

ON SOME (HEGELIAN) DIFFICULTIES TO BE A KANTIAN IN PRACTICE. A READER'S NOTE

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MATTHEW C. ALTMAN, *KANT AND APPLIED ETHICS. THE USES AND LIMITS OF KANT'S PRACTICAL PHILOSOPHY*, WILEY-BLACKWELL, OXFORD 2011.

Matthew C. Altman's recent book, to an important extent, fills a certain gap in the contemporary Kant scholarship. This is because it purports to provide an overview of current issues in applied ethics against the background of the Kantian ethical framework. In that it does so, it draws on important contributions in the field, which also focus on selected themes in applied ethics, such as Allen Wood's and Christine Korsgaard's discussions of animal welfare, Onora O'Neill's discussion of the patient autonomy, and Barbara Herman's considerations of Kantian ethics, related to the problem of poverty and coercive employment practices. However, both the approach and the scope of Altman's book make it a distinctive and worthwhile enterprise. And, if the approach it offers is anachronistic – for applying Kant's ethical views to problems some of which were not known to Kant – it is no less so than the approach one can find in contemporary ethical documents which, like the Nuremberg Code and the Belmont Report, have been “deeply informed” by the principles of Kantian ethics.¹

The aim of Altman's book seems to be threefold: (1) to provide a reading of Kant's ethics, including, in a minor degree, the exegesis of selected passages from Kant's ethical writings, (2) to address a number of issues in the contemporary applied ethics from the point of view of Kant's ethical theory, and (3) to show the limitations of the application of the latter and a possible alternative to it. As it emerges near the second half of the book, the author finds this alternative in Hegel.

Likewise, the book divides into three parts, dedicated to: (1) the applications of Kant's ethics (chapters 1–4, which I will call constructive),

¹ Altman [2011] p. 1.

(2) the revision of Kant's ethics (chapters 5–6, which I will call revisionist), and (3) outlining the limitations to the applications of Kant's ethics (chapters 7–10, to be called deconstructive). Regardless of the division, each chapter can be considered a self-contained unit, dealing with an issue which would itself constitute subject matter for a separate book. Thus, *Kant and Applied Ethics* covers a markedly wide range of topics, such as: medical experiments on human subjects (introduction); animal welfare (chapter 1); environmental care (chapter 2); access to health care (chapter 3); patient autonomy (chapter 4); capital punishment (chapter 5); same-sex relationships (chapter 6); "mail-order marriages" (chapter 7); poverty and beneficence (chapter 8); corporate social responsibility (chapter 9); and, last but not least, abortion (chapter 10).

There is no space here for giving a precise account of the arguments advanced in each chapter, but a brief overview of the author's claims may help us acquire a picture of the whole. Thus, in the "constructive" chapters Altman argues that the principles of Kant's ethics can be applied to various ends. First, they can be applied to condemn inflicting pain on animals – because it corrupts the character of the moral agent. Second, they can be applied to encourage environmental protection and maintenance of biodiversity – for the sake of the physical and psychological health of rational subjects, both present and future, and also because "appreciating natural beauty helps us to become better people."² Third, Kant's ethics can serve to promote globally just allocation of basic health care resources – because of the duty to sustain moral agents' physical wellbeing, indispensable for "the ability to act on the basis of our decisions."³ And finally it can serve to proscribe practices such as physician-assisted suicide – since allowing such practices reflects a flawed conception of patient autonomy as "being able to do whatever one wants to do,"⁴ rather than as "rational self-determination"⁵ – what O'Neill has called "principled autonomy."⁶

The "revisionist" chapters purport to display an inconsistency in Kant's ethical thinking. If we consider Kantian principles, Altman claims, in their application to problems such as capital punishment and the moral and legal standing of same-sex marriage (or "marriage"), we will see that they allow for conclusions contradicting those Kant arrived at, since "Kant's moral philosophy is

² Ibidem, p. 57.

³ Ibidem, p. 75.

⁴ Ibidem, p. 91.

⁵ Ibidem, p. 92.

