, a kingdom of ends, which is possible in accordance with the above principles. For, all rational beings stand under the law that each of them is to treat himself and all others never merely as means but always at the same time as ends in themselves. But from this there arises a systematic union of rational beings through common objective laws, that is, a kingdom, which can be called a kingdom of ends (admittedly only an ideal) because what these laws have as their purpose is just the relation of these beings to one another as ends and means.” GG, II, 4:433.

⁵⁹ Rawls, J. “Kantian Constructivism,” p. 313.

fulfillment of true human needs⁶⁰; 3) the good as fulfillment in everyday life of what Kant calls ‘permissible ends’; 4) good will, as the supreme (although not complete) good of persons; 5) the good as the object of the moral law, which is the realm of ends⁶¹; 6) Kant’s conception of the complete or highest good.⁶²

Through the specification of the various ways in which the concept of good is to be found in Kant’s ethics, Rawls intended to clarify the way in which the Reasonable – which issues the principles of justice by following the categorical imperative – supervenes over the Rational – thereby making it possible to speak of a “moral good.” Accordingly, although the agent comes to the CI procedure with certain conceptions of the good, what counts properly as a “moral good” would be a result of the procedure, that is, a result of the restrictions imposed by the Reasonable over the Rational.

Thus, by suggesting that these two uses of reason – the Rational and the Reasonable – were implicit in Kant’s moral theory⁶³, Rawls was highlighting, against the background of his own theory of justice, the practical implications of the Kantian concept of the (human) person. He holds this conception of the person as playing a central role in Kant’s moral philosophy.⁶⁴ At the same time, he also made clear that, “unless this

⁶⁰ As it was pointed out before, the second conception, is designed expressly to meet a need of reason: to have objective content. For this, however, Rawls had to introduce the publicity requirement. Barbara Herman has criticized this point. See Herman, B. “Leaving Deontology Behind,” in *PMJ*, p. 227.

⁶¹ This points at “the social world that would come about (at least under reasonably favorable conditions) if everyone were to follow the totality of precepts that result from the correct application of the CI-procedure.” It is this social world which defines Rawls’ idea of a “moral conception”: “a moral conception is not to revolve around the good as an independent object, but around a conception of the right as constructed by our pure practical reason into which any permissible good must fit.” Rawls, J. “Themes,” p. 93.

⁶² “I shall use the secular term ‘realized realm of ends’, and I assume that his complete good can be approximated to in the natural world, at least under reasonably favorable conditions. In this sense it is a natural good, one that can be approached (although never fully realized within the order of nature).” Rawls, J. “Themes,” pp. 90-94. Most likely, Andrews Reath’s clarification of the double meaning –secular and religious- of Kant’s notion of the “highest good,” followed by an argument which shows that only the first one is really consistent with Kant’s definition of a practical end, could also be in debt to Rawls.

⁶³ “In characterizing human persons I have used the phrase ‘reasonable and rational’. The intention here is to mark the fact that Kant’s uses *vernünftig* to express a full-bodied conception that covers the terms ‘reasonable’ and ‘rational’ as we often use them... It is useful to use ‘reasonable’ and ‘rational’ as handy terms to mark the distinction that Kant makes between the two forms of practical reason, pure and empirical. The first is expressed as an imperative in the categorical imperative, the second in the hypothetical imperative.” Rawls, J. “Themes,” pp. 81-113, p. 87, 88.

⁶⁴ “By contrast, rational intuitionism requires but a sparse conception of the person, based on the idea of the person as knower.” Rawls, J. “Themes,” p. 97.

conception (of the person) and the powers of moral personality it includes – our humanity – are animated, as it were, in human beings, the moral law would have no basis in the world.”⁶⁵ As the example he quotes suggests⁶⁶, by saying this he was trying to stress the fact that reason – or humanity for that matter – must be embodied in real, particular, human beings. Therefore it is not humanity in general, but humanity realized in particular human beings, that makes morality something real. Now, since the source of particularization in Kant comes mainly from the empirical side of nature, the latter demand brings us back to the importance of the empirical.

As has already been pointed out, the attempt to show how the empirical works within Kant’s ethics is a distinctive mark of the new Kantian moral theory. The attempt, of course, has to face the traditional objections of formalism and rigorism, particularly challenging when we deal with the problem of moral motivation. Before taking up this topic, however, I would like to point out that the main aspects of the Rawlsian interpretation of Kant that I have brought up here are easily recognizable in the writings of the new Kantians.

