

The Elements of Moral Philosophy

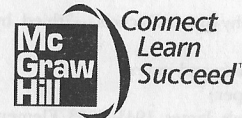
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CHAPTER

Kant and Respect for Persons

Are there any who would not admire man?

GIOVANNI PICO DELLA MIRANDOLA,
ORATION ON THE DIGNITY OF MAN (1486)

10.1. Kant's Core Ideas

Immanuel Kant thought that human beings occupy a special place in creation. Of course, he was not alone in thinking this. From ancient times, humans have considered themselves to be essentially different from all other creatures—and not just different, but better. In fact, humans have traditionally thought themselves to be quite fabulous. Kant certainly did. On his view, human beings have “an intrinsic worth” or “dignity” that makes them valuable “above all price.”

Other animals, Kant thought, have value only insofar as they serve human purposes. In his *Lectures on Ethics* (1779), Kant writes, “But so far as animals are concerned, we have no direct duties. Animals . . . are there merely as means to an end. That end is man.” We may, therefore, use animals in any way we please. We don’t even have a “direct duty” to refrain from torturing them. Kant did condemn the abuse of animals, but not because the animals would be hurt. He worried, rather, about us: “He who is cruel to animals also becomes hard in his dealings with men.”

When Kant said that human beings are valuable “above all price,” this was not mere rhetoric. Kant meant that people are irreplaceable. If a child dies, this is a tragedy, and it remains tragic even if another child is born into the same family. On the other hand, “mere things” are replaceable. If your printer breaks, then everything is fine so long as you can get another printer. People, Kant believed, have a “dignity” that mere things lack.

Two facts about people, Kant thought, support this judgment.

First, because people have desires, things that satisfy those desires can have value *for* people. By contrast, “mere things” have value only insofar as they promote human ends. Thus, if you want to become a better poker player, a book about poker will have value for you; but apart from such ends, those books are worthless. Or, if you want to go somewhere, a car will have value for you; but apart from such desires, cars have no value.

Mere animals, Kant thought, are too primitive to have self-conscious desires and goals. Thus, they are “mere things.” Kant did not believe, for example, that milk has value *for* the cat who wishes to drink it. But today we’re more impressed with the mental life of animals than Kant was. We believe that animals do have desires and goals. So, perhaps there are Kantian grounds for saying that animals are not “mere things.”

However, Kant’s second reason would not apply to animals. People, Kant said, have “an intrinsic worth, i.e., dignity” because they are *rational agents*, that is, free agents capable of making their own decisions, setting their own goals, and guiding their conduct by reason. The only way that moral goodness can exist is for rational creatures *to act from a good will*—that is, to apprehend what they should do and act from a sense of duty. Human beings are the only rational agents that exist on earth; nonhuman animals lack free will, and they do not “guide their conduct by reason,” because their rational capacities are too limited. If people disappeared, then so would the moral dimension of the world. This second fact about people is especially important for Kant.

Thus, Kant believed, human beings are not merely one valuable thing among others. Humans are the ones who do the valuing, and it is their conscientious actions that have moral worth. Human beings tower above the realm of things.

These thoughts are central to Kant’s moral system. Kant believed that all of our duties can be derived from one ultimate principle, which he called the Categorical Imperative. Kant gave this principle different formulations, but at one point he expresses it like this:

Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only.

Because people are so valuable, morality requires us to treat them “always as an end and never as a means only.” What does this mean, and why should anyone believe it?

To treat people “as an end” means, on the most superficial level, treating them well. We must promote their welfare, respect their rights, avoid harming them, and generally “endeavor, so far as we can, to further the ends of others.” But Kant’s idea also has a deeper implication. To treat people as ends requires treating them with respect. Thus, we may not manipulate people, or “use” people to achieve our goals, no matter how good those goals may be. Kant gives this example: Suppose you need money, and you want a loan, but you know you cannot repay it. In desperation, you consider telling your friend you will repay it in order to get the money. May you do this? Perhaps you need the money for a good purpose—so good, in fact, that you might convince yourself that the lie would be justified. Nevertheless, you should not lie to your friend. If you did, you would be manipulating her and using her “merely as a means.”

