5-2015

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Recommended Citation

Audi, Robert (2015) "Kantian Intuitionism as a Framework for the Justification of Moral Judgments,"
Mercer Law Review: Vol. 66 : No. 2 , Article 8.

Available at: https://digitalcommons.law.mercer.edu/jour_mlr/vol66/iss2/8

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Kantian Intuitionism as a Framework for the Justification of Moral Judgments

by Robert Audi*

Intuitionism in ethics has often been thought to lack a way to unify the plural standards it endorses. It has also been taken to have at best meager resources for explaining how we should resolve conflicts between *prima facie* obligations. On this resolution problem, W. D. Ross appealed to Aristotelian practical wisdom. He argued that neither Kantian nor utilitarian ethics (the two most promising rival views he considered) offers an adequate alternative.¹ There is, however, an interpretation of Kant's humanity formula of the categorical imperative for which this negative assessment is unduly pessimistic. This paper will show why. I am not implying, however, that dependence on Aristotelian practical wisdom in certain cases is a fatal defect in a Rossian intuitionism. There are, moreover, many cases of conflicting obligations for which, even if practical wisdom is required for their resolution, there is no reasonable doubt about what should be done. In any event, no plausible ethical theory makes dealing with conflicts of obligation easy or

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Reprint of Chapter 6: ROBERT AUDI, "Kantian Intuitionism as a Framework for the Justification of Moral Judgments," in OXFORD STUDIES IN NORMATIVE ETHICS, 2 (2012). Permission granted by Oxford University Press and Robert Audi.

1. See *The Right and the Good* (Oxford University Press, 1930), esp. 18-20. It is noteworthy that Ross evaluated Kantian resources on the assumption that they must accord with Kant's view that "there are certain duties of perfect obligation, such as those of fulfilling promises . . . which admit of no exception whatever in favour of duties of imperfect obligation, such as that of relieving distress" (p. 18). Whatever the status of Kant's apparent endorsement of this implausible position, no such view is required by every plausible interpretation of the categorical imperative framework, as will be indicated by this paper.

uncontroversial; and dependence on practical wisdom is a central element in any virtue ethics and, in some ways, indispensable for practical ethics even when it is guided by a plausible moral theory of some other kind. My aim, then, is not to eliminate dependence on practical wisdom but to construct a broadly intuitionist ethical theory that helps us to enhance both the unity and the applicability of the intuitively acceptable moral principles it provides. Doing this will bring more resources to guide practical wisdom than Ross and later Rossian intuitionists have provided.

I. KANTIAN INTUITIONISM AS AN INTEGRATED VIEW

In early twentieth-century intuitionism, as in much earlier intuitionist writings, three ideas have been salient. First, basic moral principles have been held to be self-evident. Second, self-evident propositions have been claimed to be unprovable. Third, as suggested by the unprovability claim—which brings to mind the idea of propositions so basic as to be Aristotelian indemonstrables—the self-evident has been represented as a category of propositions whose truth a mature rational person can “just see” and can know only by such immediate insight. All three of these views have led to criticism of intuitionist ethics. But if, as I hold in contrast to Ross, Moore, and others, many self-evident propositions can be evidenced or even proved by other propositions, the way is open both to support Rossian moral principles by appeal to a more comprehensive principle or set of principles and to characterize the self-evident in a way that makes it easy to see why self-evident propositions may be not only far from obvious but also subject to rational disagreement.² Ross’s list of apparently basic moral principles consists of eight: they posit *prima facie* obligations of (1) justice, (2) non-injury, (3) veracity, (4) fidelity to promises, (5) beneficence, (6) self-improvement, (7) reparation (e.g. for injuries to others), and (8) gratitude.³ In earlier work (2004) I have represented a modified Rossian intuitionism, including two additional

2. See chapters 1 and 2 of my (2004) for references to Prichard, Moore, and Ross’s claims that the self-evident is unprovable and for a detailed account of self-evidence that indicates why this requirement is mistaken. Consider a simple case: If *p* entails *q* and *q* entails *r* but *r* is false, then *p* is false. This is self-evident but readily provable. The self-evident is justifiably believable without dependence on premises, but not (in general) incapable of receiving support from them.

3. See Ross (1930), ch. 2. In ch. 5 of my (2004) I proposed adding two further Rossian principles that express *prima facie* obligations of two other kinds: those of respectfulness (understood in terms of the *manner* of action as opposed to its type) and of protection and enhancement of liberty. Both are elements in the Kantian intuitionism defended in this paper and their content will be clarified by examples and other aspects of the discussion below.

principles, as a good ethical theory, but have argued that a Kantian intuitionism that integrates it with a version of the categorical imperative is still better.

The version I have mainly appealed to is the formula of humanity. This might also be called the personhood formula or, alternatively, the intrinsic end formulation. I understand it along lines that, though they reflect some important elements in Kant's ethical texts, do not presuppose a specific interpretation of Kant. In particular, I have sought to show that its negative injunction—which prohibits treating persons merely as means—is explicable in terms of “descriptive” notions, and its positive injunction, which requires treating persons as ends, is explicable, if not descriptively, then at least without dependence on moral notions.⁴ Showing this is important for defending Kantian ethics as well as for providing objective anchors for these notions. If the humanity formula is to serve as one of our *basic* guides in making moral judgments, we need a way to understand its requirements that does not depend on prior moral judgments.

