

# **Maximic Actions, Noumenal Self, and Evil**

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### Map of the Argument

In this paper I examine Kant's account of maxims and his discussion of the universal ground of evil in human nature in the *Religion within the Boundaries of Mere Reason* (the *Religion*). First I lay out what Kant takes to be the only two kinds of factors to whose influence the agent is motivationally susceptible as she decides on an action and then carries it out. Then I outline Kant's account of how these factors manage to motivate the agent through maxims, and discuss how an action is to be conceived in Kantian terms, in particular whether the adoption of a maxim is internal and integral to the action itself, what the ground of the adoption of a maxim is, and whether this ground is knowable. Equipped with a better account of agency and action, I then develop a practical argument for Kant's claim that there is a universal tendency to evil in human nature. Finally, by trying to explain various kinds of evils, namely those due to fragility, impurity, depravity, and wickedness, in terms of this account, I argue that it is both explanatorily competent and practically justifiable both in general and in particular against the Augustinian objection concerning the possibility of doing evil purely for the sake of evil.

### Two Characters of Human Agency

Kant thinks that human agency has two important aspects, namely the empirical and the intellectual character. On the one hand, a person has various sensible impulses, desires, passions, and inclinations, which affect her senses according to the laws of the empirical world. The person is susceptible to the influence of the sense, insofar as the aforementioned sensible conditions can motivate and influence her actions in various circumstances. The aspect of human agency in which sensible conditions exert impact on the person's practical deliberation and action constitutes her empirical character. On the other hand, a person is a rational being in whom the moral law is

present. The moral law, which lies beyond the world of senses, is able to change the person's desiderative structure and influence her *a priori* alone through the *lawfulness* of the action in question, i.e. *via* the purely intellectual representation of whether the action can be willed to be universally adopted on the same ground as that on which the agent herself adopts it. If the action can be willed in this way, then it is permissible. If it is not, then it is forbidden, and a duty is generated for the agent to act in the opposite way.<sup>1</sup>

The moral law's influence on the agent is manifest through the phenomenological fact that as the person is ready to act pursuant of certain sensible incentives which draw the agent to an action that violates the command of the moral law, in her consciousness she is always confronted with the representation that she ought to do otherwise unconditionally. The *ought*, which expresses the absolute necessity to conform to the command of the moral law on the ground of duty, imposes itself irresistibly onto the person's practical consciousness. What is noteworthy here is that the moral law's impact on the person's willing is direct, in that the moral law's exertion of its influence is not mediated through any affected senses. The necessity and universality of the moral law are signs of its *a priori* origin and character. The *ought* that is contained in every command of the moral law can only be grasped by reason alone in an intellectual representation. To the extent that it is only through pure practical reason alone that the agent is conscious of the moral law and is determined to act in accordance with it, the aspect of human agency in which the moral law directly influences the person's desiderative structure constitutes her intellectual character.

The intelligible character is what makes an agent free in the practical sense. It is in virtue of the fact that the moral law is present and strong enough to move or determine her will that the

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<sup>1</sup> In this brief sketch of how the moral law works, I have refrained from using the term maxim, for the sake of systematicity in my discussion. I will return at a later point with an account of how the moral law influences the agent through maxims.

agent is free insofar as she is not completely, i.e. deterministically, determined by her sensible conditions. To the extent that the agent is free from the coercion of her sensible conditions, she is practically free in the negative sense. It is also in virtue of the moral law and its capability of moving her will that the agent can act morally by acting only in such ways and on such reasons as can be willed to be acted on by every other rational agent. Thus, acting upon the good lies within the capacity of the agent, who is therefore said to be practically free in the positive sense.

The relationship between positive and negative practical freedom is not symmetric in the sense that negative practical freedom is not a sufficient condition for positive practical freedom, but the latter does imply the former.<sup>2</sup> On the one hand, it is entirely possible to conceive of creatures which are practically free in the negative sense insofar as they are free from the coercion of their sensible conditions, but which, due to the absence of the moral law, or the insufficient power of the moral law to move the agent's will, are incapable of acting upon the moral law, and, consequently, cannot act upon the good. It might be possible for such creatures to act in conformity with the moral law, but such conformity is merely external and contingent, insofar as they are unable to act from the right ground, solely from the lawfulness of the action, and hence the moral law itself. This shows that negative practical freedom does not imply the positive one. On the other

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<sup>2</sup> It should be noted that Kant seems to have thought that negative practical freedom implies positive practical freedom. In the beginning of the third section of the *Groundwork*, Kant argues that freedom of the will, construed in the negative sense as the capacity to produce actions "independently of alien causes *determining* it" (4:446), and freedom through the moral law, construed in the positive sense as the susceptibility of the will to the determination of the moral law, are reciprocal concepts. As Kant puts it, in addition to the relatively undisputed notion that positive practical freedom entails negative practical freedom, it is also true that "there flows from [the negative concept of freedom] a positive concept of freedom" (4:446), so that "a free will and a will under the moral law are one and the same" (4:447). Kant's argumentative strategy here is to establish the claim that any freedom of the will is a special kind of causality which presupposes laws of a special kind, and then argue that a negatively free will, since it is by definition not subject to the natural laws, is necessarily susceptible to the determination of the moral law, which is the only other kind of law than the natural laws (4:446 – 447). The claim regarding the mutual entailment of positive and negative practical freedom, widely known as the Reciprocity Thesis, is famously defended by Henry Allison in his article *Morality and Freedom: Kant's Reciprocity Thesis*. However, although it is not my intention to be involved in any extended argument of whether the Reciprocity Thesis obtains, in my opinion, for the reasons given in this paragraph, there is no good reason to believe that the negative sense of practical freedom implies the positive sense.

hand, however, the latter does imply the former. To be able to act upon the moral law, whose influence on the agent's desiderative structure cannot in principle be captured in terms of the deterministic causal laws of nature according to which her sensible conditions affect her practical deliberation, means exactly that she is free from the coercion of her sensible conditions.

Since it lies beyond the power of the agent who is not practically free to act upon the good, i.e. upon the moral law, morality is impossible for her, because she is incapable of actions with moral worth, even though what she does might coincide contingently with that the moral law commands. Nor is moral imputation possible, for according to the intuition to which Kant himself is committed, the agent cannot be held blamable for bad actions if it does not lie in her power to act upon the law. For this reason, creatures of this sort cannot be morally imputed for their actions, and therefore cannot be held capable of morality.

Therefore, creatures whose agency only has the empirical character are not capable of morality, because no action free in the general sense is possible for such creatures. The sensible conditions affect the senses according to the deterministic laws of nature, so that for a specific set of sensible conditions there is one and only set of actions completely determined by the sensible stimulations that these creatures receive. Instances of this presumably include various kinds of animals, which act only upon natural impulses, fully subject to the deterministic laws of nature. For these creatures there is no genuinely open possibility to act otherwise than what the sensible conditions compel them to do. Given the often found discrepancy between what their sensible conditions drive her to do, and what the moral law, were it present in them, would command them to do, assuming that they were such rational agents with double character of their agency as human beings, these creatures are not only unable to act upon the moral law, but are also compelled to act

in direct violation of it. This consequence is hardly surprising given the contingent nature of the external, apparent conformity of their actions with the commands of the moral law.

Kant thinks that creatures whose agency only has the intellectual character, and in whom the moral law is present, though practically free, cannot act in violation of the moral law. For Kant, all rational beings which are exempt from the influence of their senses but nevertheless remain susceptible to influence of the moral law capable of moving their will, always act in accordance with the moral law on the ground of duty, because “the law rather imposes itself on [the agent] irresistibly [...] and if no other incentive were at work against it, [she] would also incorporate it into [her] supreme maxim as sufficient determination of [her] power of choice, i.e. [she] would be morally good” (6:36). I shall discuss maxims later in this paper. My point here is that, for creatures of this sort, in the absence of any incentives of nature, the moral law alone is left as a sufficient determining basis for their actions. Since there is no incentive that battles with the influence of the moral law over the will of these creatures, not only do deeds that violate the law lie beyond their power, for nothing drives them to oppose the moral law, but deeds that are done from grounds other than the moral law itself are also impossible for them, for nothing other than the moral law exists to exert its power of driving or inducing them to do anything whatsoever.