On the other hand, what would it be like to treat your friend “as an end”? Suppose you tell the truth—you tell her why you need the money, and you tell her you won’t be able to pay her back. Then your friend can make up her own mind about whether to give you the loan. She can consult her own values and wishes, exercise her own powers of reasoning, and make a free choice. If she then decides to give you the money for your stated purpose, she will be choosing *to make that purpose her own*. Thus, you will not be using her as a mere means to achieving your goal, for it will be her goal, too. Thus, for Kant, to treat people as ends is to treat them “as beings who [can] contain in themselves the end of the very same action.”

When you tell your friend the truth, and she gives you money, you are using her as a means to getting the money. However, Kant does not object to treating someone as a means; he objects to treating someone *only* as a means. Consider another example: Suppose your bathroom sink is stopped up. Would it be okay to call in a plumber—to “use” the plumber as a means to unclogging the drain? Kant would have no problem with this. The plumber, after all, understands the situation. You are not deceiving or manipulating him. He may freely choose to unclog your drain in exchange for payment. Although you

are treating the plumber as a means, you are also treating him with dignity, as an “end-in-himself.”

Treating people as ends, and respecting their rational capacities, has other implications. We should not force adults to do things against their will; instead, we should let them make their own decisions. We should therefore be wary of laws that aim to protect people from themselves—for example, laws requiring people to wear seat belts or motorcycle helmets. Also, we shouldn’t forget that respecting *people* requires respecting *ourselves*. I should take good care of myself; I should develop my talents; I should do more than just slide by.

Kant’s moral system is not easy to grasp. To understand it better, let’s consider how Kant applied his ideas to the practice of criminal punishment. The rest of this chapter is devoted to that example.

10.2. Retribution and Utility in the Theory of Punishment

Jeremy Bentham (1748–1832) said that “all punishment is mischief: all punishment in itself is evil.” Bentham had a point. Punishment, by its nature, always involves inflicting some harm on the person punished. As a society, we punish people by making them pay fines or go to prison, or even, sometimes, by killing them. How can it be right to treat people in these ways?

The traditional answer is that punishment is justified as a way of “paying back” the offender for his wicked deed. Those who have committed a crime deserve to be treated badly. It is a matter of justice: If you harm other people, justice requires that you be harmed, too. As the ancient saying has it, “An eye for an eye, and a tooth for a tooth.” According to the doctrine of Retributivism, this is the main justification of punishment.

Retributivism was, on Bentham’s view, a wholly unsatisfactory idea, because it advocates the infliction of suffering without any compensating gain in happiness. Retributivism would have us increase, not decrease, the amount of misery in the world. Kant was a retributivist, and he openly embraced this implication. In *The Critique of Practical Reason* (1788), he writes:

When someone who delights in annoying and vexing peace-loving folk receives at last a right good beating, it is

certainly an ill, but everyone approves of it and considers it as good in itself even if nothing further results from it.

Thus, punishing people may increase the amount of misery in the world; but that is all right, for the extra suffering is borne by those who deserve it.

Utilitarianism takes a very different approach. According to Utilitarianism, our duty is to do whatever will increase the amount of happiness in the world. Punishment is, on its face, “an evil” because it makes the punished person unhappy. Thus, Bentham, a utilitarian, says, “If [punishment] ought at all to be admitted, it ought to be admitted in as far as it promises to exclude some greater evil.” In other words, punishment can be justified only if it does enough good to outweigh the bad. And utilitarians have traditionally thought that it does. If someone breaks the law, then punishing that person can have several benefits.

First, punishment provides comfort and gratification to victims and their families. People feel very strongly that someone who mugged, raped, or robbed them should not go free. Victims also live in fear when they know that their attacker has not been caught. Philosophers sometimes ignore this justification of punishment, but it plays a prominent role in our legal system. Judges, lawyers, and juries often want to know what victims want. Indeed, whether the police will make an arrest, and whether the district attorney’s office will prosecute a case, often depends on the wishes of the victims.

Second, by locking up criminals, or by executing them, we take them off the street. With fewer criminals on the street, there will be less crime. In this way, prisons protect society and thus reduce unhappiness. Of course, this justification does not apply to punishments in which the offender remains free, such as when a criminal is sentenced to probation with community service.

Third, punishment reduces crime by deterring would-be criminals. Someone who is tempted to commit a crime might not do so if he knows he might be punished. Obviously, the threat of punishment is not always effective; sometimes people break the law anyway. But there will be *less* misconduct if punishments are threatened. Imagine what would happen if the police stopped arresting thieves; surely there would be a lot more theft. Deterring crime thus prevents unhappiness.