A proponent of Kantian ethics might accept this constraint but still object that, first, if we adequately understand the categorical imperative, it will suffice by itself to lead us to correct moral judgments in any sufficiently well described case, and, second, that as a principle of final (overall) obligation, it cannot have *prima facie* principles (such as Rossian ones) as consequences.⁵ Regarding the first, suppose the categorical imperative can lead us to correct (overall) moral judgments. This could be because it enables us to weight and take adequate account of the Rossian principles and thereby the considerations that ground *prima facie* obligation—something people with practical wisdom would do in any case. This point indicates why the second objection fails: the categorical imperative could be so interpreted as to imply the Rossian principles conceived as each indicating at least one moral element crucial for applying the imperative. In applying it to determine our final obligations, we must, for example, take into account promises, human needs, and potential harms. Indeed, I doubt that the categorical

4. I developed Kantian intuitionism in (2001b) and further in (2004), esp. ch 3. Particularly in the latter I appealed to the notion of dignity as adding a dimension to the framework; but, contrary to the suggestion of Gert (2006), I did not depend on the notion for the clarity or defense of the overall view; and I sought to clarify the notion independently, e.g. on p. 99, pp. 157–8, and pp. 176–7. For a detailed discussion of Kant's conception of duty and of the proper treatment of persons see Stratton-Lake (2002), esp. chs. 2–4.

5. One might take act-utilitarianism to provide such a principle; e.g., one ought to do what optimizes well-being (where overrides are ruled out). On some readings of Kant, the categorical imperative yields such final obligations. Ross was at least doubtful that any such principles are sound.

imperative can adequately guide moral decision *apart* from taking account of such factors, and, on the positive side, deeds that enhance non-moral goodness. Even if it could, it would surely do so better as integrated with principles according *prima facie* obligating force to those and other factors.

Given the detailed development of Kantian intuitionism that I have provided in earlier work, my aim here is to extend and clarify the framework in new ways. Addressing further objections will help in this. One objection is to the effect that the categorical imperative framework is no help in deciding what to do when, as is common, there is a conflict of *prima facie* obligations and we need to determine what obligation is final,⁶ say an obligation to keep a promise to protect property and an obligation not to harm a person who is fleeing with stolen goods. A related objection is that Kantian intuitionism leaves unclear how *close* we may come to treating persons merely as means and that, without an account of this, the humanity formula cannot provide grounds for the Rossian obligations.⁷ I take these objections in turn. The response to the first partly deals with the second.

Suppose I am correct in thinking that treating a person merely as a means is roughly treating the person not just *solely* as a means but (with some qualifications) also with a disposition *not* to be concerned with any *non-instrumental* aspects of the treatment. (This negative disposition is needed to account for the force of “merely.”) An example of such merely instrumental treatment might be ordering a timid and willing employee to do a risky job, with an intention to let the person struggle alone even if the job becomes highly dangerous. If, as I think plausible, such treatment is *prima facie* wrong—wrong-making, in another terminology—and *prima facie* wrong even if the act-type, ordering the job done, is not *prima facie* wrong in the context, then we have a morally relevant factor that supports fulfilling a Rossian obligation: roughly, a *prima facie* obligation of sufficient weight to yield overall obligation in the absence of conflicting considerations.

A different example may help: a conflict between the obligation of veracity in making a promise and an opportunity for beneficence. Suppose that, by making a promise I do not intend to keep, I would be

6. This is suggested by Hurka (2007), and I have responded in detail in Audi (2007). Ross (1930) implies something similar in ch. 2.

7. This objection was formulated by Peter Wicks in correspondence. The terminology to which he reacted had “negative ideal” where I now have “negative standard” and the objection indicated that the former could create the impression that there is a *prima facie* obligation to *maximize* distance from merely instrumental treatment of persons. This would be both misleadingly quantitative and too strong.

getting the promisee, who expects to benefit from my keeping it, to do a very good thing for a third party. Making such a promise might also manifest the relevant disposition not to be concerned with non-instrumental aspects of the treatment of the promisee, say the person's suffering from the loss of an important opportunity when I break the promise. Let us assume this. The point that in making the insincere promise one would be using the promisee merely instrumentally weighs against making the promise or, if one does make it, favors reversing one's course and keeping it after all. It also supports the promissory obligation over the obligation of beneficence (though the support may not be overriding). The decision whether to keep the promise may still not be easy, though it might be. In any case, the point is that the added moral ground—that making the insincere, manipulative promise would be, or would at least approach, treating the promisee merely as a means—is helpful and potentially determinative; the point is not that it makes all the conflict cases easy to resolve. That is something no plausible moral view will achieve.

Consider now treating someone as an end, which is mainly a matter of doing—for its own sake—something that is (and is appropriately conceived by the agent as) for the good of the other person. Suppose I have to decide whether to punish a child for bad behavior by keeping the child at home and I know this punishment is reasonable but will make the child suffer. Suppose the retributive considerations, together with the good the punishment will do for the child in the long run, are just strong enough to make the choice between punishing and simply reprimanding difficult, given the desirability of avoiding the suffering. Now suppose that I consider, prospectively, as is appropriate to making a moral decision, not just the two act-types in question—which some other person could realize—but also how I would be *treating* the child in each case. *Treatment* is a matter of my *conduct*, in a sense in which that term expresses a three-dimensional concept encompassing these diverse elements: first, the act-type I would instantiate; second, the reason(s) for which I would perform the act; and third, the manner in which I would perform it. There are two significantly different questions here. On the question of whether giving the punishment is justified by the disobedience, the answer might be positive. On the question whether I, as opposed to someone less emotionally involved, should give it, the answer might be negative. The explanation of this difference requires analysis.

II. THICK AND THIN MORAL QUESTIONS

I propose that we conceive the question of what my conduct should be as morally thicker than the question of what act-type I should perform.

