

eagerness into all their schemes of vengeance, and feel ourselves every moment wreaking, in imagination, upon such violators of the laws of society, that punishment which our sympathetic indignation tells us is due to their crimes. Our sense of the horror and dreadful atrocity of such conduct, the delight which we take in hearing that it was properly punished, the indignation which we feel when it escapes this due retaliation, our whole sense and feeling, in short, of its ill desert, of the propriety and fitness of inflicting evil upon the person who is guilty of it, and of making him grieve in his turn, arises from the sympathetic indignation which naturally boils up in the breast of the spectator, whenever he thoroughly brings home to himself the case of the sufferer.¹

NOTE

1. To ascribe in this manner our natural sense of the ill desert of human actions to a sympathy with the resentment of the sufferer, may seem, to the greater part of people, to be a degradation of that sentiment. Resentment is commonly regarded as so odious a passion, that they will be apt to think it impossible that so laudable a principle, as the sense of the ill desert of vice, should in any respect be founded upon it. They will be more willing, perhaps, to admit that our sense of the merit of good actions is founded upon a sympathy with the gratitude of the persons who receive the benefit of them; because gratitude, as well as all the other benevolent passions, is regarded as an amiable principle, which can take nothing from the worth of whatever is founded upon it. Gratitude and resentment, however, are in every respect, it is evident, counterparts to one another; and if our sense of merit arises from a sympathy with the one, our sense of demerit can scarce miss to proceed from a fellow-feeling with the other.

5. Moral Worth as Alone Deserving Happiness

IMMANUEL KANT

Immanuel Kant (1724–1804), who was born in a deeply pietistic Lutheran family in Königsberg, Germany, lived in that town his entire life. At sixteen he entered the University of Königsberg, where he studied under the tutelage of Martin Knutzen and read works of Leibniz. After graduation he worked as a tutor; in 1755 he was offered an unsalaried lectureship at his alma mater, receiving his fees directly from his students. He served in this capacity until 1770, when he was promoted to the Chair of Logic and Metaphysics. For the next ten years he worked on his magnum opus, *Critique of Pure Reason* (1781). In 1783 he wrote a shorter *Prolegomena to Any Future Metaphysic* "for the benefit of teachers," and in 1785 he wrote his first major work in ethics, *Foundation for the Metaphysic of Morals*. A successor to that work, *Critique of Practical Reason*, appeared in 1788, and in 1793 he published his theory of rational religion, *Religion within the Limits of Reason Alone*.

Kant was an outstanding lecturer and excellent conversationalist who was known for his generosity and friendliness. He lived a quiet, duty-bound, methodical life, so regular that citizens were said to have set their clocks by his walks. He would leave his home at precisely 4:30 in the afternoon and walk up and down the street on which he lived exactly eight times.

In his own lifetime Kant was recognized as one of the premier philosophers in the Western tradition. Although he made major contributions to virtually every philosophical topic, he is best known for his deontological theory of ethics, which is centered in the idea of the categorical imperative.

Kant's Ethical Theory

In Kant's classic work *Foundation for the Metaphysic of Morals*, written in 1785, he outlines his ethical system. Kant is concerned to reject those ethical theories, such as the Theory of Moral Sentiments set forth by the Scottish moralists Francis Hutcheson (1694), Adam Smith (1723–1790), and David Hume (1711–1776), in which morality is contingent and hypothetical. The Moral Sentiment view is contingent in that it is based on human nature and, in particular, on our feelings or sentiments. Had we been created differently, we would have a different nature and, hence, different moral duties. Morality, on this view, consists of hypothetical imperatives in that they depend on our desires for their realization. For example, we should obey the law because we want a peaceful, orderly society. We should seek peace because it is necessary for personal happiness. The naturalistic ethicists were typically utilitarians who sought to maximize human happiness.

Kant rejects this naturalistic, utilitarian account of ethics. Ethics is not *contingent* but *absolute*, and its duties or imperatives are not *hypothetical* but *categorical* (nonconditional). Ethics is based not on feeling but on reason. It is because we are rational beings that we are valuable and capable of discovering moral laws binding on all persons at all times. As such, our moral duties are dependent not on feelings but on reason. They are unconditional, universally valid, and necessary, regardless of the possible consequences or opposition to our inclinations.