3. Human nature and practical reason

In fact, both Rawls’ focus on the person and moral personality, on the one hand, and his account of practical rationality developed in terms of the distinction between the Reasonable and the Rational, on the other, are two noticeable characteristics of the new Kantian moral theory. Thus, Thomas Hill’s introduction of the “Hypothetical Imperative” as a principle that works in parallel, instead of colliding, with the “Categorical Imperative,” represents an attempt to clarify Kantian practical deliberation, largely in debt to Rawls’ own distinction.⁶⁷ The same could be said of Korsgaard’s characterization of both the hypothetical and categorical imperatives as constitutive principles of actions.⁶⁸

⁶⁵ Rawls, J. “Themes,” p. 100.

⁶⁶ “Recall here Kant’s thought that to commit suicide is to root out the existence of morality from the world.” (MM 6: 422-23).

⁶⁷ As he himself points out. See “The Hypothetical Imperative,” in DPR, p. 17.

⁶⁸ See especially her Locke Lectures, II and III.

Likewise, the noticeable shift of attention from the Formula of Universal Law to the Formula of Humanity – especially evident in Korsgaard – could be interpreted in light of Rawls’ discovery of the centrality of the person in Kant’s moral philosophy, although it cannot be literally traced back to him. The latter is clear, for even if Rawls insisted on pointing at the conception of the person behind Kant’s use of the categorical imperative, thereby suggesting the idea of rational nature as the source of value, he did not develop a particular argument for this point, based on the interpretation of Kant’s formula of humanity. Incidentally, Rawls limited himself to pointing out that the formula of Humanity should not be interpreted as introducing new requirements beyond those already made explicit in the formula of Universal Law. At the same time, he suggested that, as long as “humanity” is understood as “our pure practical reason together with our moral sensibility,” the Formula of Humanity could not be interpreted in isolation from the Metaphysics of Morals.

While in saying this, Rawls may have encouraged contemporary attempts to relate the Groundwork and the Metaphysics of Morals, it should be kept in mind that at that point he was taking humanity as synonymous with “moral personality.”⁶⁹ In doing so, however, he would depart from Kant, who had drawn a sharp distinction between humanity and personality⁷⁰. According to that distinction, humanity would include pragmatic, but not moral reason. Following Kant’s distinction, however, as well as his definition of Humanity in terms of “the capacity to propose an end to oneself,” Korsgaard would manage to relate the Formula of Humanity to a theory of value which is ultimately grounded in rational nature. According to her, then, the Formula of Humanity would command us to respect “the capacity for the rational determination of ends in general, not just the capacity for adopting morally obligatory ends,”⁷¹(which would not be humanity, but personality):

Humanity, completed and perfected, becomes personality, so that in treating the first as an end in itself we will inevitably be led to realize the second. Thus,

⁶⁹ “Our humanity is our pure practical reason together with our moral sensibility (our capacity for moral feeling). These two powers constitute moral personality, and include the power to set ends; they make a good will and moral character possible.” Rawls, J. “Themes,” p. 89.

⁷⁰ Kant, Religion within the Boundaries of Mere Reason, 6: 27-28.

⁷¹ Korsgaard, C. “Kant’s Formula of Humanity,” in CKE, p. 111.

in the Critique of Practical Reason, humanity in one's own person and personality are spoken of as if they were the same thing (C2, 87). But the distinctive feature of humanity, as such, is simply the capacity to take a rational interest in something: to decide, under the influence of reason, that something is desirable, that it is worthy of pursuit or realization, that it is to be deemed important or valuable, not because it contributes to survival or instinctual satisfaction, but as an end – for its own sake.⁷²

Now, focusing on the distinctive human capacity of “taking a rational interest in something,” and, more precisely, on the fact that such capacity is not only good as an end, but also intrinsically valuable⁷³, Korsgaard advances an argument to show the implications of Kant's Formula of Humanity for the development of a theory of value. The argument is not without problems, though. It is certainly true that Kant himself sets the basis for a theory of value in the Groundwork, when he introduces the distinction between dignity and price, distinguishing further between market price and fancy price, and emphasizing that “autonomy is the ground of the dignity of human nature and of every rational nature.”⁷⁴ However, the argument for a intrinsic value of humanity somewhat disconnected from personality (and morality) could sound surprising, given the intrinsic connection that Kant himself introduces between dignity and morality. Thus he says: “morality, and humanity insofar as it is capable of morality, is that which alone has dignity.”⁷⁵ Along the same lines, at the beginning of the Groundwork, Kant had stated clearly that only a good will is to be regarded as intrinsically good.