One difference is this. The thicker question partly concerns the fittingness of my expectable motivation in performing the prospective act of punishment to the context in which I envisage performing it, whereas the thin question concerns not that, but mainly the fittingness of the act-type to the factors that ground the basic *prima facie* obligations. The latter question is roughly a first-person application of "What should *be done*?" whereas the former is a conduct-specific version of "What should *I do*?" Suppose my concern is guided by a sense of the thick, conduct question. Here are two possibilities.

First, I might see that, in punishing, I would be acting mainly *from* intrinsic motivation to contribute to the overall good of the child, whereas in simply reprimanding I would be avoiding temporary suffering on the child's part and would be motivated mainly by avoidance of this painful consequence and to some extent by a desire to avoid having to hear the anticipated screams of protest. The realization that one action would be treating the child as an end and the other would not (which is not to say it would be treating the child merely as a means) might properly tip the balance in favor of punishing.

The second possibility also concerns treatment conceived as conduct but might be such as to favor either the reprimand or yielding the decision itself to someone else. Suppose I know that I am very angry with the child. I may still think the punishment is required but may believe that I would be administering it partly out of anger, perhaps mainly so. I think, then, that I would be doing the right thing but at least not mainly for the right reason. Here one might be reminded of what Socrates is believed to have said to a slave boy: I would beat you if I were not angry. In addition to thinking I would not be acting mainly for the right reason, I might also believe I would punish *angrily*, and this expectation about the manner of my act is a further significant consideration. My conduct, then, might well not be an instance of treating the child as an end. If it would not be, then on that count it would be morally deficient.

Prospective and retrospective conduct questions

The punishment case illustrates the important point that treating persons as ends goes beyond fulfilling the obligation of beneficence, which requires, chiefly, bringing about the relevant good with an appropriate connection to an awareness of the obligation to do so (this does not entail acting from the *virtue* of beneficence, which requires that the action be based on certain elements in one's character). The obligation of general beneficence is *already* taken into account in my weighing of the overall good that the act of punishment will do in comparison with the good of avoiding the suffering it would cause. The

point here (which a plausible virtue ethics might also stress) is that there is additional moral reason to treat the person with a kind of good will *and* in a manner that manifests it. There is a good in the *doing* of the right, conceived as conduct; this conduct is not just something done that *is* right.

The case does not imply that in making moral decisions, even where treatment of persons is in question, we must *always* reflect on or even attend to how we would be treating whoever is in question. Often we see clearly what we ought to do, and even how we would do it, without any need for scrutiny or reflection. There is often no need to raise the thick question. Moreover, in many cases of conflicting obligations there would be no difference of the kind in question, on any of the competing options. Nonetheless, the kind of treatment of persons we would instantiate in doing one thing rather than another is morally important. Its importance is not an element in Rossian intuitionism but is compatible with the core of that position. Taking account of the difference, moreover—and of what might be called the kind of *aretaic good* that my view thereby accounts for (a kind of good in the doing of the right)—does not require either direct voluntary control over motivation or any greater knowledge of our own motivation than we may be plausibly thought to have.⁸

The conduct question, then, is three-dimensional. It takes account of the moral assessment not just of the act-type in prospect when we make a moral decision but also of the kind of treatment of persons that we would instantiate in doing one or another thing in question; that in turn is partly a matter of our motivation and our manner of action. The thin moral question concerns simply what act-type is morally appropriate for an agent in the relevant circumstances. I am of course assuming that the same act-type, such as requiring a child to stay home, can be tokened for different reasons. This should be uncontroversial but must be stressed; for there are also *conduct-types*. Conduct is not just instantiating an act-type; it is (roughly) instantiating it for a particular set of reasons and in a particular way. But, in part because we have indirect control over why we do things—if only through our power to abstain from or delay doing them—conduct is subject to moral evaluation as part of our record.

Conduct, then, is richer than action narrowly considered, but it is also an element in our manifest accomplishments in a way traits of character are not. This places it between elements of character on the dispositional side and overt performances on the behavioral side. It tends to reveal

8. The kind and degree of our voluntary control of our reasons for acting is explored in detail in my (2009a).

character, but is not an element in character. It requires action, but is not a matter simply of the type of act the treatment embodies. Granted, we can give a behavioral name to an act-type instantiated in a certain way, and many act-describing terms apparently reflect a sense of the importance of some of these double-barreled types. To yell, for instance, is to speak very loudly; to pace is to walk in a certain repetitive way. But yelling and pacing can be done in different ways. There are limits to the number of ways we can control the manner of our actions, but for a huge range of act-types we can consider realizing, *how* we should do the thing in question is morally significant.

The significance of thick questions can easily be missed. Ethics is easily taken to concern just what we ought to do. It certainly concerns that. But it also concerns the kinds of reasons for which we should do what we ought to do; and, as is less widely noted and sometimes ignored, it concerns *how*—in what manner—we should do what we ought to do. The manner of an obligatory action is not fixed even by a specification of both the obligatory act-type it tokens *and* the reason(s) for which the agent realizes it. A person of moral virtue naturally tends to do the right thing for the right reason and in the right manner; but one need not be a virtue ethicist to acknowledge the value of singling out the three dimensions of conduct as I have.