This point is interesting and deserves a bit more elaboration. Kant thinks that for rational beings such as human beings, the moral law bears with it an incentive for the power of choice. In other words, the moral law automatically exerts its influence on the power of choice and drives the agent to act upon it. The fact that the agent fails to act upon the moral law must be due to the positive presence and influence of something other than the law, something which bears with it a competing incentive and thereby moves the agent to violate the law. In another important footnote in Part One of the *Religion*, Kant argues that “[i]n us [...] the [moral] law is incentive, = a. Hence

the lack of agreement of the power of choice with it ( $= 0$ ) is possible only as the consequence of the consequence of a real and opposite determination, i.e. of a resistance on its part,  $= -a$ " (6:22). The implication here is that the pure unlawfulness of any given action, as the formal negation of the moral law itself, cannot by itself move the agent to act in violation of the law, because such a pure resistance of lawfulness bears with it no incentive with respect to the power of choice. In other words, acting in violation of the law for the sake of violating the law is impossible for creatures in whom the moral law is present and sufficient to move them to actions. To summarize, creatures whose agency only has the intelligible character with the moral law in them are incapable of violations of the law on the sole ground of their unlawfulness.

#### The Maximic Nature of Free Actions

According to Kant, all free actions are maximic insofar as they are grounded in maxims formulated by the agent through the use of her freedom. A maxim is a practical rule which specifies an action as a means to achieve some end in a given circumstance (cf. 5:20). The following formula gives the general form of a maxim: in circumstance  $C$ , do action  $A$  for purpose  $P$ , or  $\{C, A, P\}$  in summary. For instance, lend financial help to the poor person ( $A$ ), when she is about to starve to death because of her poverty ( $C$ ), so that she may be relieved of her dire situation ( $P$ ). Here ( $A$ ) is conceived as a means that leads to ( $P$ ) in the given ( $C$ ). Insofar as a maxim is a practical rule by which the agent acts, it not only prescribes what the agent is to do, but also motivates the agent to do so. Thus, a maxim constitutes the ground for any free action that is ascribable to the agent.

It should be noted that a maxim is a rule of practical guidance which reason formulates by taking into account the agent's subjective conditions, namely her passions, desires, inclinations, and cognitive or practical limitations. Two points can be made to illuminate this claim. Firstly,

reason drafts a maxim by specifying an action as a means to an end that must be practically possible for the agent to achieve given her epistemic or practical constraints, for instance, the inability to obtain perfect information and therefore the necessity to act under ignorance, or the lack of power to carry out certain actions within a practically constrained circumstance. In Kant's own word, a maxim "contains the practical rule that reason determines in conformity with the conditions of the subject (quite often his ignorance, or his inclinations), and is thus the principle according to which the subject acts" (4:420n). Secondly, although the ultimate formulation of a maxim requires reason, the agent's subjective conditions play an important role in the process of her drafting a maxim. Here the idea is that the agent's desires, passions, or inclinations might at times supply the purpose (*P*) for which an action is done, for instance, the fulfillment of a certain desire for luxurious goods for whose sake the agent is to procure and spend money in a certain way. In addition, these sensible conditions might also constitute the grounds on which the agent adopts certain maxims, insofar as it is for the sake of the fulfillment of such conditions that one fulfills through an action some other conditions whose fulfillment is conducive to that of the ultimate ones.

As mentioned above, Kant holds that all free actions are maximic. Below I attempt an argument for this claim with the intention not so much of establishing it beyond doubt as of making it more plausible or intuitive. (1) An action is grounded, *either causally or not*, in the agent. (2) If an action is grounded in the agent, then they are connected by some *rule*. The thought that the action can be grounded in the agent without any rule is inconsistent, because in order for the agent to be the ground for the action, certain requirements, specifiable only through a rule, have to be met. (2.1) The relation between the agent and the action cannot be entirely random or arbitrary. A weak sense of consistency is required of the agent so that it makes sense to think of a certain action as grounded in her. There must be some basis on which the agent acts in a given circumstance, to



the effect that in other circumstances which are non-trivially similar to the current circumstance, the agent would act in a way that is non-trivially similar to that in which she now acts. Such a basis supplies the motivational explanation why an agent acts as she decides to do. (2.2) Such a basis has to be of a particular kind, namely that in which the agent is connected to the action through some of her representations. The agent, aware of the circumstance in which she finds herself, conceives of, or represents to herself, a purposed effect and an action as a means to achieve it. (3) The only possible candidates for such rules are causal laws and maxims. The thought here is that no other rule-like thing exists than the causal laws, which make nature possible in experience, and the maxims, which human beings make for themselves with the practical concern as to how to act. (3.1) The causal laws of nature are rules that determine the temporal order of the representations such that causes and effects as represented in experience are connected in a way that cannot possibly be otherwise. (3.2) The maxims are practical rules which prescribe in given circumstances actions not completely constrained by the causal laws of nature as means to achieve aims set in reference to the subjective conditions of the agent. (4) Free actions are free precisely in the sense that they are not completely determined by the causal laws of nature. (5) A maxim is the only kind of rule which connects free actions with the agent in a way that satisfies requirements (2.1), (2.2), and (4). Therefore, all free actions are maximic. The argument above is not intended to establish this claim beyond all possible doubt, but it nevertheless aims at making it more plausible to those who at first glance find Kant's view far from obvious or intuitive.<sup>3</sup>

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<sup>3</sup> The argumentative strategy here is to some extent similar to Henry Allison's argument in his article *Morality and Freedom: Kant's Reciprocity Thesis*, although there Allison argues for a different thesis – that negative practical freedom implies positive practical freedom – and intends the argument to be strong enough to establish this claim. The move that I share with Allison is more or less what I have fleshed out in (2), that the agent and the action, since the former is supposed to ground the latter, must be connected by some rule.

Having explicated what a maxim is, now I try to outline Kant's account of free agency which acts maximally, by explaining how the sensible conditions and the moral law move the agent towards action through maxims. On the one hand, certain sensible conditions are said to determine the will of the agent if she incorporates them into her maxims upon which she consequently acts. The agent is said to incorporate certain sensible conditions into her maxim if she drafts the maxim and makes it the determining ground for her action on the ground of these sensible conditions. This is a crucial point, and I now attempt to bring more clarity to it. It must be stressed here that the fact the agent incorporates certain sensible conditions into her maxim does not mean that she fills the purpose component (*P*) of the maxim  $\{C, A, P\}$  with her desires, passions, or inclinations. A maxim into which the agent incorporates certain sensible conditions of hers is not by definition identical with a maxim that specifies in a given circumstance (*C*) a certain relation in which the fact that the agent does (*A*) amounts to a means to the fulfillment of (*P*) where (*P*) consists of her sensible conditions. Rather, the agent's incorporation concerns the ground on which she adopts the maxim in question, namely whether she adopts the maxim from duty or for the sake of some sensible conditions. In fact, certain maxims whose purpose component pertains to the fulfillment of the agent's sensible conditions might even be duties, either perfect or imperfect, which she ought to carry out unconditionally. An instance of such maxims is the following: in daily life, make sure to eat, drink, and sleep healthily, so that your corresponding bodily desires are fulfilled neither insufficiently nor excessively. This maxim, which specifies a duty towards oneself, is to be adopted from duty. Again, the point here is that when Kant talks about the agent's incorporation of certain sensible conditions into her maxim, he is discussing the ground on which a maxim is adopted rather than the purpose component *P* of the maxim  $\{C, A, P\}$ .

On the other hand, the moral law is said to determine the agent's will if she acts from duty upon the maxim opposite to the one that fails the categorical imperative test. An instance of this is an agent who in her poverty refuses to make any false promise to secure money from others, well aware that it is her duty to do so. The maxim that prescribes making a false promise as a means to procure money from others fails to pass the categorical imperative test, because the maxim cannot be willed to hold as a universal law of nature. In this case, the agent adopts the opposite maxim, not to make any false promise, unconditionally. In this sense, the agent is said to incorporate the moral law into her maxim. She is also said to act upon the moral law, motivated by the lawfulness of the maxim according to which she acts. Quite parallel to the incorporation of sensible conditions into a maxim, when Kant talks about the incorporation of the moral law into a maxim, he is talking about the ground on which the maxim in question is adopted rather than the purpose component (*P*) of the maxim. The agent is said to incorporate the moral law into her maxim if she adopts a maxim opposite to one that fails the categorical imperative test on the sole ground of the formal lawfulness of that opposite maxim.