Kant's first formulation of his *categorical imperative* is "Act only on that maxim whereby thou canst at the same time will that it would become a universal law." This imperative is given as the criterion (or second-order principle) by which to judge all other principles. If we could consistently will that everyone would do some type of action, then there is an application of the categorical imperative enjoining that type of action. If we cannot consistently will that everyone would do some type of action, then that type of action is morally wrong. Kant argues, for example, that we cannot consistently will that everyone make lying promises, for the very institution of promising entails or depends on general adherence to keeping the promise or an intention to do so.

Kant sets forth a retributive theory of desert in terms of rewards and punishments. "Just so reward follows a good deed not in order to encourage to further good deeds, but because of the deed itself. . . . The ground for doing a good action should not lie in the reward but the action should be rewarded because it is good."¹ Human actions derive worth, not from their benefits, but from their fulfilment of the moral law. We ought to do our duty without regard to reward, but those who act from such respect for duty, are worthy of esteem. "The less inner worth a man has, the less esteem does he deserve."² The more inner worth a man has, the more esteem he deserves. But one who merely does one's duty is simply neutral regarding merit. He has no merit nor demerit. He should be neither praised nor blamed. Merit is the fulfilment of duty beyond what can be required by the law. Demerit is the failure to do even one's minimal duty. Only those who are moral heroes merit reward. But merit may also refer to the quality of one's will in overcoming one's weak character, temptation, or obstacles to doing one's duty. The greater the obstacles one must overcome to do one's duty, the more meritorious one's actions.

We begin with the classic section from Kant's *Foundation for the Metaphysic of Morals* on the good will as the only absolutely good thing, where he sets forth an argument for the thesis that commitment to moral duty alone deserves the rewards of happiness. After two short selections from *Introduction to the Metaphysics of Morals* on the relationship of morality to happiness, we turn to a selection from *Critique of Pure Reason*, where Kant elaborates on the nature of being deserving of happiness. Finally, we read the classic passage on retributivism from *The Science of Right*.

On the Good Will

Nothing can possibly be conceived in the world, or even out of it, which can be called good, without qualification, except a good will. Intelligence, wit, judgement, and the

other talents of the mind, however they may be named, or courage, resolution, perseverance, as qualities of temperament, are undoubtedly good and desirable in many respects; but these gifts of nature may also become extremely bad and mischievous if the

will which is to make use of them, and which, therefore, constitutes what is called character, is not good. It is the same with the gifts of fortune. Power, riches, honour, even health, and the general well-being and contentment with one's condition which is called happiness, inspire pride, and often presumption, if there is not a good will to correct the influence of these on the mind, and with this also to rectify the whole principle of acting and adapt it to its end. The sight of a being who is not adorned with a single feature of a pure and good will, enjoying unbroken prosperity, can never give pleasure to an impartial rational spectator. Thus a good will appears to constitute the indispensable condition even of being worthy of happiness.

There are even some qualities which are of service to this good will itself and may facilitate its action, yet which have no intrinsic unconditional value, but always presuppose a good will, and this qualifies the esteem that we justly have for them and does not permit us to regard them as absolutely good. Moderation in the affections and passions, self-control, and calm deliberation are not only good in many respects, but even seem to constitute part of the intrinsic worth of the person; but they are far from deserving to be called good without qualification, although they have been so unconditionally praised by the ancients. For without the principles of a good will, they may become extremely bad, and the coolness of a villain not only makes him far more dangerous, but also directly makes him more abominable in our eyes than he would have been without it.

A good will is good not because of what it performs or effects, not by its aptness for the attainment of some proposed end, but simply by virtue of the volition; that is, it is good in itself, and considered by itself is to be esteemed much higher than all that can be brought about by it in favor of any inclination, nay even of the sum total of all inclinations. Even if it should happen that, owing to special disfavor of fortune, or the stingy provision of a step-motherly nature, this will should wholly lack power to accomplish its purpose, if with its greatest efforts it should

yet achieve nothing, and there should remain only the good will (not, to be sure, a mere wish, but the summoning of all means in our power), then, like a jewel, it would still shine by its own light, as a thing which has its whole value in itself. Its usefulness or fruitfulness can neither add nor take away anything from this value. It would be, as it were, only the setting to enable us to handle it the more conveniently in common commerce, or to attract to it the attention of those who are not yet connoisseurs, but not to recommend it to true connoisseurs, or to determine its value.