The scope and comprehensiveness of prima facie obligation

These promissory and retributive examples might give the impression that the notions of merely instrumental and end-regarding treatment simply place two more prima facie obligations on a Rossian list and hence are no help either in its unification or in dealing with conflicts of obligations. I have indeed suggested that the non-moral grounds in question—the two kinds of treatment—generate prima facie obligations and seem to do so “in their own right.” Suppose this were all we could say of these grounds: that there are prima facie obligations to treat persons as ends and to avoid treating them merely as means. This is significant in itself. The obligations would be morally important by virtue of their *instantial*, as opposed to systematizing, aspects. They would figure (as illustrated) in many cases that would otherwise be difficult or impossible to decide in an intuitively satisfactory way.⁹ They are, however, both different in kind from Rossian obligations, since they concern conduct rather than act-types. They are also more comprehensive than Rossian obligations. One or the other of them can be seen as applicable in all (or virtually all) instances of Rossian obligation. For all

9. I leave open whether it is self-evident that the two kinds of treatment ground prima facie obligations; they can play the indicated role even if this point is not self-evident.

of the Rossian obligations, many kinds of fulfillments can be cases of treating someone as an end; and violations of the “negative” obligations, for instance of non-injury, fidelity, and veracity, are the kinds of actions that tend to approach treatment merely as a means.

A further point is that the notions of avoiding merely instrumental treatment and aiming at end-regarding treatment express broad negative and positive aims proper to the *institution* of morality—a *telos* of morality, as it were. They characterize, in broad strokes, some of the kinds of evils morality opposes and some of the kinds of goods it supports. This purposive role that the two notions partly represent is a significant unifying element for the Rossian obligations.

Regarding the second line of objection, I begin with a clarification. In speaking of the categorical imperative as usable in systematizing the Rossian obligations, I have in mind at least this minimal kind of systematization: on my interpretation of it, the imperative provides three kinds of understanding: first, a way of conceiving the obligations as partially explained in terms of the wider obligations to avoid treating persons merely as means and to treat them as ends; second, a way to view the Rossian obligations as in some way derivable from it (at least with some regimentation); and third, a way of interpreting and comparing those obligations in concrete cases (as will be illustrated (especially in Section IV)). I have not implied (and do not hold) that the Rossian obligations are ontically *grounded* in the obligations to treat persons as ends and never merely as means, i.e., possessed in virtue of the fulfillment of those obligations being ways of meeting the deeper, treatment obligations. Rossian principles can be true “in their own right” even if they gain support from elsewhere. This brings us to a different kind of grounding, the epistemological. I have argued for the epistemological (and axiological) *groundability* of Rossian principles: roughly, for their being *justifiable* on the basis of the categorical imperative framework I have sketched or (consistently with this) of a certain theory of value, or by integrating the two (2004, pp. 149–50). Their justifiability (and knowability), however, does not depend on the imperative or on such a theory; and their epistemic groundability in these sources does not entail (and I do not assert) the ontic point that their *truth* depends on the categorical imperative or on axiological propositions (2004, pp. 141–2).

III. THE TREATMENT OF PERSONS AND THE ROSSIAN PRIMA FACIE OBLIGATIONS

As to the particular epistemic relations I take to exist between the humanity formula as I interpret it and the Rossian obligations, the weakest is that of providing a “justificatory rationale” (2004, esp. pp.

102–3). The idea is roughly that in the light of the former, the latter can be seen as reasonable. One might argue that wherever one set of propositions provides a justificatory rationale for another set, there is a regimentation of the former which *entails* the latter or a regimented version thereof. I have left this entailment possibility open and with it the possibility of a stronger epistemic relation than providing a justificatory rationale; but I do not think that such an entailment must be presupposed in order for the rationale to yield a significant degree of justification for what it rationalizes. It should be stressed that the possibility that self-evident Rossian propositions can receive justification from other propositions does not entail that they stand in need of it: justificatory overdetermination is a possibility even for the self-evident; and, for both self-evident and other kinds of propositions, it is realized in ethics as elsewhere.

It should also be emphasized that one can take each set of propositions to provide support for the other without holding (as a coherentist might but I do not) that each justifies (or explains) the other. I do hold the conceptual thesis that each may help to clarify the other, but the kind of mutual clarification in question does not imply mutual entailment and is consistent with various epistemic and explanatory connections.¹⁰ My epistemological thesis here is that insofar as the humanity formula (correctly) explains, or is an essential explanatory element in what best explains, the Rossian principles, it receives support. This is because a proposition's having a certain kind of explanatory power in accounting for what is justifiably believable and true provides some degree of justification for it—a kind of abductive justification. The Rossian principles thus play a justificatory role regarding the humanity formula, even though they themselves are rationalizable by appeal to it. But this role is not that of *justifying* or directly supporting the formula; it is that of constituting truths whose explanation yields justificatory support for what explains them. Explaining what is true confirms the explainer.

A remaining question is what work the notion of treating merely as a means can do when it serves (as I intend) as a negative standard which we should avoid even approaching. The idea to be clarified is, in part, that we have reasons not only to avoid actually treating people merely

10. Olson (2006) raises (though he does not pursue) the question how all the relations I posit between the intrinsic end formulation and the Rossian obligations can obtain together. He is especially suspicious regarding the compatibility of the specification relation between the latter and the former and the explanation and (overdetermining) justification relations between the former and the latter (p. 542). This section should help to justify the overall integration between the two elements that my Kantian intuitionism maintains.

as means but to avoid approaching this. There are at least four cases of such approach, for a given kind of instrumental act *A* whose performance would constitute treatment of some person. 1. There is *approaching A-ing*, as in taking preparatory steps to send someone on a dangerous mission for a minimal payment, while aware that one is disposed not to be concerned with any non-instrumental aspects of sending the person, such as physical injuries. 2. A second case is *continuing to A*, say continuing to keep an employee working on an increasingly dangerous task, when one is approaching such an indisposition, as where the prospect of monetary gains fills consciousness and crowds out moral scruples. 3. A third case is less directly at odds with avoiding merely instrumental treatment. It is failing to avoid conduct that foreseeably strengthens one's motivation to exploit someone. This might occur with one's employees or in close personal relationships, as where a man employs a female assistant he knows he is likely to seduce and then abandon. 4. Similarly, a fourth case is failing to take opportunities to nurture or develop motivation that enhances the likelihood of treating as ends persons one interacts with. Refusing to hear about suffering friends one could easily help might be an instance of this.