According to Kant, what makes an action evil is the fact that the agent incorporates certain sensible conditions of hers rather than the moral law into a maxim that cannot be willed to hold as a universal law of nature, i.e. she adopts a maxim which fails the categorical imperative test and violates the moral law on the ground of non-moral sensible conditions. The agent is said to subordinate the moral law under natural incentives, i.e. certain non-moral sensible conditions of hers, if she acts upon an amoral maxim, instead of its opposite which she ought to act on from duty, for the sake of certain desires, passions, or inclinations, without proper regard to the moral law's command which forbids her to do so. Therefore, an action is evil in virtue of the subversion of the proper moral order of the grounds on which the agent adopts specific maxims.

In support of this view, Kant rules out two other possible candidates for the ground of evil, leaving the subversion of the proper moral order as the only plausible ground. (1) The ground of evil actions does not lie in the empirical character of human agency. In Kant's own words, the ground of evil "cannot be placed in the sensuous nature of the human being, and in the natural inclinations originating from it" (6:35). In other words, it is not the sensible conditions, which include desires, passions, and inclinations, that are responsible for evil actions. Kant gives two reasons for this claim. (1.1) These sensible conditions are not intrinsically evil. Rather, they can contribute to the cultivation of moral disposition in various ways. (1.2) Human beings are not responsible for the existence of these sensible conditions, which are given to, rather than generated by, human beings. Insofar as evil actions are ascribed to an agent blamable for them, their ground has to be something for which the agent can be held responsible. If the ground of evil does not lie in the agent's power, then the agent has no part in the production of any evil action grounded in something that lies beyond the scope of the agent's practical capacity. Therefore, the sensible conditions of human beings are not the ground for evil actions (cf. 6:35). (2) Nor does the ground of evil lie in reason, because it is impossible to eliminate the moral law and its influence on the agent's will. In Kant's own words, the ground of evil

cannot be placed in the corruption of the morally legislative reason, as if reason could extirpate within itself the dignity of the law itself, for this is absolutely impossible. To think of oneself as a freely acting being, yet as exempted from the one law commensurate to such a being (the moral law), would amount to the thought of a cause operating without any law at all (for the determination according to natural law is abolished on account of freedom): and this is a contradiction (6:35).

Thus, it is impossible to conceive of an agent with double character who is capable of eliminating the moral law together with its influence on her will. The intelligible character, which is good in itself, cannot be where the ground of evil lies. In summary, the argument above makes plausible

the claim that the ground of evil lies in the subversion of the proper moral order by ruling out other possible candidates for the ground of evil.

### The Infinite Regress Argument

Having explicated what a maxim is and how the sensible conditions and the moral law exert their respective influences on the agent in her practical deliberation through maxims, I now consider an interesting argument that sheds light on the account of free agency and maximic action that I have outlined above. I lay out the argument before I evaluate it critically, with the hope of articulating and revising the above account in light of the crucial implications of the argument.

In the *Religion*, Kant more than once mentions a peculiar argument, which he takes to be supportive of the claim that the ultimate ground of action is inscrutable. The first occurrence of the argument is in an important footnote in the beginning section of Part One, which I quote below.

That the first subjective ground of the adoption of moral maxims is inscrutable can be seen provisionally from this: Since the adoption is free, its ground (e.g. why I have adopted an evil maxim and not a good one instead) must not be sought in any incentive of nature, but always again in a maxim; and, since any such maxim must have its ground as well, yet apart from a maxim no *determining ground* of the free power of choice ought to, or can, be adduced, we are endlessly referred back in the series of subjective determining grounds, without ever being able to come to the first ground (6:22n).

Another passage that is quite similar in outlook is found a few pages later in the *Religion*:

This disposition [i.e. the first subjective ground of the adoption of the maxims] too, however, must be adopted through the free power of choice, for otherwise it cannot be imputed. But there cannot be any further cognition of the subjective ground or the cause of this adoption (although we cannot avoid asking about it), for otherwise we would have to adduce still another maxim into which the disposition would have to be incorporated, and this maxim must in turn have its ground (6:25).

The gist in both passages is that the adoption of a maxim is itself a free action, and therefore must be grounded in another maxim. However, the adoption of this latter maxim, since it must be a free

action so as to be imputable, must be grounded in a third maxim, etc., *ad infinitum*. Reasoning along this line generates an infinite regress, which, as Kant concludes, shows that the first ground of any free action is inscrutable.

The passages quoted above have been a locus of much confusion. Therefore, before I take a closer look at the argument, it is helpful to consider an influential alternative interpretation quite different from my proposed reading of the argument. Lawrence Pasternack reads the argument as part of Kant's defense for moral Rigorism, whose central thesis is that human nature is either morally good or evil, and there is no middle status between the two (Pasternack, 89; cf. Kant, 6:22). The thesis requires three claims. The first claim is that there is an ultimate ground, itself a maxim, for every free action. The second is that the ultimate maxims for all free actions consist in one single supreme maxim. The third is that this supreme maxim is evil insofar as it prioritizes non-moral interests over the moral law. Pasternack takes the infinite regress argument as establishing, through a *reductio ad absurdum*, the first two claims, by showing that there is an underlying, fundamental subjective ground, itself a maxim, on the basis of which human agents adopt specific maxims upon which they carry out concrete actions. In Pasternack's own words, "[Kant] is arguing for a singular supreme maxim because if there were not one, we would end up with an infinite regress" (91). It is true that the argument appears in the context where Kant is arguing for Rigorism, which does affirm the existence of one single supreme maxim. However, there is slim textual evidence for the claim that Kant takes the argument as a mere *reductio* to show the existence of a single supreme maxim instead of a serious attempt to show the inscrutability of the first ground of any free action. The fact that Kant explicitly mentions the inscrutability of the first ground as a consequence of the argument should not be easily dismissed. Admittedly, Kant does hold that there must be one single supreme maxim that decides the hierarchy of the moral law and other incentives,

and that in this maxim the agent either prioritizes the former over the latter or *vice versa*. However, this is not what the infinite regress argument shows, and Kant seems quite explicit about this.

With Kant's proclaimed thesis clarified, it is time to examine the argument closely. In order for the argument to work, the following assumptions must obtain. The first assumption is the core Kantian commitment that all free actions are maximic in the sense that they are one and all grounded in certain maxims, a position that I have previously attempted to make plausible, or at least less counterintuitive. The second is the crucial assumption that for free actions, the adoption of a maxim can itself be considered as a free action. The second assumption is implicit in the passages that I quoted, but in other places there are traces for the fact that Kant is actually committed to this claim. For instance, in Section II of Book One of the *Religion*, Kant says,

the term 'deed' can in general apply just as well to the use of freedom through which the supreme maxim (either in favor of, or against, the law) is adopted in the power of choice, as to the use by which the actions themselves (materially considered, i.e. as regards the objects of the power of choice) are performed in accordance with that maxim (6:31).

Here *deed* is synonymous with *free action*. The identification is explicit in the Introduction to the *Metaphysics of Morals*, where Kant claims that "[a]n action is called a *deed* insofar as it comes under obligatory laws and hence insofar as the subject, in doing it, is considered in terms of the freedom of his choice" (6:223). In other words, a deed is a free action. With this identification, the previous quote in the *Religion* clearly implies that the adoption of a maxim can be considered as a free action. If this claim obtains together with the claim that every free action is grounded in a maxim, the infinite regress can be validly generated.