There is, however, something so strange in this idea of the absolute value of the mere will, in which no account is taken of its utility, that notwithstanding the thorough assent of even common reason to the idea, yet a suspicion must arise that it may perhaps really be the product of mere high-flown fancy, and that we may have misunderstood the purpose of nature in assigning reason as the governor of our will. Therefore we will examine this idea from this point of view.

In the physical constitution of an organized being, that is, a being adapted suitably to the purposes of life, we assume it as a fundamental principle that no organ for any purpose will be found but what is also the fittest and best adapted for that purpose. Now in a being which has reason and a will, if the proper object of nature were its conservation, its welfare, in a word, its happiness, then nature would have hit upon a very bad arrangement in selecting the reason of the creature to carry out this purpose. For all the actions which the creature has to perform with a view to this purpose, and the whole rule of its conduct, would be far more surely prescribed to it by instinct, and that end would have been attained thereby much more certainly than it ever can be by reason. Should reason have been communicated to this favored creature over and above, it must only have served it to contemplate the happy constitution of its nature, to admire it, to congratulate itself thereon, and to feel thankful for it to the beneficent cause, but not that it should subject its desires to that weak and delusive guidance and meddle bunglingly with the purpose of

nature. In a word, nature would have taken care that reason should not break forth into practical exercise, nor have the presumption, with its weak insight, to think out for itself the plan of happiness, and of the means of attaining it. Nature would not only have taken on herself the choice of the ends, but also of the means, and with wise foresight would have entrusted both to instinct.

And, in fact, we find that the more a cultivated reason applies itself with deliberate purpose to the enjoyment of life and happiness, so much the more does the man fail of true satisfaction. And from this circumstance there arises in many, if they are candid enough to confess it, a certain degree of misology, that is, hatred of reason, especially in the case of those who are most experienced in the use of it, because after calculating all the advantages they derive, I do not say from the invention of all the arts of common luxury, but even from the sciences (which seem to them to be after all only a luxury of the understanding), they find that they have, in fact, only brought more trouble on their shoulders, rather than gained in happiness; and they end by envying, rather than despising, the more common stamp of men who keep closer to the guidance of mere instinct and do not allow their reason much influence on their conduct. And this we must admit, that the judgement of those who would very much lower the lofty eulogies of the advantages which reason gives us in regard to the happiness and satisfaction of life, or who would even reduce them below zero, is by no means morose or ungrateful to the goodness with which the world is governed, but that there lies at the root of these judgements the idea that our existence has a different and far nobler end, for which, and not for happiness, reason is properly intended, and which must, therefore, be regarded as the supreme condition to which the private ends of man must, for the most part, be postponed.

For as reason is not competent to guide the will with certainty in regard to its objects and the satisfaction of all our wants (which it to some extent even multiplies), this being an end to which an implanted instinct would have

led with much greater certainty; and since, nevertheless, reason is imparted to us as a practical faculty, i.e., as one which is to have influence on the will, therefore, admitting that nature generally in the distribution of her capacities has adapted the means to the end, its true destination must be to produce a will, not merely good as a means to something else, but good in itself, for which reason was absolutely necessary.

This will then, though not indeed the sole and complete good, must be the supreme good and the condition of every other, even of the desire of happiness. Under these circumstances, there is nothing inconsistent with the wisdom of nature in the fact that the cultivation of the reason, which is requisite for the first and unconditional purpose [moral duty], does in many ways interfere, at least in this life, with the attainment of the second, which is always conditional, namely, happiness. Nay, it may even reduce it to nothing, without nature thereby failing of her purpose. For reason recognizes the establishment of a good will as its highest practical destination, and in attaining this purpose is capable only of a satisfaction of its own proper kind, namely that from the attainment of an end, which end again is determined by reason only, notwithstanding that this may involve many a disappointment to the ends of inclination.