Korsgaard's argument for the intrinsic value of humanity, however, begins by taking into account the necessary connection between “reason” and “good” in the following terms: “a rational action must be done with reference to an end that is good.” Now, in Kant's account, it is not any prior knowledge of the good that provides us with a reason for acting, but rather it is our having a sufficient reason for (doing) something that justifies a

⁷² Korsgaard, C. “Kant's Formula of Humanity,” in CKE, p. 114.

⁷³ Korsgaard shows the relevance of making this distinction: happiness, for Kant, is valuable as an end, but it is not intrinsically valuable. A good will is both valuable as an end and intrinsically valuable. And so it is with humanity – even (and here would lie a possible difficulty) if it is not yet equivalent to personality.

⁷⁴ GG. II, 4: 436.

⁷⁵ GG. II, 4: 435.

particular end as good: “a good end is one for which there is a sufficient reason.”⁷⁶ With that in mind, Korsgaard points to the passage where Kant argues for the formula of Humanity by providing a kind of regressive account of “reasons for acting” until he finds a “sufficient reason” only in the rational being⁷⁷ as the only being who represents his or her existence as an end in itself. Korsgaard posits that the reason for this claim lies in the very fact that in choosing any other object, a rational being not only takes that thing to be valuable for him (subjectively), but takes himself as necessarily valuable. In other words, Korsgaard maintains that

rational choice has ... a value-conferring status. When Kant says: ‘rational nature exists as an end in itself. Man necessarily thinks of his own existence in this way; thus far it is a subjective principle of human actions’ (G 429), I read him as claiming that in our private rational choices and in general in our actions we view ourselves as having a value-conferring status in virtue of our rational nature. We act as if our own choice were the sufficient condition of the goodness of its object: this attitude is built into (a subjective principle of) rational action.”⁷⁸

Accordingly, Korsgaard’s thesis rests in two considerations: 1) one does not choose something because she discovers some value in it. It is rather her choosing something what makes it valuable to her eyes. 2) This very operation involves taking oneself –one’s rational nature- as the ultimate source of value. Although it is far from certain that Kant actually developed this argument, the argument as such is certainly Kantian, for the way it gives priority to the rational over the good. In doing so, it is

⁷⁶ Korsgaard, C. “Kant’s Formula of Humanity,” in CKE, p. 120.

⁷⁷ The passage begins already at 4:428, with Kant showing the difference between relative and necessary ends; then Kant goes on to affirm the principle: “I say that the human being and in general every rational being exists as an end in itself, not merely as a means to be used by this or that will at its discretion; instead he must in all his actions, whether directed to himself or also to other rational beings, always be regarded at the same time as an end.” Then, Kant offers a list of possible ends, distinguishing between those which have relative worth (objects of the inclinations, the inclinations themselves as sources of needs, beings whose existence rests not on our will but on nature, which he calls things), and finally rational beings or persons, “because their nature already marks them out as an end in itself, that is, as something that may not be used merely as a means, and hence so far limits all choice (and is an object of respect).”

⁷⁸ Korsgaard, C. “Kant’s Formula of Humanity,” in CKE, pp. 122-3.

certainly constructivist. At the same time, the focus on the agent involved in this kind of reasoning can be traced back to Rawls's own focus on the person and moral personality.

4. The issue of moral motivation.

As I suggested above, an important aspect of Rawls's influence on the new Kantians lies in the implicit invitation to review the role of the empirical in Kant's moral theory. This naturally leads our attention to the way the new Kantians respond to the objections of formalism and rigorism traditionally addressed to Kant's ethics. Here I shall solely focus on the more particular issue of moral motivation, which is somehow at the intersection of both problems. Thus, while alleged rigorism consists in the demand "to act from the motive of duty alone," formalism would impose the impossible requirement of acting because of the universality of the law, regardless of its content. Yet both things seem either undesirable (so Schiller's objection against acting from duty alone), or simply impossible – as Hegel pointed out in regard to the categorical imperative⁷⁹, and as the moral philosophers coming from an empiricist tradition have argued specifically in regard to motivation.