Fourth, a well-designed system of punishment might help to rehabilitate wrongdoers. Criminals often have mental and

emotional problems. Often, they are uneducated and illiterate and cannot hold down jobs. Why not respond to crime by attacking the problems that cause it? If someone is dangerous, we may imprison him. But while we have him behind bars, why not address his problems with psychological therapy, educational opportunities, and job training? If one day he can return to society as a productive citizen, then both he and society will benefit.

In America, the utilitarian view of punishment was once dominant. In 1954, the American Prison Association changed its name to “the American Correctional Association” and encouraged prisons to become “correctional facilities.” Prisons were thus asked to “correct” inmates, not to “punish” them. Prison reform was common in the 1950s and 1960s. Prisons offered their inmates drug treatment programs, vocational training classes, and group counseling sessions, hoping to turn them into good citizens.

Those days, however, are long gone. In the 1970s, the newly announced “war on drugs” led to longer and longer prison sentences for drug offenders. This change in American justice was more retributive than utilitarian in nature, and it resulted in vastly more prisoners. Today the United States houses around 2.3 million inmates, giving it the highest incarceration rate of any country, by far. Most of those inmates are in state prisons, not federal prisons, and the states that must operate those facilities are strapped for cash. As a result, most of the programs aimed at rehabilitation were either scaled back or eliminated. The rehabilitation mentality of the 1960s has thus been replaced by a warehousing mentality, marked by prison overcrowding and plagued by underfunding. This new reality, which is less pleasant for the inmates themselves, suggests a victory for Retributivism.

10.3. Kant’s Retributivism

The utilitarian theory of punishment has many opponents. Some critics say that prison reform does not work. California had the most vigorous program of reform in the United States, yet its prisoners were especially likely to commit crimes after being released. Most of the opposition, however, is based on theoretical considerations that go back at least to Kant.

Kant despised “the serpent-windings of Utilitarianism” because, he said, the theory is incompatible with human dignity. In the first place, it has us calculating how to use people as means to our ends. If we imprison the criminal in order to keep society safe, we are merely using him for the benefit of others. This violates Kant’s belief that “one man ought never to be dealt with merely as a means subservient to the purpose of another.”

Moreover, rehabilitation is really just the attempt to mold people into what *we* want them to be. As such, it violates their right to decide for themselves what sort of people they will be. We do have the right to respond to their wickedness by “paying them back” for it, but we do not have the right to violate their integrity by trying to manipulate their personalities.

Thus, Kant would have no part of utilitarian justifications. Instead, he argues that punishment should be governed by two principles. First, people should be punished simply because they have committed crimes, and for no other reason. Second, punishment should be *proportionate* to the seriousness of the crime. Small punishments may suffice for small crimes, but big punishments are necessary for big crimes:

But what is the mode and measure of punishment which public justice takes as its principle and standard? It is just the principle of equality, by which the pointer of the scale of justice is made to incline no more to the one side than to the other. . . . Hence it may be said: “If you slander another, you slander yourself; if you steal from another, you steal from yourself; if you strike another, you strike yourself; if you kill another, you kill yourself.” This is . . . the only principle which . . . can definitely assign both the quality and the quantity of a just penalty.

Kant’s second principle leads him to endorse capital punishment; for in response to murder, only death is appropriate. In a famous passage, Kant says:

Even if a civil society resolved to dissolve itself with the consent of all its members—as might be supposed in the case of a people inhabiting an island resolving to separate and scatter throughout the whole world—the last murderer lying in prison ought to be executed before the resolution was carried out. This ought to be done in order that

everyone may realize the desert of his deeds, and that blood-guiltiness may not remain on the people; for otherwise they will all be regarded as participants in the murder as a public violation of justice.

Although a Kantian must support the death penalty *in theory*, she might oppose it *in practice*. The worry, in practice, is that innocent people might be killed by mistake. In the United States, around 130 death row inmates have been released from prison after being proved innocent. None of those people were actually killed. But with so many close calls, it is almost certain that some innocent people have been put to death—and advocates of reform point to specific, troubling examples. Thus, in deciding whether to support a policy of capital punishment, Kantians must balance the injustice of the occasional, deadly mistake against the injustice of letting killers live.