We have then to develop the notion of a will which deserves to be highly esteemed for itself and is good without a view to anything further, a notion which exists already in the sound natural understanding, requiring rather to be cleared up than to be taught, and which in estimating the value of our actions always takes the first place and constitutes the condition of all the rest. In order to do this, we will take the notion of duty, which includes that of a good will, although implying certain subjective restrictions and hindrances. These, however, far from concealing it, or rendering it unrecognizable, rather bring it out by contrast and make it shine forth so much the brighter.

I omit here all actions which are already recognized as inconsistent with duty, although they may be useful for this or that purpose,

for with these the question whether they are done from duty cannot arise at all, since they even conflict with it. I also set aside those actions which really conform to duty, but to which men have no direct inclination, performing them because they are impelled thereto by some other inclination. For in this case we can readily distinguish whether the action which agrees with duty is done from duty, or from a selfish view. It is much harder to make this distinction when the action accords with duty and the subject has besides a direct inclination to it. For example, it is always a matter of duty that a dealer should not overcharge an inexperienced purchaser; and wherever there is much commerce the prudent tradesman does not overcharge, but keeps a fixed price for everyone, so that a child buys of him as well as any other. Men are thus honestly served; but this is not enough to make us believe that the tradesman has so acted from duty and from principles of honesty: his own advantage required it; it is out of the question in this case to suppose that he might besides have a direct inclination in favor of the buyers, so that, as it were, from love he should give no advantage to one over another. Accordingly the action was done neither from duty nor from direct inclination, but merely with a selfish view.

On the other hand, it is a duty to maintain one's life; and, in addition, everyone has also a direct inclination to do so. But on this account the often anxious care which most men take for it has no intrinsic worth, and their maxim has no moral import. They preserve their life as duty requires, no doubt, but not because duty requires. On the other hand, if adversity and hopeless sorrow have completely taken away the relish for life; if the unfortunate one, strong in mind, indignant at his fate rather than desponding or dejected, wishes for death, and yet preserves his life without loving it—not from inclination or fear, but from duty—then his maxim has a moral worth. . . .

To duty every other motive must give place, because duty is the condition of a will good in itself, whose worth transcends everything.

► We noted Kant's first formulation of the categorical imperative in the Introduction to this section. He offers a second formulation: "So act as to treat humanity, whether in your own person or in that of any other, in every case as an end and never as merely a means only." Each person by virtue of his or her reason has dignity and profound worth, which entails that he or she must never be exploited or manipulated or merely used as a means to our idea of what is for the general good. However, according to Kant, although rational beings have this intrinsic worth, this dignity beyond price, this worth and dignity can be diminished, even obliterated, by immoral action. He writes:

Lying is the throwing away and, as it were, the obliteration of one's dignity as a human being. A man who does not himself believe what he says to another (even if it be only a person existing in idea) has even less worth than if he were a mere thing; for because of the things's property of being useful, the other person can make some use of it, since it is a thing real and given. But to communicate one's thoughts to someone by words which (intentionally) contain the opposite of what one thinks is an end directly contrary to the natural purposiveness of his capacity to communicate his thoughts. In so doing, he renounces his personality and, as a liar, manifests himself as a mere deceptive appearance of a man, not as a true man. Veracity in one's statements is called honesty, and when these statements are at the same time promises, sincerity . . . Lying. . . ., as intentional untruth in general, does not need to be harmful to others in order to be declared blameworthy, for then it would be a violation of the rights of others. Its cause may be mere levity or even good nature; indeed, even a really good end may be intended by lying. Yet to lie even for these reasons is through its mere form a crime of man against his own person and a baseness which must make a man contemptible in his own eyes. (Kant, *Introduction to the Metaphysics of Morals* [1785], trans. W. Hastie [Edinburgh, 1887]).

Kant's theory seems to be the following. Human beings, qua rational beings, have intrinsic

worth, merit (German, *verdienst*; Latin, *meritarum*), so they should never be treated as means only and not as ends in themselves. But they can obliterate that worth by immoral acts, thus undermining their essential dignity. When they act immorally, they deserve to be punished, deserve to be unhappy. Here is another passage to consider:

When any one does, in conformity with duty, more than he can be compelled to do by the law, it is said to be *meritorious* (*meritum*). What is done only in exact conformity with the law, is what is due. And when less is done than can be demanded to be done by the law, the result is moral demerit (*demeritum*) or culpability.