Since the empiricist objection goes back to Hume's skepticism about practical reason, traditional Kantians have usually rejected the charge as missing the real point of Kant's position – namely, that pure practical reason does exist. In other words, in order to be practical, or to move to action, reason does not need any antecedent sensible feeling or expectation. Reason can move us to act by the mere representation of the law. Yet can a purely formal law be practical at all? At this point, all depends on understanding that the universal character of reason requires that it has to be determined by something equally universal. For Kant, this "something universal" is nothing other than the law. To the extent that we act according to the universal law, we are acting well. On the other hand: to the extent that we act according to a general –but not universal– principle, we are, however

⁷⁹ See Hegel: Elements of the Philosophy of Right, H. B. Nisbet (tr.) A. Wood (ed.), Cambridge University Press, 1991.

unnoticeably, letting something empirical get in the way. We are not acting as autonomous agents; we are acting badly.

It seems to me that one cannot abandon this picture without abandoning Kant. Yet the picture should be purified of some misunderstandings implied in the expression, “acting from the motive of duty.” Perhaps a good way to clarify those misunderstandings is to distinguish more clearly between the question of “the determining ground of morality” and the question of motivation in general. For Kant, the determining ground of morality, as just said, is the universality of the law, and this is also what Kant comprises under the notion of “duty.” But Kant also distinguishes among duties according to their content, so that it must be possible to speak of motivation in a more qualified sense. In other words: in performing a duty of beneficence, we must be certainly determined by duty –and thereby, by some form of categorical imperative– but, at the same time, there must be something that allows us, as agents, to distinguish between the duty of beneficence and some other duties. I believe this is the question both Herman and Korsgaard have in mind when they place so much weight on Kant’s distinction between “incentives” (Triebfedern) and “motives” (Bewegungsgrund).

Kant introduces this distinction in the following passage of the Groundwork:

The subjective ground of desire is an incentive; the objective ground of volition is a motive; hence the distinction between subjective ends, which rest on incentives, and objective ends, which depend on motives, which hold for every rational being. Practical principles are formal if they abstract from all subjective ends, whereas they are material if they have put these, and consequently certain incentives, at their basis.⁸⁰

The former passage suggests that incentives are usually sensible, though it is not always so (think of the moral incentive). Their role is to instigate in us the possibility of an action. Now, any action is supposed to involve a maxim (subjective principle for action), which must be checked against the Categorical Imperative. Before doing so we are still at

⁸⁰ GG. II, 4: 428.

the level of empirical practical reason (recall Rawls). Only when we have checked the maxim against the Categorical Imperative, and ascertained its (possible) universalization, are we in a condition to determine our reason for the morally good, because it is only then that the representation of the universal law can determine the universal nature of our reason, and only then that the so-called moral incentive properly arises.

At this point, it is important to notice that, while it is the universality of the law – and thereby the Categorical Imperative – that determines reason, the Categorical Imperative finds its deliberative field within the material provided by the empirical practical reason, in the maxim of the action suggested by the incentive. Were it not for this maxim, and ultimately the original incentive for action, we could not have even applied the Categorical Imperative.

According to Herman it is in the maxim where we should look for the proper motive for an action, because it is the maxim that shows what the particular reasons for an action are. Her account of “motives” as “reasons for acting,” is thus to be opposed to empiricist conception of “motives as desires,” – where “desires” are taken as “causes,” rather than as “reasons.”⁸¹ The same conclusion follows from Korsgaard’s definition of motive as “an incentive plus a principle.”⁸² In both cases we get a picture that permits us to maintain a legitimate diversity within the motive of duty – that is, acting from the motive of duty does not involve the neutralization of all significant features of moral character, as expressed in the virtues. Thus, Herman writes:

The man of sympathetic temper responds to suffering and takes that response to give him a reason to help. Only then does he act from the motive of sympathy. An action that is done from the motive of duty is performed because the agent finds it to be the right thing to do and takes its rightness or

⁸¹ “Kantian motives are neither desires nor causes. An agent’s motives reflect his reasons for acting. An agent may take the presence of a desire to give him a reason for action as he may also find reasons in his passions, principles, or practical interests. All of these, in themselves, are ‘incentives’ (Triebfedern), not motives, to action. It is the mark of a rational agent that incentives determine the will only as they are taken up into an agent’s maxim. Indeed, it is only when an agent has a maxim that we can talk about his motive.” Herman, B. “On the Value of Acting from the Motive of Duty,” in PMJ, pp. 11-12.