However, there is something at least very suspicious about this regress. If one looks closely at the argument itself and thinks about what it actually shows, leaving aside just for the moment what Kant wants to claim that it shows, it seems most reasonable to conclude that the argument

has the actual force of proving that there is no first ground, or ultimate maxim, for any free action whatsoever. To be more explicit about the consequence, it is the non-existence, rather than the inscrutability, of the first ground of any free action that the argument actually shows. Kant wants to claim that this merely shows the inscrutability. Here he cannot mean that there is no first ground for any free action whatsoever. That there must be a first ground of any free action is exactly what Kant wants to claim given that his project of vindicating Rigorism aims to establish the thesis that there is an ultimate evil maxim universal to mankind. Therefore, the full implication of the infinite regress argument is deeply at odd with Kant's commitment to the claim that there must be a first maxim that supplies the ultimate rule of guidance for any human agent.

It should be emphasized that this commitment plays a crucial role in Kant's system, and cannot be abandoned without devastating the entire philosophical edifice. Firstly, this claim lies at the basis of Kant's contention that the ultimate maxim of mankind in general is evil insofar as the agent makes it a practical rule for herself that the moral law is not to be prioritized over any other incentive as she decides how to act. It is obvious that if no first determinate ground exists, no sense can be made of the claim that it is evil. The highly undesirable consequence would be reading Kant as falling short of his project of vindicating the Christian doctrine of original sin, which he takes to be an essential part of the rational system of faith that is necessary for the salvation of mankind. Secondly, in close conjunction with the first point, the claim has to be true in order to make sense of a *Gesinnung* choice of adopting a long standing disposition in accordance with an ultimate maxim that either prioritizes the moral law over any other incentive or *vice versa*. Without the possibility of an ultimate maxim there would be nothing about which to make an ultimate choice.

It should become clear that to vindicate Kant's project in the *Religion* the actual threat posed by the infinite regress argument must be defused. To put this point another way, there is an



important interpretive motivation for countering the argument without giving up too much on the Kantian position. In addition, the annulment of this threat also accords with common intuition. Intuitively, there should at least in principle be a reason that will ultimately explain the agent's action at the most bottom level in the sense that no further reason external to that reason can ever be given. The agent might be unsure what that ultimate reason is – indeed, she might in principle be ignorant of what actually motivates her – but intuitively the inquiry cannot possibly go on an indeterminate, interminable length characteristic of an infinite regress.

Note that although the actual effect the infinite regress argument threatens to undermine both Kant's defense of Rigorism and the common intuition mentioned above, the latter is in fact much weaker than the former. The former not only requires the existence of a first ground for every free action, but also the further claim that the first ground of all free actions is one single supreme maxim, on the basis of which the agent adopts various specific maxims which ground all of her actions. This further claim is not required by the common intuition, which merely demands the existence of a first ground for every free action. Therefore, a successful attempt to defuse the infinite regress argument would be one that preserves to the greatest extent Kant's Rigorism with its core claims. If some of Kant's claims there must be given, at the very least a satisfactory defense should be able to defend the common intuition, which is much weaker than his Rigorism.

#### The Adoption of a Maxim: Integral Part of a Free Action

Below I make such an attempt. My strategy is to establish the claim that the adoption of a maxim is not an action in the proper sense. Rather, it is an integral part of the single, unified occurrence of the agent acting on the basis of the maxim. If the adoption of a maxim is seen as a free action itself *apart* from the action that results from this adoption, then the latter action, now

seen in the degraded sense as the occurrence, either temporal or not, of the agent acting in accordance with the maxim *excluding* the part in which she adopts the maxim as the ground for her action, would not be comprehensible as an action, for this way of conception reduces it to a mere sequence of effects deterministically resulting from a maxim that has antecedently been *generated* and *made* to be their *effective* determining ground, so that the degraded action is now separated from the motives of the agent, who makes no spontaneous decision within the action itself. Therefore, seeing an action this way in order to leave room for seeing the adoption of the maxim as another action runs the risk of leaving out of the picture the crucial fact that internal to any action itself, if it should ever be free, the agent must somehow spontaneously decide upon it by making the maxim in question as its determining ground. Much of what the agent spontaneously contributes to the action consists precisely in her adoption of the maxim in question, i.e. in drafting it and making it the effective determining ground for what she is to do. Abstracting this part from an action improperly takes away precisely the part in virtue of which the action is spontaneous.

The point that I am pushing against the infinite regress argument should not be seen as a trivial matter of verbal dispute. It clarifies how an action is to be conceived, and helps resolving the threat posed by the infinite regress argument. Seeing the adoption of a maxim as internal and integral to the action in question facilitates a diagnosis of where the infinite regress argument goes wrong. Kant's claim that all free actions are maximic remains true, for it asserts nothing other than the fact that internal to the occurrence of her acting freely the agent spontaneously drafts a maxim and decides that it be effective in the world of events. In acting maximally, the agent actually makes a spontaneous contribution not determined by her sensible conditions in accordance with natural causation from which she is said to be free. Where the mistake arises in the infinite regress argument, I think, is the claim that the adoption of a maxim can somehow be seen as an action

itself. Denying this claim stops the infinite regress, for the claim that all free actions are maxims no longer applies to the adoption of a maxim. Thus, for any free action, the process of a perfect cognizer tracing its ultimate ground by repeatedly investigating why the agent acts so will necessarily end up with the discovery of some determinate ground. This is a welcome result, for the intuition is that the regress cannot be interminable, and that there must be some determinate explanation for the motive of any action, whose ultimate maxim can in principle be specified as a general rule of guidance comprehensible to some most advanced intelligence.

The point here is not that the motivational inquiries of this sort always come to their end without toil. Rather, I readily acknowledge that it is quite true that, as Kant emphasizes repeatedly in the *Religion* and the *Groundwork of the Metaphysics of Morals* (the *Groundwork*), the ultimate ground or motive of any action remains hidden from any empirical inquiry for the convincing reason that a maxim is not cognitively accessible to senses, either outer or inner. The difficulty of such motivational inquiries is further complicated by the transcendental idealist thesis that the unknowability of the noumenal aspect of the agent implies the inscrutability of what actually, in the agent herself, grounds what appears in her phenomenal consciousness as the determining ground for an action in the world of events. Admittedly, for a human cognizer bound within the realm of senses which constitute a necessary condition for the possibility of empirical cognition, it is impossible to find out the ultimate ground for an action. However, it is reasonable to claim that (a) there must be a first ground for any action, and (b) it must be possible in principle for a highly advanced intelligence, such as that of God and most probably God alone, to have insight into what the ultimate ground exactly is. Note that in order for (b) to be true, (a) must be true. Note in addition that (b) is exactly what Kant claims in the *Religion*. In the Part Two of the *Religion*, Kant asserts that God knows the first ground for any free action. Although human beings cannot

access their heart insofar as they are unable to have any positive insight into what ultimately grounds a free action, God, characterized by Kant as he who “scrutinizes the heart (through his pure intellectual intuition)” (6:67), is not bound by the senses of human beings, and is capable of directly knowing the ultimate ground. However, to sustain this claim, (a) must be defended against the infinite regress, which has the actual force of ruling out the possibility that there ever is a first ground for any free action whatsoever, *contra* Kant’s own claim of what the argument shows.

It might be reasonably objected that my maneuver here seems at least suspicious of shunning the brunt of what the infinite regress argument is trying to get at. As the objection goes, my proposal above makes it completely mysterious how, or on what basis, the agent drafts a maxim and makes it the effect determining ground for an action, given that this basis cannot be another maxim. What is even more worrisome is that my account does not seem to leave any room for the existence of one single supreme maxim, because the infinite regress is stopped at the cost of making the agent draft the maxim internally to the corresponding action so that she does not even go beyond the first step of the regress. Below I address these two objections in order.

To the first objection, my reply is simply to grant the point that it is indeed inscrutable, at the very least to human cognizers, on exactly what basis the agent drafts a maxim and makes it an effective determining ground. The claim is exactly what Kant wants to make, but he arrives at it by a misguided route, i.e. *via* the infinite regress argument, which has the actual force of disproving the existence of the first ground for any free action whatsoever. In the footnote where Kant makes mention of the infinite regress argument, it seems that he does want to claim that the first subjective ground for a free action, namely “why I have adopted an evil maxim and not a good one instead” (6:22n), necessarily remains inscrutable to human cognizers. Insofar as it is unknowable why the agent drafts an evil maxim and makes it, rather than a maxim that passes the categorical imperative

test, the effective determining ground for what she is to do, the question of how, or on exactly what basis, the agent determines a maxim for herself allows for no answer for human cognizers. God, and most likely He alone, can cognize what the first subjective ground is.