Both 3. and 4. also bear on character development. One should resist conduct that makes one callous in such a way as to incline one to act with the disposition to treat people merely as means (such conduct might include doing something that tends to cause treating persons merely as means to cover up wrong-doing). One should, by contrast, enhance one's tendency to treat persons partly as ends, and we should do this even where they must be treated *partly* as means, as is common in much of normal life. (Treating someone merely as a means may be uncommon and presumably *is* quite uncommon among decent persons, and it is ruled out by treating someone even *partly* as an end, which we may hope is common.)

Taking account of cases 1. and 2. helps in deciding overall obligation, both by adding independent support to certain options and by clarifying the moral status of certain prospective conduct. This has been illustrated above in the punishment and promising examples 3. and 4. reflect the secondary obligation to support fulfillment of a primary one (the obligation to avoid treating persons merely as means). Moreover, since treating a person even *partly* as an end entails that one is not treating the person merely as a means, developing a tendency to treat persons even partly as ends, which 4. enjoins, reduces the likelihood of treating them merely as means.

These clarifications of Kantian intuitionism do not provide a formula for dealing with conflicts of obligation, but they do show that the notions of merely instrumental and end-regarding treatment of persons can play

positive roles both in providing a comprehensive conceptual framework for understanding the Rossian obligations and for dealing with certain conflicts between those. I do not claim that every such conflict is better dealt with in the light of those notions, but many are. A main reason for this is that in dealing with these conflicts, we may often benefit from asking thick moral questions rather than just thin ones aimed at determining what is to be done (other reasons will emerge in Section IV). This enables us to do a fuller evaluation and, often, to conduct ourselves better.

IV. REASONS FOR ACTION AND FINAL OBLIGATION

I have been presupposing that a ground of obligation, such as making a promise, is also a reason for action, but not all normative reasons are moral. I have also taken no position on the (normative) strength of moral reasons relative to other kinds.¹¹ The possibility of conflict between moral and non-moral reasons, such as reasons of pure self-interest, can make more difficult the overall question of what one ought to do (what *to* do, if that question is understood normatively). Non-moral reasons may not only conflict with moral ones but may also support some moral reasons against other moral reasons. Here it is enough to indicate how, on my theory, we should conceive conflicting moral reasons. Some of what is said will apply to conflicts between moral and non-moral reasons.

To begin with, I take it that there is no *a priori* hierarchy among the moral reasons represented by the Rossian obligations. Thus, there are apparently no two categories of obligation, say justice and beneficence, such that *every* obligation in one will outweigh *any* (individual) obligation in the other. An implication of this view—a kind of particularism regarding normative ethical hierarchies—is that a moral reason corresponding to such an obligation is not *a priori* overridden in every case of conflict with a moral reason belonging to a different category of obligation. Note, too, that even on the assumption that a reason of one kind is always overridden in a pairwise conflict with a single reason of some other kind, certain coalitions of reasons on one side might still prevail over any single reason that would always override any one member of the coalition. If, for instance, in conflict cases, any reason of non-injury were to outweigh every reason of gratitude taken by itself,

11. A theory of reasons and of the possible kinds of relations that hold between moral and non-moral reasons is provided in my (2001a), e.g. chs. 5 and 6. To be sure, the notion of a *moral* reason is not sharp. For extensive discussion of the relative weights of practical reasons and, in particular Sidgwick's problem of the dualism of practical reason, see Crisp (2006), esp. ch 5.

some of the former taken singly might not outweigh every set of the latter.

Weighting principles

Given the ethical theory so far outlined, we might formulate some rough generalizations which might be conceived as *weighting principles* that can guide one in dealing with conflicting prima facie obligations, whether between two or more of the ten I have posited or within a single category, as where two promises conflict. (I do not take the list of ten Rossian obligations I have formulated—Ross's and the two mentioned in note 3—as necessarily complete, but it is highly comprehensive and at present I see no clear need to extend it.) What follows are several candidates for weighting principles that might be plausibly thought to hold when other things are equal in terms of these Rossian obligations. The formulations are tentative, but seem defensible on some plausible reading. I do not claim, however, that any of these principles is self-evident or even broadly a priori; nor do I claim that all are implicit in my interpretation of the humanity formula. Not all are, but each is at least harmonious with that principle. They might be viewed as *adjunctive* relative to both that and the Rossian principles. I will illustrate these weighting principles in terms of choice among singular acts, but the formulations also apply where our options are certain principles of action. They are all forward-looking, formulated with making moral decisions in mind, but their application is not limited to prospective action. They can also be used in appraising deeds already done.