⁶ Cf. O'Neill [2002] ch. 4, especially pp. 83–85.

much more progressive than Kant himself seems to have been.”⁷ Accordingly, although the law of retribution demands that those who intentionally deprive others of life be deprived of life themselves, capital punishment should not be administered. This is because, first, the real motives of the culprit, and so the moral qualification of his or her action, can never be known and, second, the justice system has proved many times to be fallible, by convicting the innocent. Also, despite Kant’s outright condemnation of homosexuality, marriage is a way to escape the demeaning of the humanity of individuals engaging in sex outside marriage, because, as the author notices, sexual activity is for Kant morally suspect,⁸ regardless of whether it involves individuals of the same sex or of different sexes (arguments from the natural, or divine, law are clearly irrelevant here). The marital contract instead guarantees mutual respect and support, which depend on “a system of legally defined rights and responsibilities,”⁹ of the partners involved.

The third group of chapters I have called deconstructive since the author sets off here to reveal the underlying deficiencies which ultimately account for subverting Kant’s ethical theory, and for its resulting limitations. Thus, Kant would hold the (intuitively questionable) institution of “mail-order marriages” as morally acceptable, because of his views on marriage as a legal contract and a conviction, predominant in his times, about the natural inferiority of women. He would not take into account what from the socio-economic point of view looks like coercive conditions in which such contracts are entered by one of the parties, since his ethical theory remains insensitive to “the social conditions within which we determine our moral duties.”¹⁰ The problem of Kant’s insensitivity to the social context also emerges in the debates on poverty and the Kantian requirement that we exercise the duty of beneficence. For it becomes clear that “determining whether the maxim [adopted] is in fact a maxim of beneficence depends on a number of factors that are external to the agent’s will,”¹¹ such as the existence of trustworthy charity organizations and our access to information about their revenues. Furthermore, Kant’s ethics fails to address problems generated in the relation between corporate and individual agents, because Kant does not recognize collective bodies as capable of morally evaluable agency. In the end, the

⁷ Altman [2011] p. 115.

⁸ Cf. Kant [1997] p. 378: “in presenting ourselves to the other as an object of enjoyment we feel that we are demeaning humanity in our own person and making ourselves similar to the beasts.”

⁹ Altman [2011] p. 149.

¹⁰ Ibidem, p. 166.

¹¹ Ibidem, p. 204.

idea of moral agency becomes compromised in that it turns out that Kant has no resources to defend the claim to moral value of entities such as fetuses or even very young children, and human beings “at the margins of life”¹² in general, to which most of us would attribute moral value, at least in a considerable degree.¹³ Besides, Kant himself seems to be inconsistent since he *does* provide arguments for the right to life of fetuses and, consequently, against abortion or infanticide, but these arguments, apparently laden with metaphysical assumptions,¹⁴ can supposedly be rejected on Kantian grounds.

With the problems discussed in the third part of his book, Altman illustrates a set of objections against Kantian ethics famously voiced by Hegel in his *Elements of the Philosophy of Right* (especially in paragraph 135). Altman reiterates the Hegelian charges of “empty formalism” and abstraction, meaning that Kant’s ethical thinking is detached from the social and cultural conditions in which moral agency is exercised. Kant’s neglect of the social context leads to his failure to recognize that ethical judgment develops along with the development of communal ties and practices and has a public rather than merely private, or individual, purport. Hegel distinguishes between morality, which belongs to the individual domain and pertains to the duties of particular agents, and ethical life, which is the domain of the society and embodies socially acceptable norms that an individual may (or may not) recognize as his or her own. Although for many readers the Hegelian approach encourages relativism (for what is my duty

¹² This formulation, which refers to the stage of human life when features definitive of or manifesting the personhood of an individual, such as self-consciousness, the ability to take responsibility for one’s actions etc., are not yet there (as in fetuses or newborn babies) or in decline (as in demented patients), is quite often used in the bioethics literature. See, for example, Lizza [2010].

¹³ Since for Kant the ethical universe, as one can read in Geismann [2004], is divided into things and persons, and only the latter can be morally significant, one cannot, on this model, attribute a *degree* of moral value to something. Kant’s, perhaps unlike Hegel’s, is a “dichotomous,” rather than “gradualist” model of moral value (status, dignity, etc.). For the distinction between the two models see, e.g., Galewicz [2013] p. 74.