It should be noted that my claim here is slightly different from Kant's. For Kant, the first subjective ground itself is a maxim. However, my conception of the adoption of a maxim as internal and integral to the action in question commits me to the thought that such an adoption, not to be considered as a free action itself, need not be grounded in another maxim, and therefore to the contrary position that the first ground, though unknowable, does not have to be a maxim. The reason why Kant thinks that it has to be a maxim, namely that the adoption of a maxim itself is a free action and so must be grounded in another maxim, is precisely where the mistake in the infinite regress argument arises. Giving up this thought naturally leads to my position that the first subjective ground for a free action need not be a maxim. Given the inscrutability of the first ground for human cognizers, it seems reasonable to remain silent over what it exactly is.

Let me supplement my above reply to the first objection with a sketchy account of how it is in principle possible for an agent to draft a maxim on her own without grounding it on another maxim, and yet not to do so arbitrarily or groundlessly. It should be noted that no account less sketchy is possible in principle. To the extent that the agent is free in the sense of being the spontaneous origin of an action with the power to do otherwise, no *sufficient* reason can be given for how, or on what basis, the agent drafts the maxim and makes it the effective determining ground. By a *sufficient* reason, I mean certain conditions whose presence ensures without any possible exception that a certain determinate effect is to take place instead of any other. Clearly, the existence of a sufficient reason for actions in this sense is incompatible with the freedom of the agent, for she would be predetermined to act in a certain way at the moment of action without the

power to do otherwise. It is tempting to regard this incompatibility as implying that any free action is ultimately arbitrary or groundless. However, the claim should not be taken to mean that every time the agent chooses in a way that is, as it were, essentially no different from casting a die to decide upon who wins the gamble. As the agent acts freely, she sees the options as leading to certain things or states of affairs that seem appealing to the agent. Some are appealing in themselves, some are so instrumentally insofar as they in turn lead to others which are so in themselves, some are so both instrumentally and in themselves. It is the representation of something as appealing, or in other words, the representation of something as an incentive, that supplies the basis on which she drafts her maxim. This representation itself is not a maxim, but rather some pre-maximic procedure that ultimately leads to the full-blown formulation of a maxim.

It should be emphasized that *every time* as the agent has finished drafting the maxim in this way and is about to decide whether to make it the effective determining ground for what she is to do, she is always susceptible the influence of the moral law. Insofar as the moral law is capable of moving the agent's will, it thrusts itself irresistibly upon the agent's consciousness whenever she deliberates on what to do in any circumstance, so that there is a universal incentive for her to act upon the moral law. Such an incentive is potentially effective insofar as it is strong enough to be capable of pulling the agent away from what the most intense sensible impulse, desire, passion, or inclination drives her to do. However, it cannot be ensured that the agent would always act in accordance with the moral law. In addition, it cannot be known by human cognizers exactly why or on what ground the agent makes an amoral maxim the effective determining ground for what she is to do, prioritizing certain sensible conditions over the moral law.

The account that I have sketched above gives a very general idea of the process whereby the agent drafts a maxim and makes it an effective determining ground for what she is to do,

completing my reply to the first objection. Before I embark on an extended reply to the second objection, I should find the occasion to say something regarding the Kantian claim about the inscrutability of the first subjective ground for a free action.

Given Kant's transcendental idealism, I think it is possible to develop a better argument for the inscrutability thesis. The new argument, unlike the infinite regress argument, does not rest on the problematic assumption that the adoption of a maxim is itself a free action. The argument begins with a sketchy account of the agent's phenomenal consciousness in practical deliberation. Human agency has a noumenal and a phenomenal aspect. The former refers to what the agent is in herself, which remains unknowable in itself. The latter refers to how the agent appears to herself, consisting in everything that she experiences in time and therefore entails virtually everything that goes on in her empirical consciousness, which consists of a temporal succession of various representations. It is through a representation that the agent is conscious of a maxim. Remaining constant alongside with these representations is the direct consciousness of the moral law. To speak more precisely, the agent's consciousness of the law consists not so much in a single representation of what the moral law is, as in the phenomenological fact that the agent automatically runs the categorical imperative test of maxims that she grasps through representations in her empirical consciousness and subsequently comes across the representation that one ought to act according to the opposite maxims on the ground of duty if the current ones fail the test. The account above fleshes out how maxims and the moral law appear in the phenomenal consciousness of the agent.

Now, it is the noumenal that grounds the phenomenal. In the Third Section of the *Groundwork*, Kant claims that "the world of understanding contains the ground of the world of sense, and hence also of its laws" (4:453). The same applies to human agency to the extent that its noumenal aspect grounds its phenomenal aspect. Therefore, whatever that appears in the agent's

phenomenal consciousness has its ground in the noumenal aspect of her agency. Insofar as the adoption of a maxim appears to the agent in her phenomenal consciousness, there necessarily exists a first subjective ground for this adoption that lies in the noumenal aspect of her agency. Since the noumenal aspect is inscrutable, the ground, aside from its mere existence, remains unknowable.

To prevent any misunderstanding, it should be emphasized that the unknowability of the first subjective ground for a free action by no means implies that the agent does not know anything about her ultimate motives. If it were the case, then in every case the agent would necessarily act in ignorance, so that she would not be in a position to be responsible for what she does. To address this worry, it should be noted that in cases where the agent violates the moral law, it is entirely possible for her to know that the first subjective ground *cannot* be the moral law, even though she might not know what the ground is *positively*. In other words, my inscrutability thesis allows for an asymmetry in the agent's knowledge of her first subjective ground for a free action of hers. On the one hand, the existence of evil actions proves the fact that their first subjective grounds cannot possibly be the lawfulness of the corresponding maxims, because lawful maxims cannot possibly lead to unlawful actions, provided that the agent is non-trivially aware of what she does. To this extent, the agent has negative knowledge that her motives cannot be moral. On the other hand, when the agent acts in conformity with the moral law, since the first subjective ground cannot be known positively but only negatively, she cannot be sure that it is in fact the moral law and nothing else. The gist here is that positive knowledge is necessary to ascertain the purity of the agent's motive, but negative knowledge is sufficient to ascertain its impurity. Therefore, my inscrutability thesis is compatible with Kant's account of moral imputation, since the agent is in a sense ignorant of her ultimate motives, but not in an exculpatory way.



Above I have dealt extensively with the first objection. To the second objection that my account does not leave room for the existence of one single supreme maxim, I reply that indeed no room could be left for it, but insofar as I can see, in terms of the interpretive faithfulness to Kant's view, it is the least cost that must be paid in order to defuse the infinite regress argument. However, setting aside interpretative considerations, I want to argue that Kant is unjustified to affirm, as if it is a piece of theoretical cognition, the existence of one single supreme maxim, on the basis of which, as he claims, the agent adopts specific maxims according to which she acts. I do not intend to give up Kant's claim, of which I shall speak more later. I think the claim does not have the same status as theoretically justifiable knowledge-claims, but is nevertheless practically defensible.

To argue for the model according to which the agent adopts a maxim on the basis of another maxim is to conceive of the adoption itself as external to the action in question. Once this move is made, there is no way of avoiding the actual thrust of the infinite regress argument. Since the adoption, as it is conceived in the externalist model, is no longer an integral part of the action in question, there is no reason not to conceive of this adoption as itself an action. Since it is free, it amounts to a free action, which is necessarily grounded in another maxim. Thus, in conceding the externalist model, one is forced to concede the infinite regress, which has the actual force of showing the non-existence of the first subjective ground for any free action whatsoever. Not only is this detrimental to Kant's defense of Rigorism, but it also flatly contradicts common intuition.