The juridical effect or consequence of a culpable act of demerit is punishment; that of a meritorious act is reward, assuming that this reward was promised in the law and that it formed the motive of the action. The coincidence or exact conformity of conduct to what is due has no juridical effect.

Benevolent remuneration has no place in juridical relations. The good or bad consequences arising from the performance of an obligated action—as also the consequences arising from failing to perform a meritorious action—cannot be imputed to the agent. The good consequences of a meritorious action—as also the bad consequences of a wrongful action—may be imputed to the agent.

The degree of the imputability of actions is to be reckoned according to the magnitude of the hindrances or obstacles which it has been necessary for them to overcome. The greater the natural hindrances in the sphere of sense, and the less the moral hindrance of duty, so much the more is a good deed imputed as meritorious. This may be seen by considering such examples as rescuing a man who is an entire stranger from great distress, and at very considerable sacrifice.

Conversely, the less the natural hindrance, and the greater the hindrance on the ground of duty, so much the more is a transgression imputable as culpable.

Hence the state of mind of the agent or doer of a deed makes a difference in imputing its consequences, according as he did it in passion or performed it with coolness and deliberation. (*ibid*)

Of the Ideal of the Summum Bonum as a Determining Ground of the Ultimate End of Pure Reason

Reason conducted us, in its speculative use, through the field of experience and, as it can never find complete satisfaction in that sphere, from thence to speculative ideas—which, however, in the end brought us back again to experience, and thus fulfilled the purpose of reason, in a manner which, though useful, was not at all in accordance with our expectations. It now remains for us to consider whether pure reason can be employed in a practical sphere, and whether it will here conduct us to those ideas which attain the highest ends of pure reason, as we have just stated them. We shall thus ascertain whether, from the point of view of its practical interest, reason may not be able to supply us with that which, on the speculative side, it wholly denies us.

The whole interest of reason, speculative as well as practical, is centered in the three following questions:

1. WHAT CAN I KNOW?
2. WHAT OUGHT I TO DO?
3. WHAT MAY I HOPE?

The first question is purely speculative. We have, as I flatter myself, exhausted all the replies of which it is susceptible, and have at last found the reply with which reason must content itself, and with which it ought to be content, so long as it pays no regard to the practical. But from the two great ends to the attainment of which all these efforts of pure reason were in fact directed, we remain just as far removed as if we had consulted our

ease and declined the task at the outset. So far, then, as knowledge is concerned, thus much, at least, is established, that, in regard to those two problems, it lies beyond our reach.

The second question is purely practical. As such it may indeed fall within the province of pure reason, but still it is not transcendental, but moral, and consequently cannot in itself form the subject of our criticism.

The third question: If I act as I ought to do, what may I then hope?—is at once practical and theoretical. The practical forms a clue to the answer of the theoretical, and—in its highest form—speculative question. For all hoping has happiness for its object and stands in precisely the same relation to the practical and the law of morality as knowing to the theoretical cognition of things and the law of nature. The former arrives finally at the conclusion that something is (which determines the ultimate end), because something ought to take place; the latter, that something is (which operates as the highest cause), because something does take place.

Happiness is the satisfaction of all our desires: *extensively*, in regard to their multiplicity; *intensively*, in regard to their degree; and *protensively*, in regard to their duration. The practical law based on the motive of *happiness* I term a pragmatical law (or prudential rule); but that law, assuming such to exist, which has no other motive than the *worthiness of being happy*, I term a moral or ethical law. The first tells us what we have to do, if we wish to become possessed of happiness; the second dictates how we ought to act, in order to deserve happiness. The first is based upon empirical principles; for it is only by experience that I can learn either what inclinations exist which desire satisfaction, or what are the natural means of satisfying them. The second takes no account of our desires or the means of satisfying them, and regards only the freedom of a rational being, and the necessary conditions under which alone this freedom can harmonize with the distribution of happiness according to principles. This second law may therefore rest upon mere ideas of pure reason, and may be cognized a priori.

I assume that there are pure moral laws which determine, entirely a priori (without regard to empirical motives, that is, to happiness), the conduct of a rational being, or in other words, to use which it makes of its freedom, and that these laws are absolutely imperative (not merely hypothetically, on the supposition of other empirical ends), and therefore in all respects necessary. I am warranted in assuming this, not only by the arguments of the most enlightened moralists, but by the moral judgement of every man who will make the attempt to form a distinct conception of such a law.