¹⁴ The following passage from the *Metaphysics of Morals* is reminiscent of a conception of the preexistence of soul: “Since the being that is produced is a Person and it is impossible to frame any concept of the production through a physical operation of a being endowed with freedom, so from the practical point of view it is a quite correct and also necessary Idea to look on the act of procreation as one through which we have put a Person in the world without his (or her) consent and have brought him (or her) arbitrarily and willfully. For this act an obligation is incurred by the parents, insofar as it is within their powers, to make them [i.e. children] satisfied with their condition. They cannot [treat] their child as if it were their artifact (for such a thing could not be a being endowed with freedom) and destroy it as their property or even simply abandon it to chance, because in him [i.e. the child] they have brought over here not simply a worldly being but also a world citizen into a situation with regard to which they can also never be indifferent in terms of concepts of justice.” Kant [1999] pp. 91–92.

depends on what the society, be it my family, work colleagues, or even religious community, expects me to do), it is *Kant* that has to face the objection of relativism, on Altman's reading. This is because "what makes a particular maxim morally permissible depends a great deal on what one can be reasonably expected to understand given his upbringing."¹⁵ Hence, to draw on one of Kant's famous examples,¹⁶ the maxim not to return deposits to their right owners would have no moral significance, according to Hegel, in a society in which people would not value private property.¹⁷ But the existence of certain institutions and arrangements in a society, as well as people's evaluative judgments, can be neither rationally justified, nor questioned. In effect, one may observe, the application of Kant's ethics is contingent upon preserving the *status quo*. Kantian ethics can be applied in practice provided that a whole host of presuppositions is made about the actual world in which we would like to apply it.

The reading I have briefly outlined certainly merits a more in-depth discussion than I can afford here. I will restrict myself to several critical points, which I deem quite relevant in the current context, without extensively defending Kant against the Hegelian charges, which would require a separate commentary.¹⁸

1. Given Altman's relativism objection phrased above, Kant's ethical position should be described as principally conservative, rather than "progressive." And this is not because Kant did not recognize women's equality and rights of homosexual people, and expressly supported capital punishment.¹⁹ On the relativism charge, the point is not *only* that Kant neglects the social context in which an agent formulates his or her maxims, but rather that he presupposes this context without ever attempting to criticize or justify it. If Altman wants to be consistent, then, he should decide whether to read Kant as a moral progressivist, even if unintended, or a moral reactionary. Besides, if the former is the case, he

¹⁵ Altman [2011] pp. 208–209.

¹⁶ The example illustrates the maxim of not returning a deposit in the case when its right owner is deceased, and can be found in the *Critique of Practical Reason* (Kant [2002] pp. 40–41) and in Kant's essay *On the Common Saying: "This May Be True in Theory, But It Does Not Apply in Practice"* (Kant [1970] pp. 70–71).

¹⁷ Cf.: "The fact that property is present is in itself [für sich] no more contradictory than is the non-existence of this or that individual people, family, etc., or the complete absence of human life. But if it is already established and presupposed that property and human life should exist and be respected, then it is a contradiction to commit theft or murder; a contradiction must be a contradiction with something, that is, with a content which is already fundamentally present as an established principle. Only to a principle of this kind does an action stand in a relation [Beziehung] of agreement or contradiction." Hegel [1991] pp. 162–163.

¹⁸ An attempt at the defense of Kant's ethics against Hegel's objections has been carried out, for instance, in Sedgwick [1988].

¹⁹ For the discussion of the latter see: Kant [1997] pp. 310–311.

should explain what he means when he says, in part two of his book, that Kant's ethics is "much more progressive" than it seems or, to put it in a different way, he should explain why rejecting capital punishment and legalizing same-sex marriage, on the basis of Kant's ethical principles, would be indicative of any progress. Roughly speaking, Kant construes progress as a historical process in which the "original predispositions" of the human species become developed.²⁰ In particular, humankind has a task to develop its predisposition to "humanity as [a] moral species."²¹ Thus, Kant views progress in terms of the approximation of moral perfection by the human species as a whole. Now, it is not clear how progress, thus construed, relates to abolishing death penalty and introducing legal marital unions between homosexual people. The latter are still controversial moral issues and labeling them as marks of progress of a society simply begs the question.