However, according to the internalist picture, it is internal and integral to the action itself that the agent adopts a maxim by drafting it and making it the effective determining ground for what she is to do. It is dubious whether there is such a supreme maxim, whose adoption is external to the action in question, that grounds the adoption of every specific maxim, for the ultimate ground for the adoption of every maxim is internal to the action and so is plural in number. The implication

here accords with our daily experience of practical deliberation. The context of any choice that we represent ourselves in our consciousness as about to make when we engage in practical deliberation is almost always concrete. In the process of making a practical decision on what to do, it is hardly the case that we represent ourselves as being motivationally affected by such an abstract and fundamental choice as between the moral law and non-moral interests *considered as a whole in the abstract*. Admittedly, what we do either is done either from the law or not, and we are aware of the consequence of whether our actions violate the law. However, the choice is almost always represented as taking place between the moral law and some *concrete* non-moral interests. It is the *specific* maxims that go through the categorical imperative test, and their adoptions are grounded either in certain *specific* non-moral sensible conditions or the moral law, even though any positive knowledge of what the ground exactly is remains unavailable to human cognizers. Therefore, if there is such a single supreme maxim, it necessarily lies in the unknowable noumenal realm. In this case, speaking from the standpoint of theoretical cognition, it is not certain whether such a maxim exists, but it is not logically inconsistent to suppose that it does exist. Therefore, from the theoretical standpoint, I counsel silence over the possibility of such a single supreme maxim.

Although the claim that there is one single supreme maxim cannot be affirmed as a knowledge-claim, it can still serve as a regulative principle for practical deliberation together with the claim that the supreme maxim is evil insofar as non-moral incentives considered as a whole are prioritized over the moral law. As I have argued, the supreme maxim plays no role in grounding the agent's adoption of specific maxims, and therefore is not motivationally effective in practical deliberation. Instead, I now argue, the Kantian claim that human beings have an evil supreme maxim constitutes a general description of the statistically prominent fact that human beings have the tendency of not acting on the ground of the moral law. The argument is that on the basis of

empirical observation, human beings display such a pattern of behavior that it is overwhelmingly plausible to ascribe to them the universal tendency of prioritizing various non-moral interests over the moral law. In Kant's own words, "according to the empirical cognition we have of the human being through experience, he cannot be judged otherwise, in other words, we may presuppose evil as subjectively necessary in every human being, even the best" (6:32). Since the inscrutability of the first subjective ground of a free action is not incompatible with the possibility of negatively ascertaining that the ground cannot be the moral law, an action that can empirically be observed to have violated the moral law can be safely ascertained as grounded in an evil maxim. Given the fact that the number of such actions is numerous to the extent that the opposite ones are overwhelmingly fewer in comparison, it is most plausible to claim that the tendency of evil is indeed universal to the human species. The argument here is actually quite concordant with Kant's own ideas. Having asserted that human beings are by nature evil, he goes on enumerating the "multitude of woeful examples" of evil actions, dismissing the necessity of offering a "formal proof that there must be such a corrupt propensity rooted in the human being" (6:33).

The argument here might immediately be pushed back by the quite plausible objection that aside from the numerous instances of evil actions, there are equally numerous instances in which human beings act in conformity with the moral law. Given the inscrutability of the first subjective grounds for such actions, it is at least not as plausible as in the cases of evil actions to assert that human beings have the universal tendency of not acting upon the moral law. At the very least, the possibility that some do have the tendency of acting upon the moral law cannot be ruled out.

However, I think there are good reasons to postulate this tendency as universal even though actions that conform to the law offer no basis for ascertaining their evil grounds. The inscrutability thesis blocks the possibility of affirming as a knowledge-claim either the claim that human beings

are by nature evil, or the claim that they are by nature good, or even the claim that their nature is a mixture between good and evil. Therefore, the discussion of human nature moves out of the realm of theoretical knowledge into the practical realm concerning the validity of postulates that might be conducive to moral improvement in practical deliberation. I argue that there is much practical good to assume that the human species is by nature evil insofar as human agents tend not to act on the sole ground of the moral law. Given that evil actions amount to a sufficient warrant for the negative knowledge-claim that their grounds cannot be the moral law, and therefore must be evil, from numerous evil actions, it can be safely inferred that no human being maintains the purity of heart all the time, for even those deemed as the best ones occasionally commit evil actions, even if their consequences might not always be extremely appalling. In light of this consideration, for the sake of moral admonition, it is reasonable to postulate that there is a universal tendency to evil in human nature in contrast with the ideal of a perfectly moral rational agent which all human beings should strive to become. The most apparent good is that such a postulate not only strikes down the agent's self-complacency in her moral status, if any, but also cautions her to always double-check the purity of her motives by constantly and conscientiously guarding against the corruption of various other non-moral interests. Here by *self-complacency* I mean not only the agent's feeling of self-content in her apparent moral achievement, but also the tendency of escaping responsibility by finding various excuses for what she has done in violation of the moral law in an attempt to assert her apparently untainted moral status. Thus, self-complacency not only consists in taking pride in what one does in conformity of the law, but also in finding various exculpatory excuses so as to comfort oneself with the thought that she is doing fine even if what she does clearly violates the law. Excuses of this sort include, for instance, the claim that one's background of growing up in an unfavorable environment puts her into a morally underprivileged

situation where she could not have acted upon the law in the current circumstance in which she violated the law. It is true that the sinner deserves sympathy, but this should not come at the cost of her exculpation, which gives ground for her self-complacency that it is somehow fine to act as she did in the future. The inscrutability of the noumenal self and the first subjective ground for her action, together with her consciousness of the unconditional necessity that comes with the command of the moral law that she ought to act otherwise, disarms the excuse that it is certain that she could not have acted upon the law because of her personal history, whereas the negative knowledge that the first subjective ground could not have been the law, together with the Kantian principle that one can do what one ought to do, renders her morally responsible for her violation. The postulate of an evil tendency in human nature therefore strikes down the exculpation-oriented aspect of self-complacency, with the morally desirable result that the agent bears responsibility for her actions with a view to critical self-evaluation and prospective moral improvement.

The same applies to the pride-oriented aspect of self-complacency. To postulate that statistically speaking one generally tends to act on non-moral motives other than the law even if her actions conform externally to the law is to rid oneself of any self-complacency in an attempt to maintain moral humility quite conducive to her moral improvement insofar as she is made even more clearly aware of the inescapable imperative to guard against any impurity in her motives in every single action on which she now deliberates. The inscrutability of the first subjective grounds strikes down any moral pretension that the agent is justified to pride herself on having acted upon the law or has the longstanding disposition of doing so with respect to the noumenal aspect of her agency. Such self-complacency introduces practical laziness by undermining the imperative for moral improvement. If one assumes that she has a good moral disposition on the basis of the empirical fact that she rarely violates the moral law regardless of the impurity of her motives, when

the real test of morality comes, for instance, in the form of a difficult situation in which her motives that have previously driven her to act in conformity with the law now move her in the opposite direction, then there is good reason to believe that she is far more vulnerable to the temptation than one who has always assumed that her fundamental moral character requires constant improvement and has accordingly habituated herself to guard against the impurity of her motives. The ascription to oneself of a general tendency of not acting upon the law serves as a warning with respect to her future actions that she should be wary of the corruptive influence of non-moral interests.

### Explaining Various Kinds of Evils

Above I have defended the Kantian claim that human beings have the fundamental tendency of acting on grounds other than the moral law on a practical, rather than theoretical, basis, in reply to the second objection that my internalist conception of the relation between actions and maxims fails to accommodate the core Kantian claim that there is an evil supreme maxim shared universally by the human species. Now it is time to see whether the entire Kantian position that I have outlined has sufficient explanatory power to account for different kinds of evils. Recall that what makes an action evil is the agent's free subversion of the proper moral order, prioritizing non-moral interests over the moral law as the ground for the adoption of a maxim. Also recall that the ground for the adoption of specific maxims is not a single supreme maxim, but always some *specific* sensible conditions or the moral law, even though no positive knowledge of what it exactly is accessible to human cognizers. As I shall show below, the Kantian account framed by these claims encounters no difficulty in explaining evil actions due to *frailty*, *impurity*, or *depravity*, and the only serious challenge that it fails to account for those due to *wickedness* can be disarmed by the inscrutability thesis and a practical argument in the same vein as the one above.