The first weighting principle indicates one way in which the categorical imperative bears on Rossian obligations:

1. *Treatment of persons.* If two options we have are equally well supported by conflicting Rossian obligations, then if one option is favored in terms of our (a) avoiding treating persons merely as a means or (b) treating persons as ends (or both), then that option is preferable, other things equal, with (a) having priority (other things equal) over (b) if (a) supports one option and (b) the other.¹²

12. Two points should be noted here. First, although the obligations to treat persons as ends and never merely as means overlap the obligations of manner (a wide category of Rossian obligation introduced in ch. 5 of Audi 2004), the two sets are not equivalent, and an account of the latter is helpful in clarifying the former. The obligations of manner are *performative*; the others are largely *motivational*. This is why one could be treating someone nicely in manner, even nursing injuries, yet still treating the person merely as a means, say to preserve for later enslavement. Second, it may be true that whenever

The punishment case above illustrates this principle. The thick moral question concerning appropriate conduct is central for 1; and because the focus of the principle is on conduct-types rather than act-types, it differs from Rossian principles. It is also plausible, however, even as applied only to the relevant alternatives conceived as act-types *insofar as* identifying them is a reliable guide to the kind of treatment one will engage in. It should be added that although it is perhaps not obvious that Kant viewed the obligation to avoid merely instrumental treatment as, other things equal, weightier than the obligation to treat persons as ends, this view is independently plausible and provides greater determinacy for my interpretation of the overall moral force of the humanity formula.

For some of the same kinds of reasons why it is desirable to give more than one argument for a thesis, it may be desirable, in moral matters, to have (and act on) more than one reason. In this light one might give some weight to diversity of moral considerations, as follows:

2. *Moral diversity.* If two options we have are equally well supported by the conflicting Rossian obligations, but the number of distinct obligations or of types of obligations favoring one option is greater, that option is preferable, other things equal.

The degree of preferability in question may be slight, but taking number of obligations or of types of obligations into account seems reasonable. In part, this is a matter of always giving some weight to the variety of *kinds* of considerations favoring an action; but it leaves open whether, other things being equal, number of types of obligations is more important than the number of individual obligations. One among other considerations here is that the number of obligations corresponds to the number of moral considerations that can be cited in support of an action. It seems reasonable to give the number of such reasons some weight, in part because error is less likely and because each kind of moral reason

obligations of manner—*adverbial obligations*, as I called these in ch. 5 of Audi (2004)—are violated, so is some value represented among the obligations of matter (including the other nine Rossian obligations). Might obligations of manner, then, reduce to those of matter? Imagine that, e.g., being beneficent covers most of the former. Still, *being beneficent* is not an act-type, and I am construing the other nine Rossian principles as designating obligatory act-types, and have stressed (esp. in 2004, pp. 179–82) that any act-type can be performed in various *ways*, and that the manner of our performances is often morally important. (Treating merely as a means and treating as an end are not act-types, however—at least not behavioral act-types—a point that goes with their comprehensiveness.) The problem of specifying the connection between the adverbial obligations and the others was posed to me by Paul Audi.

for an act is at once a pathway to understanding why it is obligatory, a potential motivational support for it and, if it is performed for that reason, at least a partial explanation of why it is performed.

The awarding of grants and fellowships might illustrate this principle. If A and B are approximately equally good candidates for the same award, then if the number of the criteria on which A merits the award is larger than the number on which B does, then—other things equal—choosing A tends to be slightly preferable. This is not to say one is required to prefer A. I take preferability to render the relevant choice rational and morally better, but not necessarily to render every competing alternative irrational or morally wrong.

It is uncontroversial that the number of people (even other sentient beings) affected by an act is relevant to its moral appraisal. This suggests the following principle:

3. *Distributive scope: number of affected people.* If one of two options equally well supported by the conflicting Rossian obligations negatively affects a smaller number of people than another, or positively affects a larger number of people than the other option, then the first is preferable, other things equal.

This has clear application to legislative and administrative decisions. A choice between healthcare plans might illustrate the principle regarding distribution of goods; a choice between plans for wartime military conscription might illustrate it for distribution of “bads.” The principle might indicate one kind of respect for what Rawls has called the “separateness of persons.” Everyone matters—we are all “ends.” It is not just the collective human good that is morally important. 3. is also supported by some of the considerations cited in rationalizing 2. In positively affecting more people, for instance, we may in some cases tend to fulfill a larger number of types of obligations.

Still another weighting principle reflects the moral importance of equal treatment of persons:

4. *Equality.* If one of two options equally supported by the Rossian obligations treats the persons who would be affected more nearly equally, it is preferable, other things equal.

It must be granted that since promoting justice and eliminating injustice may be matters of equality, this adds nothing to the obligation of justice where that standard calls for pursuing equal treatment. But this rule would apply even where justice is not at stake, as where two needy groups of people compete for help not *owed* to either. If, moreover,

we countenance *indirect* treatment, then where two sets of charities compete for one's donation (as a fulfillment of the obligation of beneficence), and one charity distributes its benefits in a more nearly equal fashion than the other, this principle would provide a basis for preference of the former.

A sound ethics should give some kind of priority to reducing suffering over enhancing positive well-being.¹³ This suggests a principle like the following:

5. *Priority of the worse off.* If one of two options equally supported by the Rossian obligations benefits one or more persons who are worse off than the person(s) benefited by the other option, then, other things equal, it is preferable, and the more so the greater the disparity in well-being, or the worse off the latter set of persons is in absolute terms.

There are many prioritarian principles that reflect what might be called the stronger moral "claim" of the worse off, and the priorities may be specified more quantitatively. This principle may be less controversial than more quantitative versions. Once again, an illustration might come from choices between serving two groups of people or between choosing between two charities or grant applicants.¹⁴ The principle reflects the plausible idea that the relief of pain or suffering is, other things equal, morally more important than the provision of positive benefits.