2. Hegel's philosophy is systematic. Indeed, Hegel is often claimed to be the last great author of a philosophical system. In a system, parts are subordinated to the whole with which they are logically connected (it is what Hegel calls an "Idea" that determines the relations between parts of a system; and the system, in a way, expresses the whole "Idea").²² Certainly, *Kant and Applied Ethics* is not constructed along the Hegelian lines: it is neither systematic, nor permeated by a unifying idea or thought. Indeed, the reader may wonder why the book starts with environmental ethics, proceeds to health care ethics, penal ethics, sexual ethics, issues in social justice, business ethics, and ends in one of the key issues in bioethics related to the beginning of life. But not only do the structure of the book and the order of chapters lack in clarity; also the selection of topics remains unexplained. Surely, it does not reflect the structure of any of Kant's ethical writings. Neither does it follow contemporary handbooks of bioethics²³ or other areas of applied ethics. Should we consider the selection random? The last chapter deals with moral agency at the margins of life, which is the absolutely pivotal issue in bioethics.²⁴ But why does the author leave the fundamental question of

²⁰ Cf. Kant's essay *Idea for a universal history with a cosmopolitan aim* in Kant [2007] p. 108.

²¹ Cf. Kant's essay *Conjectural beginning of human history* in *ibidem*, p. 170.

²² Cf. e.g. Hegel [1991] pp. 38–39 (§§ 14–15).

²³ In Steinbock [2007], a paradigmatic handbook of bioethics, the thematic scope of the book is much broader and also includes: methods, foundations, and basic concepts of bioethics; problems related to human body (organ transplants, biobanks); further topics in the ethics of the end of life (such as the definition of death, or senility); genetics and enhancement.

²⁴ Altman confirms this when, in a somewhat emphatic tone, he writes: "Abortion is such a difficult issue because we seem unable to make sense of a pragmatic concept of personhood. We tend to glorify a kind of static maturity – the rational, fully functioning adult – in contrast to forms of

moral agency (personhood and moral status) until the end of the book? Should not basic issues be settled before progressing to further topics, albeit less controversial? The reader may at best make conjectures why the order of importance is apparently reversed since the author does not justify it.

3. It might be pointed out²⁵ that Hegel's critique of Kantian ethics rests on a fairly selective reading on which one formulation of the categorical imperative (CI) is taken into consideration, while the other is neglected. Thus, Hegel identifies the CI with the formula of the universal law (FUL) and ignores the formula of humanity as an end in itself (FEI). O'Neill has suggested²⁶ that all the formulations of the CI can be regarded as casting light on *rational agency* from a different perspective. For example, FUL encourages the moral agent to adopt the other agent's perspective when deciding upon which course of conduct to undertake, whereas FEI expresses an injunction to realize that one's actions affect the agency of others, by either promoting, or thwarting it. This is where the social (or, more properly, communal) aspect comes into view, even though it seems to pass largely unnoticed by Hegel (and, at times, by Altman). Also, the "empty formalism" objection can be mitigated if we notice that the concept of humanity, which figures in FEI, yields content to Kantian ethics. Furthermore, also humanity has been considered under different aspects by Kant commentators, such as the capacity to set ends or the ability to act out of respect for the moral law.²⁷ Oliver Sensen has argued that the dignity Kant attributes to humanity can be taken in two different (although not mutually exclusive) senses: one in which it pertains to all human beings as their intrinsic value, and the other (favoured by Kant and the stoics) in which it is a property one ought to earn by making proper use of one's freedom.²⁸ Throughout the book the "end-setting" idiom prevails. Accordingly, Altman suggests, for example, that furthering humanity in other persons, understood as the capacity to set ends, would also entail actions intended at promoting their physical and mental wellbeing (chapter 3), or even at promoting their personal happiness or pleasure (chapter 6). It is of course true that all these goods are conducive to better employment of rational capacities and sometimes they even

impairment and degeneration that handicap the very young and the very old. [...] Fetuses seem to be the limiting case, the place at which personhood and thinghood blur together. *In many ways, how we understand fetuses is symbolic of how we understand humanity in general.*" Altman [2011] p. 273 (italics - A.T.).