Pure reason, then, contains, not indeed in its speculative, but in its practical, or, more strictly, its moral use, principles of the possibility of experience, of such actions, namely, as, in accordance with ethical precepts, might be met with in the history of man. For since reason commands that such actions should take place, it must be possible for them to take place; and hence a particular kind of systematic unity—the moral—must be possible. We have found, it is true, that the systematic unity of nature could not be established according to speculative principles of reason, because, while reason possesses a causal power in relation to freedom, it has none in relation to the whole sphere of nature; and, while moral principles of reason can produce free actions, they cannot produce natural laws. It is, then, in its practical, but especially in its moral use, that the principles of pure reason possess objective reality.

I call the world a *moral world*, in so far as it may be in accordance with all the ethical laws—which, by virtue of the freedom of reasonable beings, it can be, and according to the necessary laws of morality it ought to be. But this world must be conceived only as an intelligible world, inasmuch as abstraction is therein made of all conditions (ends), and even of all impediments to morality (the weakness or depravity of human nature). So far, then, it is a mere idea—though still a practical idea—which may have, and ought to have, an influence on the world of sense, so as to bring it as far as possible into conformity with itself. The idea of a moral world

has, therefore, objective reality, not as referring to an object of intelligible intuition—for of such an object we can form no conception whatever—but to the world of sense—conceived, however, as an object of pure reason in its practical use—and to a corpus mysticum of rational beings in it, in so far as the free will of the individual is placed, under and by virtue of moral laws, in complete systematic unity both with itself and with the freedom of all others.

That is the answer to the first of the two questions of pure reason which relate to its practical interest: *Do that which will render you unworthy of happiness.* The second question is this: If I conduct myself so as not to be unworthy of happiness, may I hope thereby to obtain happiness? In order to arrive at the solution of this question, we must inquire whether the principles of pure reason, which prescribe a priori the law, necessarily also connect this hope with it.

I say, then, that just as the moral principles are necessary according to reason in its practical use, so it is equally necessary according to reason in its theoretical use to assume that every one has ground to hope for happiness in the measure in which he has made himself worthy of it in his conduct, and that therefore the system of morality is inseparably (though only in the idea of pure reason) connected with that of happiness.

Now in an intelligible, that is, in the moral world, in the conception of which we make abstraction of all the impediments to morality (sensuous desires), such a system of happiness, connected with and proportioned to morality, may be conceived as necessary, because freedom of volition—partly incited and partly restrained by moral laws—would be itself the cause of general happiness; and thus rational beings, under the guidance of such principles, would be themselves the authors both of their own enduring welfare and that of others. But such a system of self-rewarding morality is only an idea, the carrying out of which depends upon the condition that every one acts as he ought; in other words, that all actions of reasonable beings be such as they would be if they sprung from a

Supreme Will, comprehending in, or under, itself all particular wills. But since the moral law is binding on each individual in the use of his freedom of volition, even if others should not act in conformity with this law, neither the nature of things, nor the causality of actions and their relation to morality, determine how the consequences of these actions will be related to happiness; and the necessary connection of the hope of happiness with the unceasing endeavor to become worthy of happiness, cannot be cognized by reason, if we take nature alone for our guide.

This connection can be hoped for only on the assumption that the cause of nature is a supreme reason, which governs according to moral laws. I term the idea of an intelligence in which the morally most perfect will, united with supreme blessedness, is the cause of all happiness in the world, so far as happiness stands in strict relation to morality (as the worthiness of being happy), the *Ideal of the Supreme Good*. It is only in the ideal of the supreme original good, that pure reason can find the ground of the practically necessary connection of both elements of the highest derivative good, and accordingly of an intelligible, that is, moral world. Now since we are necessitated by reason to conceive ourselves as belonging to such a world, while the senses present to us nothing but a world of phenomena, we must assume the former as a consequence of our conduct in the world of sense (since the world of sense gives us no hint of it), and therefore as future in relation to us. Thus God and a future life are two hypotheses which, according to the principles of pure reason, are inseparable from the obligation which this reason imposes upon us.