One could regard 5. as implicit in a proper understanding of beneficence, but that claim is probably controversial, and some theorists might give it a different interpretation that is incompatible with 5. It should also be noted that pain often impedes autonomy in our conduct, and the importance of that point is better, or at least differently, accounted for by the value of treating persons as ends than by considerations of beneficence. In any event, explicitness is best served by including this principle separately from that of beneficence.

13. This priority of the worse off is related to the positive and negative aspects of beneficence discussed in my (2004), esp. pp. 175-77.

14. Insofar as equal treatment is considered in some way *proportionate*, for instance to need or effort, the intuitive importance of equality gives some support to the priority principle, which has results similar to those of the equality principle interpreted to require proportionate equality. But the moral importance of preference of the worse off is an independent consideration.

It is natural to regard ethics as centrally concerned with how we should conduct ourselves as social beings. In this light, the following seems to be a natural weighting principle:

6. *Reducing alienation.* If one of two options equally supported by the Rossian obligations would be alienating to one or more persons affected, or would be more so than the other, or would reduce alienation less than the other, then the latter is preferable, other things equal.

This principle might apply to a choice between two government policies or two healthcare plans for a company. Alienation need not be a kind of injury, so this principle goes beyond emphasizing non-injury. Arguably, the principle exhibits an instance of according weight to giving people the sense of being treated as ends or at least of a disposition to avoid treating them merely as means. Providing this sense may be a kind of beneficence but it is not usually considered under that heading and is plausibly taken to go beyond beneficence. To be sure, if A-ing is morally positive, the sense of being treated as a target of the act tends to be positive; but that point does not imply that the treatment in question is a case of, or in any event nothing more than, beneficence.

Here is a plausible counterpart of 6:

7. *Coordination values.* If one of two options equally supported by the Rossian obligations would be superior to the other in reinforcing or enhancing coordination among persons, it is preferable, other things equal.

No doubt enhancing coordination, for example by instituting car pooling or a grievance policy to reduce conflicts, is by and large a way of doing good for people; but whether it actually achieves this is a contingent matter, and this rule is not simply reducible to according additional weight to beneficence. Given both our social nature and our interdependence as a condition of success in much that matters to us, coordination is an indispensable element in human flourishing taken to be essentially social. Abiding by this principle seems warranted even by its instrumental value in contributing to flourishing. A certain kind of coordination among persons also has inherent value, as where a team wins a game by mutually supporting plays. Such inherent value would provide further rationale for treating the principle as a distinctive element in certain moral decisions.

Higher-order normative principles

The last two principles I want to suggest are different in being higher order than 1.-7. Both can be rationalized by appeal to the humanity formula, but they are better understood and can be better justified if that principle is interpreted in relation to the determinate *prima facie* requirements, such as equal treatment, liberty, and beneficence, that are explicit in the Rossian principles. Both principles concern the sorts of reasons appropriate for a kind of action or the apparent level of one's justification for action relative to that of someone (possibly hypothetical) who disagrees. Both are particularly important in political contexts in which, as with legislative decisions, interpersonal discussion is crucial in the process of determination and justification of policy.

Legislative and public policy decisions often imply coercion and should be justifiable in a way appropriate to both the idea that liberty is important in its own right as a morally desirable good and the idea that interpersonal conduct should be justifiable in broadly moral terms. Particularly in the often difficult task of balancing religious considerations and "natural reasons"—which are such that any normal rational person can accord them some degree of normative authority (which implies their secularity)—we need a principle that indicates what kind of reason is needed.¹⁵ Here I suggest a principle that goes beyond those so far articulated in applying where reasons not singled out by them, mainly religious ones, might otherwise be thought to have sufficient weight to justify a coercive action:

8. *The principle of secular rationale* (roughly, of natural reason): Citizens in a free democracy have a *prima facie* obligation not to advocate or support any law or public policy that restricts human conduct, unless they have, and are willing to offer, adequate secular reason (roughly, natural reason) for this advocacy or support (e.g. for a vote).¹⁶

Here a secular reason for an action (or for a belief) is roughly one whose status as a justifier of action (or of belief) does not evidentially depend on (but also does not deny) the existence of God; nor does it depend on theological considerations, or on the pronouncements of a person or institution as a religious authority. This notion is epistemic, roughly a matter of evidential grounding, not a matter of the content of

15. The notion of natural reason needs explication, and I have outlined an analysis, and in doing so taken account of Aquinas's notion of natural reason, in (2009b).

16. This formulation is drawn from Audi (2000), p. 86, though I published essentially the same version in (1989).

the reason. We can imagine a case in which a person's reasons for action include commitments based essentially on religious convictions. Consider a promissory obligation grounded in swearing on the Bible that one will keep a promise to one's priest to oppose same-sex unions. The secular rationale principle would call for abstaining from coercion (as opposed to persuasion) in this matter apart from having an adequate reason that does not depend in this way on religion or theology. If the material welfare of children could be shown to be adversely affected by such unions, there would be a secular reason. (The adequacy condition rules out the appropriateness of certain non-religious reasons, e.g. racist ones; but the prominence and special importance of religious reasons calls for a principle like 8.)