In the *Religion*, Kant presents frailty as one of the three natural propensities to evil, alongside with impurity and depravity. To explain how evil actions come about due to frailty, Kant argues that although the agent does incorporate the moral law into a maxim in the circumstance in question, the subjective incentive that the maxim bears is “subjectively weaker,” i.e. not strong enough, to move her (6:29). Although the account seems too brief, it is indeed plausible once fleshed out in terms of the Kantian account that I have defended above. Although the agent drafts a maxim whose opposite fails to pass the categorical imperative test, and judges it right to make the maxim the effective determining ground for what she is to do on the ground of the moral law, she fails to make it the effective determining ground even if it lies in her power to do so, because she fails to counter the attraction of another competing maxim which fails the test and makes it the effective determining ground on the ground of certain non-moral sensible conditions. In this case some self-deception is involved, insofar as the agent overrates, quite often unconsciously, the difficulty in acting upon the law and submits herself to the apparent necessity of the situation that she cannot act otherwise. Note that due to the inscrutability thesis, exactly on what ground the agent prioritizes the non-moral interests over the moral law, indeed quite contrary to what she judges to be the good or right thing to do, remains unknowable. What can be known is that she is aware of the command of the moral law and gives her consent to it, and that it lies within her power not to adopt the competing evil maxim, but she fails to do so on a non-moral ground. This is enough to render the weak-willed agent responsible for her wrongdoing.

Impurity is the second propensity to evil that Kant talks about in the *Religion*. In this case, as the agent acts in conformity with the moral law, her motives consist of a mixture of moral and non-moral interests (6:30). Although the moral law is indeed among her motives, she nevertheless does not make it the sole *sufficient* determining ground for the adoption of a maxim the opposite

of which fails the categorical imperative test. Therefore, the agent acts in conformity with the law only contingently, because were it not the non-moral sensible conditions on the ground of which she adopts the good maxim, her conformity with the law would by no means be ensured. Actions of this sort, though not evil in the strict sense, have no moral worth, and betray a similar stance that the agent takes towards the law as the strictly evil ones due to depravity do.

According to Kant, depravity, the third propensity to evil, is the tendency of prioritizing non-moral sensible interests over the moral law in practical deliberation. When the agent acts in violation of the moral law, she drafts a maxim that fails the categorical imperative test, and, on the ground of certain specific sensible conditions, makes the maxim the effective determining ground for what she is to do, deeming it fine to do so. The difference between an evil action due to depravity and one due to frailty is that in the former the agent does not judge it absolutely wrong to adopt the maxim and act upon it, but rather deems it permissible in the current situation to act in violation of the law, whereas in the latter the agent identifies herself with its unconditional command in spite of her self-deception concerning the impossibility of acting upon it.

The only serious objection that the Kantian account fails to explain evil actions due to *wickedness* draws from Augustine's account of his theft of pears. In *Confessions*, Augustine writes,

I wanted to carry out an act of theft and did so, driven by no kind of need other than my inner lack of any sense of, or feeling for, justice. Wickedness filled me. I stole something which I had in plenty and of much better quality. My desire was to enjoy not what I sought by stealing but merely the excitement of thieving and the doing of what was wrong. There was a pear tree near our vineyard laden with fruit, though attractive in neither color nor taste. To shake the fruit off the tree and carry off the pears, I and a gang of naughty adolescents set off late at night after (in our usual pestilential way) we had continued our game in the streets. We carried off a huge load of pears. But they were not for our feasts but merely to throw to the pigs. Even if we ate a few, nevertheless our pleasure lay in doing what was not allowed. [...] Now let my heart tell you what it was seeking there in that I became evil for no reason. I had no motive for my wickedness except wickedness itself. It was foul, and I loved it. I loved the self-destruction, I loved my fall, not the object for which I had fallen but my fall itself. My depraved soul leaped down from your firmament



to ruin. I was seeking not to gain anything by shameful means, but shame for its own sake (II.9).

I fully acknowledge that the passage quoted above is subject to numerous interpretations, some of which might not pose challenge to Kant's account. However, my intention here is to develop an objection to Kant on the basis of an interpretation that remains largely faithful to the text of Augustine's personal narrative and reflection, and at the same time accords with the intuitions shared by many people. In doing so, I translate Augustine's terminology to the Kantian equivalent.

I believe there is no doubt that Augustine's theft amounts to an evil action. What is puzzling, and no less interesting, about the theft is the maxim on which he acts and the ground on which he adopts the maxim. Now I try to fill out the formula for this maxim  $\{C, A, P\}$ : in all circumstances similar to the current one in non-trivial ways, act stealthily so as to get pears without being noticed. The ground on which Augustine adopts the previous maxim seems more difficult to spell out. Augustine denies that he steals the pears in order to fulfill any sensible desires. Before the theft, he did not lack pears, for he already had plenty of them. The pears were neither particularly beautiful nor delicious. In fact, those that Augustine already had were of much better quality. Most of the stolen pears were eventually thrown away to pigs. Even if Augustine ate a few, it is not for the sake of enjoying the pears that he did so. There seems to be no sense in which the pears pleased his senses. Nor can the principles of self-preservation and self-love account for Augustine's motive for the theft. As he says, "I loved the self-destruction, I loved my fall, not the object for which I had fallen but my fall itself" (II.9). It is not for the sake of honor or self-assertion that Augustine commits the theft. He is fully aware of the fact that the theft is the very opposite of honor, for "it was foul, and I loved it. [...] I was seeking not to gain anything by shameful means, but shame for its own sake" (ibid). The theft seems gratuitous insofar as the stolen pears themselves serve no substantive purpose at all. It is wickedness *qua* wickedness that motivated him to steal: "I had no

motive for my wickedness except wickedness itself” (ibid). In other words, the very fact that it is evil to act upon the maxim is the motive for Augustine’s theft.

*Contra* Kant, who holds that what makes an action evil is the agent’s subversion of the moral order by incorporating certain sensible conditions instead of the moral law into her maxim, Augustine’s theft of pears shows that the maxim of an evil action need not be adopted on the ground of certain sensible conditions which drive the agent to violate the law. Rather, an evil maxim can be adopted just for the sake of breaking the moral law. The adoption serves no positive substantive purpose of fulfilling the need that arises in virtue of the agent’s empirical character, but only to negate the moral law’s command for the sake of negation itself.

Two points should be noted about the negation. Firstly, the negation is purely intellectual and can be grasped only through reason, as the negation achieves nothing that pertains to the fulfillment of the agent’s sensible conditions. Secondly, the adoption of the evil maxim seems to be motivated through the intellectual representation of the negation of the moral law itself. The negation of the moral law is represented intellectually as a corrupt version of the moral law. An aspect of it can be captured, for instance, by the universality formula that one should act only upon maxims which cannot at the same time be willed to hold as a universal law of nature. For the sake of convenience, let me call this corrupt version of the moral law – or to be more precise, the mechanism whereby one checks the non-universalizability of a maxim by the categorical imperative test and then adopts on the ground of the its unlawfulness as shown by the test – the *anti-moral law*. The anti-moral law motivates in a way that is ironically similar to the way in which the moral law exerts its influence on the agent’s will. It is through the pure form of the anti-moral law *qua* formal negation of the moral law that the anti-moral law determines the will of the agent who incorporates the anti-moral law in her maxims. For the sake of convenience, let me call evil

actions motivated by the anti-moral law – evil actions done for the sake of evil itself in accordance with the anti-moral law – *anti-duties*. To keep the parallel, evil actions are said to be done *from anti-duty* if they are done for their own sake, i.e. for the sake of doing evil, just as moral actions are said to be done *from duty* if they are done for their own sake, i.e. for the sake of doing good. Thus, Augustine’s theft of the pears can be said to be an evil action done from anti-duty in accordance with the command of the anti-moral law. Lest one should doubt the possibility of such an anti-moral law upon which the agent can act from anti-duty, note that if it is possible for the moral law to determine the agent’s will through its lawfulness, then there is no reason that the anti-moral law cannot determine the agent’s will through its unlawfulness.