Morality per se constitutes a system. But we can form no system of happiness, except in so far as it is dispensed in strict proportion to morality. But this is only possible in the intelligible world, under a wise author and ruler. Such a ruler, together with life in such a world, which we must look upon as future, reason finds itself compelled to assume; or it must regard the moral laws as idle dreams, since the necessary consequence which this same reason connects with them must, without this

hypothesis, fall to the ground. Hence also the moral laws are universally regarded as commands, which they could not be did they not connect a priori adequate consequences with their dictates, and thus carry with them promises and threats. But this, again, they could not do, did they not reside in a necessary being, as the Supreme Good, which alone can render such a teleological unity possible.

Leibniz termed the world, when viewed in relation to the rational beings which it contains, and the moral relations in which they stand to each other, under the government of the Supreme Good, the *kingdom of Grace*, and distinguished it from the *kingdom of Nature*, in which these rational beings live, under moral laws, indeed, but expect no other consequences from their actions than such as follow according to the course of nature in the world of sense. To view ourselves, therefore, as in the kingdom of grace, in which all happiness awaits us, except in so far as we ourselves limit our participation in it by actions which render us unworthy of happiness, is a practically necessary idea of reason.

Practical laws, in so far as they are subjective grounds of actions, that is, subjective principles, are termed maxims. The judgments of morality according to in its purity and ultimate results are framed according to ideas; the observance of its laws, according to maxims. The whole course of our life must be subject to moral maxims; but this is impossible, unless with the moral law, which is a mere idea, reason connects an efficient cause which ordains to all conduct which is in conformity with the moral law an issue either in this or in another life, which is in exact conformity with our highest aims. Thus, without a God and without a world, invisible to us now, but hoped for, the glorious ideas of morality are, indeed, objects of approbation and of admiration, but cannot be the springs of purpose and action. For they do not satisfy all the aims which are natural to every rational being, and which are determined a priori by pure reason itself, and necessary.

Happiness alone is, in the view of reason, far from being the complete good. Reason does not approve of it (however much inclination may desire it), except as united with desert. On the other hand, morality alone, and with it, mere desert, is likewise far from being the complete good. To make it complete, he who conducts himself in a manner not unworthy of happiness, must be able to hope for the possession of happiness. . . .

Happiness, therefore, in exact proportion with the morality of rational beings (whereby they are made worthy of happiness), constitutes alone the supreme good of a world into which we absolutely must transport ourselves according to the commands of pure but practical reason. This world is, it is true, only an intelligible world; for of such a systematic unity of ends as it requires, the world of sense gives us no hint. Its reality can be based on nothing else but the hypothesis of a supreme original good. In it independent reason, equipped with all the sufficiency of a supreme cause, founds, maintains, and fulfils the universal order of things, with the most perfect teleological harmony, however much this order may be hidden from us in the world of sense.

► Next we see how Kant's theory applies to the concept of punishment.

The Right to Punish

The right to punish is the right that the sovereign has the supreme power to inflict pain on a subject on account of his having committed a crime. It follows that the sovereign of the state cannot himself be punished; we can only remove ourselves from his jurisdiction. A transgression of the public law which makes him who commits it unfit to be a citizen constitutes a crime, either simply as a private crime, or as a public crime. Private crimes are brought before a civil court; public crimes before a criminal court. Embezzle-

ment or misappropriation of money or goods entrusted in trade, and fraud in buying and selling, if done before the eyes of the party who suffers, are private crimes. On the other hand, counterfeiting money or forging bills of exchange, theft, robbery, and similar acts, are public crimes, because through them the commonwealth and not just a single individual is thereby endangered. These crimes may be divided into those of base character and those of a violent character.