²⁵ Cf. Sedgwick [1988].

²⁶ Cf. her essay *Universal laws and ends-in-themselves* in O'Neill [1989] pp. 126-144.

²⁷ Cf. e.g. Hill [1980], Korsgaard [1996] pp. 106-132, Wood [2008] pp. 85-105.

²⁸ Cf. Sensen [2009].

condition it. But for Kant they have no intrinsic value, any more than biological life itself. Good health may condition moral agency but so does unimpeded development of a human organism since its very beginning, a claim Altman would be rather reluctant to defend (as an interpreter of Kant). Thus, one may suspect that his considerations reveal commitment to a too broad (and perhaps un-Kantian) construal of humanity, and ultimately may come close to those heterodox readings²⁹ on which humanity would be equated with the membership in the human species, and the biological, or at least sensitive, life, rather than merely rational capacities, would be held morally significant.

4. Hegel's reading of Kant may seem contentious also because Hegel endorses what in the contemporary Kant literature has been called a two-worlds view on the critical philosophy.³⁰ This view relates to the Kantian doctrine of transcendental idealism and states that, on this doctrine, Kant distinguishes two different kinds of entities: appearances and things in themselves, radically heterogeneous. On this view, contrasted with the double-aspect reading,³¹ one and the same thing cannot have both the empirical and the noumenal aspects. The two-worlds view makes the problem of moral responsibility for one's actions particularly tricky: for the choice of one's maxim, made on the noumenal level, would determine the moral qualification of an action, executed by the subject. But since there is no cognitive access from the phenomenal to the noumenal sphere, no deed, which we can attribute to an agent, could be properly morally qualified. Thus, for example, what *appears as* an intentional murder of an innocent victim may as well be interpreted as a result of a misfortunate and unintended accident, or as a result of causal determination of an agent's behaviour, hence as an involuntary occurrence. Since, as Altman argues in chapter 5, we cannot know the agent's true motives, our own motives included, we can never morally qualify any action. Such a conclusion, if true, would prove Kant's radical skepticism, destructive for morality. Altman's argument against capital punishment from the point of view of Kantian ethics has this conclusion as a corollary. Therefore, since

²⁹ For an argument for the dignity of all human beings from the moment of conception, based on the interpretation of the Kantian conception of humanity on which this property pertains to all members of the human species, regardless of the stage of the development of the human organism, see: Oduncu [2003] and Kain [2009].

³⁰ Hegel's statements are indicative of his endorsement of the "two-worlds view," for instance, here: "according to Kant, thoughts, although they are necessary and universal determinations, are still only our thoughts, and are cut off from what the thing is in-itself by *an impassable gulf*." Hegel [1991] p. 83 (italics - A.T.). Cf. also *ibidem*, p. 200.

³¹ For an overview of arguments in favour of the double-aspect reading, as well as its criticism, see Allison's essay *Transcendental idealism: A Retrospective* in Allison [1996] pp. 3-26.

the conclusion undermines all morality in general, and so is unacceptable (at least for Kant), the argument cannot be valid, or its basic assumptions need substantial revision. Here again the problem of moral agency recurs, this time in its relation to the central tenets of Kant's theoretical philosophy.

Kant and Applied Ethics is without doubt an ambitious enterprise but, just because of this, I am inclined to assess it as only partly successful. It makes an attempt at answering the question how much use we can make of Kant's ethics to deal with contemporary dilemmas in practical ethics. But in fact it leaves us with the question whether we can make any use of Kantian ethical principles at all. It criticizes Kant from the point of view of an ethical position which may not itself withstand rational criticism any better than the theory of Kant. To that end, it avails itself of an interpretation that distorts the meaning of certain ethical doctrines of Kant and, last but not least, in an important respect it fails to clarify Kant's basic concepts and assumptions, and to address those theoretical considerations which underlie Kant's ethical thinking.

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