Kant’s two principles describe a general theory of punishment: Wrongdoers must be punished, and the punishment must fit the crime. This theory is deeply opposed to the Christian idea of turning the other cheek. In the Sermon on the Mount, Jesus avows, “You have heard that it was said, ‘An eye for an eye and a tooth for a tooth.’ But I say to you, Do not resist the one who is evil. If anyone slaps you on the right cheek, turn to him the other also.” For Kant, such a response to evil is not only imprudent, but unjust.

What arguments can be given for Kant’s Retributivism? We noted that Kant regards punishment as a matter of justice. He says that if the guilty are not punished, justice is not done. That is one argument. Also, we discussed why Kant rejects the utilitarian view of punishment. But he also provides another argument, based on his idea of treating people as “ends-in-themselves.” This additional argument is Kant’s contribution to the theory of Retributivism.

On the face of it, it seems unlikely that we could describe punishing someone as “respecting him as a person” or as “treating him as an end.” How could sending someone to prison be a way of respecting him? Even more paradoxically, how could executing someone be a way of treating him with dignity? For Kant, treating someone “as an end” means treating him as a rational being, who is responsible for his behavior. So now we may ask: What does it mean to be a responsible being?

Consider, first, what it means *not* to be such a being. Mere animals, who lack reason, are not responsible for their actions; nor are people who are mentally ill and not in control of themselves. In such cases, it would be absurd to “hold them accountable.” We could not properly feel gratitude or resentment toward them, because they are not responsible for any good or ill they cause. Moreover, we cannot expect them to understand *why* we treat them as we do, any more than they understand why they behave as they do. So we have no choice but to deal with them by manipulating them, rather than by treating them as rational individuals. When we scold a dog for eating off the table, for example, we are merely trying to “train” him.

On the other hand, a rational being can freely decide what to do, based on his own conception of what is best. Rational beings *are* responsible for their behavior, and so they are accountable for what they do. We may feel gratitude when they behave well and resentment when they behave badly. Reward and punishment—not “training” or other manipulation—are the natural expressions of gratitude and resentment. Thus, in punishing people, we are holding them responsible for their actions in a way in which we cannot hold mere animals responsible. We are responding to them not as people who are “sick” or who have no control over themselves, but as people who have freely chosen their evil deeds.

Furthermore, in dealing with responsible agents, we may properly allow their conduct to determine, at least in part, how we respond to them. If someone has been kind to you, you may respond by being generous; and if someone is nasty to you, you may take that into account in deciding how to respond. And why shouldn’t you? Why should you treat everyone alike, regardless of how *they* have chosen to behave?

Kant gives this last point a distinctive twist. There is, on his view, a deep reason for responding to other people “in kind.” When we choose to do something, after consulting our own values, we are in effect saying *this is the sort of thing that should be done*. In Kant’s terminology, we are implying that our conduct be made into a “universal law.” Therefore, when a rational being decides to treat people in a certain way, he decrees that in his judgment *this is the way people are to be treated*. Thus, if we treat him the same way in return, we are doing nothing more than treating him *as he has decided that people are to be treated*. If

he treats others badly, and we treat him badly, we are complying with his own decision. We are, in a perfectly clear sense, respecting his judgment, by allowing it to control how we treat him. Thus, Kant says of the criminal, “His own evil deed draws the punishment upon himself.”

This last argument can certainly be questioned. Why should we adopt the criminal’s principle of action, rather than follow our own principles? Shouldn’t we try to be “better than he is”? At the end of the day, what we think of Kant’s theory may depend on our view of criminal behavior. If we see criminals as victims of circumstance, who do not ultimately control their own actions, then the utilitarian model will appeal to us. On the other hand, if we see criminals as rational agents who freely choose to do harm, then Kantian Retributivism will have great appeal for us. The resolution of this great debate might thus turn on whether we believe that human beings have free will, or whether we believe that outside forces impact human behavior so deeply that our freedom is an illusion. The debate about free will, however, is so complex, and so concerned with matters outside of ethics, that we will not discuss it here. This kind of dialectical situation is common in philosophy: when you study one matter deeply, you often come to realize that it depends on something else. And, unfortunately, that other thing often turns out to be as difficult as the set of problems you began with.