Judicial punishment is to be distinguished from natural punishment. In natural punishment, vice punishes itself, and does not come before the legislator. Judicial punishment can never be used merely as a means for promoting some other good either for the criminal himself or for civil society, but instead must in all cases be imposed on him only on the grounds that he has committed a crime. For one man ought never be used as a means subservient to the purposes of someone else, nor be mixed up with the subjects real right. His innate personality [i.e., his right as a person] protects him against such manipulation, even though he may indeed be condemned to lose his civil personality. He must first be found to be deserving of punishment before any consideration is given to the utility of this punishment for himself or for his fellow citizens. The penal law is a categorical imperative, and woe to him who creeps through the serpent-windings of utilitarianism to discover some advantage to be gained by releasing the criminal from punishment or by reducing the amount of it—in keeping with the Pharisaic maxim: "It is better that one man should die than that the whole people should perish." For if justice and righteousness perish, human life would no longer have any value in the world. If this is so, what should one think of the proposal to permit a criminal who has been condemned to death to remain alive, if, after consenting to allow dangerous experiments to be performed on him, he would be allowed to survive if he came through them? It is argued that physicians might thereby obtain new information that benefits the community. Any court of justice would repudiate such a proposal with scorn if it were made by

a medical college, for justice ceases to be justice if it can be bartered away for any consideration, no matter how noble.

What kind and degree of punishment does public justice adopt as its principle and standard? None other than the principle of equality which is exemplified by the pointer on the scales of justice, which is made to incline no more to one side than the other. Accordingly, any undeserved evil that you inflict on someone else among the people is one that you do to yourself. If you vilify him, you vilify yourself; if you steal from him, you steal from yourself; if you kill him, you kill yourself. Only the Law of retribution (*jus talionis*) can determine precisely the kind and degree of punishment; it must be well understood, however, that this judgment must be made in the court of justice and not in one's private judgment. All other standards are wavering and unreliable, and, because extraneous considerations are mixed with them, they cannot be compatible with the principle of pure and strict legal justice.

It may appear, however, that the difference in social status would not allow for the retributive principle of rendering like for like. However, even though these class distinctions may not make it possible to apply this principle to the letter, it can still always remain applicable in its effects if regard is had to the special sensibilities of the higher classes. Thus, for example, the imposition of a fine for slander may have no direct proportion to the injustice of the original injury, for someone who is wealthy can easily afford to make insults whenever he wishes. Yet the attack committed on the aggrieved party may have its equivalent in pain inflicted upon the pride of the aggressor, especially if he is condemned by the judgment of the Law, and might be required not only to make a public apology to the offended person, but also at the same time to kiss his hand, even though he be socially inferior. Similarly, if a man of a higher class has violently attacked an innocent citizen who is socially inferior to him, he may be condemned, not only to apologize, but to undergo solitary and painful confinement, because by this means, in addition to the discomfort suf-

fered, the pride of the offender will be painfully affected, and thus humiliation will compensate for the offenses as like for like.

But how then should we understand the statement: "If you steal from another, you steal from yourself"? In this way, that whoever steals anything makes the property of all insecure. He therefore robs himself (in accordance with the Law of retribution) of the security of any possible ownership. He has nothing and can also acquire nothing, but he still wants to live, and this is not possible unless others support and sustain him. But, because the state will not support him gratis, he must let the state have his labor at any kind of work it may wish to use him for convict labor, and so he becomes a slave, either for a certain period of time or indefinitely, as the case may be.

If, however, he has committed a murder, he must die. In this case, there is no substitute that will satisfy the requirements of legal justice. There is no sameness of kind between death and remaining alive even under the most miserable conditions, and consequently there is also no equality between the crime and the retribution unless the criminal is judicially condemned and put to death. But the death of the criminal must be kept entirely free of any maltreatment that would make an abomination of the humanity residing in the person suffering it.

Even if a civil society resolved to dissolve itself by common agreement of all its members—which might be supposed in the case of a people inhabiting an island resolving to separate and scatter themselves throughout the world—the last murderer remaining in prison must first be executed, so that everyone will duly receive what his actions are worth and so that bloodguiltiness will not remain upon the people; for otherwise they might all be regarded as participators in the murder as a public violation of justice.

The equalization of punishment with crime is therefore only possible by cognition of the judge extending even to the penalty of death, according to the right of retribution. . . .

Anyone who is a murderer—i.e., has committed a murder, commanded one, or taken part in one—must suffer death. That is what justice as the Idea of the judicial authority wills in accordance with universal laws that are grounded a priori.

NOTES

1. Kant, *Lectures on Ethics*, trans. Lewis Infield (London: Methuen, 1930), p. 56.
2. Ibid., p. 49.