⁸² See Korsgaard, C. The Locke Lectures.

requiredness as his reason for acting. He acts from the motive of duty with a maxim that has moral content.”⁸³

Does Herman’s and Korsgaard’s move involve the rejection of any Kantian principle? It all depends on how one understands the last words in Kant’s text quoted above: “Practical principles are formal if they abstract from all subjective ends, whereas they are material if they have put these, and consequently certain incentives, at their basis.” Have they put a particular incentive at the basis of the Categorical Imperative? Or have they rather taken the incentive merely as the occasion to apply the Categorical Imperative?

While there can surely be controversial points in their interpretation of Kant, it seems to me that the basic account of moral motivation they develop remains within a Kantian framework, at least as Rawls conceives of it. Thus he writes:

“Let’s ask how the CI-procedure exhibits the moral law as sufficient of itself to determine the will. Here we should be careful not to interpret this feature too strongly. I do not think Kant wants to say, and certainly he does not need to say, that the moral law determines all the relevant aspects of what we are to do. Rather, the moral law specifies a scope within which permissible ends must fall, and also limits the means that may be used in their pursuit, and this goes part way to make the moral law sufficient of itself to determine the will. (Of course, particular desires determine which permissible ends it is rational for us to pursue, and they also determine, within the limits allowed, how it is rational for us to pursue them. This leeway I view as compatible with Kant’s intentions.”⁸⁴

Now, the scope within permissible ends fall is the scope determined by the universalization procedure: if the maxim pass the test of universalization, the type of action reflected in the maxim is permitted. Otherwise it is prohibited. Yet the maxim was originally formulated on the basis of a particular incentive for action. In other words: incentives provide us with ends. We do not arrive at the Categorical Imperative without

⁸³ Herman, B. *PMJ*, p. 12.

⁸⁴ Rawls, J. “Themes,” p. 109.

anything to pursue. And yet, according to Herman and Korsgaard, the incentive alone is not the motive for action. The motive is rather the maxim along with the incentive.

By contrast, the determining ground of a good action will be its possible universalization –its ability to become a universal law. On the other hand, if one determines oneself to act apart or against this possible universalization, one acts badly. How can this be possible, given that our universal reason can only be determined by a universal principle? According to Kant this happens because the human being “reverses the moral order of his incentives in incorporating them into his maxims.”⁸⁵ In other words: instead of making one’s desire of a certain good conditional to the fulfillment of the categorical imperative, one would make the fulfillment of the moral law conditional to the acquisition of that good. In Rawls terminology: instead of subordinating the rational to the reasonable, one would be subordinating the reasonable to the rational.

Rawls’ approach to Kant may look controversial to those familiar with the conventional reading of Kant. This is not strange, since Rawls himself tried over the years to go beyond that conventional reading –largely based on Kant’s Groundwork- to discover the ethical relevance of many of his other writings, whereby he could make his case for a more plausible Kant.

If, as I have argued along this article, many central points of the new Kantian moral theory, can be explained in the light of Rawls’ interpretation of Kant, much of the objections raised against the new Kantians could be clarified along the same lines: as a revision of Kant’s ethical work, intended to make it look more plausible. To what extent the resulting Kant can still be called “kantian” in the old sense, remains an open question⁸⁶.

⁸⁵ Kant, Religion, 6:36.

⁸⁶ Acknowledgements: I would like to thank Prof. Christine M. Korsgaard for providing me with some material for this article, as well as for a useful conversation on the topic of this article. I am also in debt with Kyla Ebbels Duggan for her feed-back on the similarities between the late Rawls and Barbara Herman’s reading of Kant. Finally, I would like to thank Melissa Moschella and the Editors of the Journal of Moral Philosophy, for their revision of the editing.