The principle of secular rationale can be supported by a very broad one that also applies to coercion even outside the political realm:

9. *The principle of tolerance*: If it not reasonable for proponents of coercion in a certain matter to consider themselves epistemically superior in that matter to proponents of the corresponding liberty, the former have a *prima facie* obligation to tolerate rather than coerce.¹⁷

The principle is meant to apply where there is an actual or hypothetical disputant who is, in the matter(s) at hand, an apparent *epistemic peer* of the person, i.e. (roughly) equally rational, possessed of the same relevant evidence, and equally conscientious in assessing that evidence. This principle reflects the value of liberty-respecting which is a partly constitutive element in treating persons as ends—but it is not entailed by simply taking some degree of protection of liberty to be, like promoting the well-being of persons, an object of *prima facie* moral obligation. Imagine someone's making a case that certain apparent harms justify coercion, whether institutional or in personal relations, to prevent them. The principle of tolerance would call for restraint if it is not reasonable for the would-be coercer to consider the proponent of liberty epistemically inferior in relation to the issue at hand. Thus, in what might otherwise be a case in which coercion is justifiable by the balance of conflicting obligations, this principle might determine that liberty should prevail.

Each of the weighting principles may conflict with at least one other, but they may still serve to reduce the difficulty of dealing with conflicts between Rossian obligations, and in any case conflicts at the level of

17. I cannot explicate the notion of the reasonable here, but I take it to be stronger than the concept of the rational: what is reasonable is rational but not conversely. Detailed defense of this view is provided in my (2001a), esp. pp. 149–53.

weighting principles may be less common or (at least often) less serious, or both. As with the Rossian obligations, I see no *a priori* hierarchy. In any plausible ethic, judgment on the basis of practical wisdom of a kind that need not be a matter of applying *any* principle may at some point be needed. My aim is not to eliminate the need for practical wisdom but to assist it as much as possible by formulating principles congenial to it.

Might we also have a principle framed in terms of negative and positive obligations? Might we say that where a "negative" obligation—for example one of non-injury, fidelity, or veracity—conflicts with a positive one, say an obligation of beneficence or self-improvement, the former takes priority, other things equal? I suspect this is too broad to be helpful (I leave open whether some other formulation in this range might be sustained). Here the problem of deciding what has to be equal is even more difficult than in the case of the other rough generalizations.

The obligation of beneficence is particularly troublesome. In a world with as much suffering as this one has and with as good means as now exist for relieving some of it by charitable contributions, it looks as if the beneficence obligations of the prosperous are very weighty. Can they be weakened by making promises to one's children and friends to commit large proportions of one's resources to them? As these cases apparently show, a blanket preference for negative obligations, even when other things are equal, does not take account of the voluntary character of many of them. It is not plausible, for instance, to regard a prosperous person's obligations of beneficence as substantially reduced by promises of support which, with a view to rationalizing the reduction of charitable contributions, are made (but not owed) to already flourishing children. This is not to say that promises made with such an evasive aim generate no *prima facie* obligations; but acting for that kind of reason is morally criticizable conduct, and (as in other cases) the resulting obligations may or may not be overridden. Nor should we deny that some promises, and certain other commitments, that it is morally reasonable to make to those close to us foreseeably limit our capacity for general beneficence. The problem here may not be soluble by any single principle of the kind just illustrated, and it remains a challenge to any ethical theory.¹⁸

* * *

The status of ethical intuitionism depends largely on our power to perceive truth by certain kinds of non-inferential discernment. This

18. In (2004, pp. 94–101) I have dubbed this demandingness problem *the beneficence problem* and argued that the prohibition of treating persons merely as means indicates an important element in dealing with it.

discernment may be intuitive and may or may not be accompanied by or even based on reflection. On rationalist versions of intuitionism, even general moral principles may be directly (non-inferentially) known—though neither indefeasibly nor in a way that is wholly unmediated by reflection.¹⁹ As I have developed intuitionism, the required power of reason to ground non-inferential knowledge of certain moral principles is essentially like the power needed for knowledge of the a priori in general; and the power of reason regarding singular judgments is highly analogous to the epistemic powers by virtue of which we acquire perceptual knowledge. These points hold for a modified Rossian intuitionism, which I consider a good theory even when not strengthened by integration with an interpretation of the humanity formula or some other comprehensive principle.

The integration achievable by Kantian intuitionism is supported in part by axiological considerations. The comprehensive theory that reflects this further unification of ethical considerations is developed in *The Good in the Right* (2004). Even apart from that theory, this paper enables us to see how the injunction to avoid treating persons merely as means and to treat them as ends figures both in systematizing Rossian obligations and in dealing with conflicts between them. The notions of merely instrumental and end-regarding treatment help us to take account not just of act-types appropriate to a situation of choice but also of conduct and of a related distinction between thick and thin moral questions. The notion of conduct is complex, and the question what our conduct should be has both behavioral and motivational dimensions. Answering it requires more than considering options conceived as act-types or even act-types and the consequences of instantiating them. The normative framework of the overall view is also enhanced by the formulation of certain weighting principles that can often help in resolving conflicts of prima facie obligations and connect these diverse obligations with such ethically important notions as scope of distribution, equality, and social coordination. Further clarification is needed, but it should now at least be clear how incommensurable moral considerations

19. It may be thought that noncognitivism avoids the problem of determining the scope of reason in ethical matters, as suggested by, e.g., Kappel (2002), p. 411. But any plausible noncognitivist view must provide an account of what constitutes a relevant (and indeed a good) reason for holding a noncognitive pro or con moral judgment. How we might know or justifiedly believe such an account seems to me a problem in moral epistemology much akin to the kind I have been dealing with here.

can be rationally compared in a way that facilitates making justified singular moral judgments.²⁰

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20. Earlier, quite different versions of this paper have been presented to the Philosophical Society in Oxford, at the University of Muenster, at Wake Forest University, and at the Arizona Workshop on Normative Ethics. I have benefited from discussion on all those occasions and, for helpful comments, would particularly like to thank Mark Timmons and two anonymous readers for the Press.