As the objection goes, my Kantian account fails to accommodate actions that are evil in virtue of the existence of the anti-moral law and its influence on the agent’s will. Most importantly, Kant assumes that the moral law is the only law commensurate to the intellectual character of human agency, and that it is impossible for an agent to have the intellectual character without having the moral law present in her. Therefore, Kant holds that if an agent should be exempt from any incentives of nature which consist of her sensible conditions that arise in virtue of her empirical character, she would act morally because the moral law would constitute a sufficient determining ground for her will when there is no incentive competing with or battling against it. However, Augustine’s case seems to show that the moral law is not the only law commensurate to the intellectual character of human agency. Kant does not seem to be aware of the existence of the anti-moral law, which is proven by Augustine’s theft of the pears. If a rational agent with moral law in her should be exempt from all desires and inclinations, she would not necessarily act morally in accordance with the moral law. Creatures which possess pure practical reason exempt from all sensible conditions can be evil, for they can act upon the anti-moral law from anti-duty.

Kant dismisses the possibility of evil actions done from anti-duty and argues that reason cannot possibly eliminate the moral law and its influence on the agent's will. His argument is predicated on two assumptions, namely (a) that the moral law is the only law that is commensurate to the intellectual character of creatures with agency of double character, and (b) that the thought of a ground without a rule is inconsistent (cf. 6:35 quoted above). Augustine's objection challenges assumption (a), for both the moral law and the anti-moral law can be said to be commensurate to the intellectual character of human agency. Therefore, Kant's denial of reason as a possible source for the ground of evil is problematic. Augustine's objection shows exactly the contrary.

The objection seems strong, but I think the Kantian account that I have defended earlier has useful resources to dismantle the attack. Recall the inscrutability thesis that the first subjective ground for any free action is unknowable because the ground lies in the noumenal aspect of human agency. Although in Augustine's phenomenal consciousness, it appears to be the case that he adopted the maxim to steal the pears on the sole ground of its unlawfulness, as if there is an anti-moral law which determined his will towards an action which he carried out from anti-duty, it cannot be affirmed as a positive knowledge-claim that the anti-moral law constitutes the first ground for the theft, because it remains inscrutable to human cognizers.

The inscrutability claim is best understood in light of the multiple interpretive possibilities between which no empirical test in principle can decide which one is to be preferred to another. One interpretation could be that although Augustine claims that it is not for the sake of ordinary sensible pleasure that he stole the pears, it could be that he did so for the sake of a peculiar kind of pleasure which arises from the fact that the absolute authority of the moral law is struck down. Augustine might have felt pleasure because the authority of what would more often than not strike down his sensible interests is not only dismissed but also actively trampled upon, to the effect that

his long suppressed sensible self is relieved from the moral shackle. In other words, this pleasure, closely tied to self-love, arises from the victory of the non-moral sensible self over the moral law. It is not absurd to assume that this pleasure could be the ground on which Augustine adopts the evil maxim to steal the pears. A second interpretation could be that Augustine's theft is motivated by his desire of self-assertion. On this reading his theft amounts to a rebellious reaction to the fact that the moral law always, as it were, imposes itself upon him, who is frustrated by the inescapable weight associated with the commands of the law, to the extent that he deeply feels his own sense of inferiority in front of it. It is probably for the sake of asserting himself before the moral law that Augustine stole the pears, showing that he can by the strength of his own will defy what apparently has the supreme authority above all. Yet another interpretation could be that Augustine stole the pears in order to prove that he is indeed free insofar as it lies in his power to act in violation of any commands whatsoever. It could be the implicit belief that freedom from anything whatsoever is good that grounds Augustine's adoption of the evil maxim. It should be emphasized here that it is not the violation of the law *per se*, but what the violation shows that Augustine possesses, namely freedom as a good, that might have motivated him to act in violation of the law. These attempts by no means exhaust all interpretive possibilities, nor do I intend to establish any of the proposed interpretations as the correct one, although I believe that many, myself included, might deem the second explanation to be more plausible than others. Instead, by the multiplicity of interpretive possibilities of Augustine's story, I merely want to stress the obscurity and inscrutability of what, in the noumenal aspect of his agency, actually grounds his theft of the pears.

It might be objected that the inscrutability thesis, which asserts that no positive knowledge can be gained of the first ground of a free action, undermines the knowledge-status of the claim that the moral law exists in human beings, as much as that of the claim that the anti-moral law

does. The reasoning behind this objection is that the symmetry between the moral law and the anti-moral law holds implies that any argument that challenges the claims about one necessarily challenges their counterparts about the other. The crucial strategy of my reply here is to argue against the symmetry between the moral law and the anti-moral law. The symmetry breaks because phenomenologically the agent is always *first* conscious of the command of the moral law that bears with it the unconditional necessity that she must act so *before* she negates the law, for any negation of moral duty on the sole basis that it is represented as absolutely necessary to do is possible only in virtue of the unconditional necessity of this duty. The agent's consciousness of anti-duties presupposes her consciousness of duties, because the former are obtained through the latter. Without spending time on the positive argument for the existence of the moral law, I think the asymmetry suffices to dismiss the worry that the inscrutability thesis undermines the existence of the moral law no less than that of the anti-moral law.

The inscrutability thesis switches the argument from the realm of theoretical knowledge to the realm of practical considerations. The question becomes whether it is of any practical good to assume that there is an anti-moral law which can move the agent to act from anti-duty. If there is significantly larger practical good to assume the contrary, then there is reason to give up the postulate of the anti-moral law, and I believe it is indeed the case. To postulate the anti-moral law does not yield any imperative for the agent towards moral improvement, for it does not strike down self-complacency, which impedes her moral improvement, nor does it caution her to screen the non-moral interests from her motives in practical deliberation. In fact, it could be argued that the thought that it is possible to do evil for its own sake as much as to do good for its own sake might have detrimental consequences to morality, for it at least suggests, though on no solid ground, that one can take up indifference to the moral law, for the symmetry between it and the anti-moral law,

as some might be tempted to say, shows that the moral law fails to justify itself against the anti-moral law, and that there is no more reason to act upon the moral law than the anti-moral law. The argument that the moral law can be justified through itself seems circular, and hardly amounts to anything more than a bare re-assertion of, rather than a good justification for, the supreme authority of the moral law. Therefore, suggestive of skeptical arguments of this sort against the authority of the moral law, the postulate of the anti-moral law seems to have no practical validity whatsoever. However, the postulate that the moral law commensurate to the agent's intelligible character moves her will in the absence of any non-moral sensible conditions yields much practical good, because it not only reaffirms that the moral law bears with it an incentive that is sufficiently to move the agent to act upon it, but also cautions the agent of the at least most prevalent non-moral principle of self-love, which drives the agent to act in violation of the law in most, if not all, cases. The ideal attitude towards moral improvement seems to be that the agent should always try to maintain the proper moral order by prioritizing the moral law commensurate with her intelligible character over the principle of self-love manifest through her empirical character, well aware that self-love is the most prevalent, if not the only, non-moral principle that best summarizes the variety of grounds of numerous violations of the law. The practical argument above against the postulate of the anti-moral law certainly leaves open the question whether in the agent herself there really is such an anti-moral law, but the inscrutability thesis should immediately be invoked to re-affirm the futility of any attempt to ascertain its noumenal existence.

It is true that Kant once says that it is in principle impossible to have a corrupted reason with the anti-moral law in it, but several sentences later he seems to allow for the logical possibility of such an anti-moral by qualifying his previous statement to the human species, claiming instead that diabolical evil is “not applicable to the human being” (6:35). In my view, Kant's initial denial

of the logical possibility of the anti-moral law should be given up, and his later claim should be taken as a practical postulate, or rather a regulative principle, for practical deliberation.

In conclusion, I have defended a Kantian account of maximic action, in light of which some of Kant's claims are abandoned or modified in response to some good objections against them. The internalist conception of the relation between action and maxim solves the problem of the infinite regress, and suggests that it should be taken as a regulative principle that there is a supreme evil maxim universal to the human species. The inscrutability thesis wards off the Augustinian objection regarding the possibility of evil for its own sake, and suggests that it should be taken as a practical postulate that it is impossible to act upon an unlawful maxim on the sole ground of its unlawfulness. Therefore, many of Kant's insights remain quite defensible.



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